

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.

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 ChippewaCree 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 ~~is~~ is one hundred dollars (\$100).

2.4 Minimum Sentences and 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. ~~Minimum mandatory~~ A person convicted for a Class AA offense is subject to a sentence of for these offenses is one-year (1) imprisonment and a fine of five thousand dollars (\$5,000).

(2.) Class A offenses - they are ~~Shall be~~ divided into five categories for ~~minimum mandatory~~ 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 - ~~Minimum mandatory~~ Subject to a sentence is 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 a ~~F~~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 ~~T~~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 ~~M~~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 ~~M~~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 ~~M~~minimum five (5) days to six (6) months and a fine of two hundred dollars (~~\$200~~).

c. Third Time and Offender – Subject to a ~~M~~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 ~~M~~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 ~~M~~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 ~~M~~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 mandatory 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 mandatory 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. ~~governed by this subsection IV of this part.~~

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 of 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, devise 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 Committee

31 Agency Square
Box 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 Committee is the governing body of the Chippewa Cree Tribe of the Rocky Boy's Indian Reservation by the authority of the Constitution 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 of Victim 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;

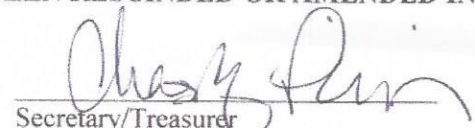
THEREFORE BE IT RESOLVED, the Chippewa Cree Business Committee hereby amends Title IV the Chippewa Cree Tribal Criminal Offenses Code, Chapter 5- Offenses Against Children and Dependents to incorporate all proposed changes submitted by the Chippewa Cree Tribal Office of Victim Services.

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

CERTIFICATION

I, THE UNDERSIGNED, AS SECRETARY/TREASURER OF THE BUSINESS COMMITTEE FOR THE CHIPPEWA CREE TRIBE, HEREBY CERTIFY THAT THE BUSINESS COMMITTEE IS COMPOSED OF NINE MEMBERS, OF WHOM nine(9) 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 eight(8) MEMBERS FOR AND zero(0) MEMBERS AGAINST AND zero(0) MEMBERS ABSTAINED, AND THAT THIS RESOLUTION HAS NOT BEEN RESCINDED OR AMENDED IN ANY WAY.


Chairman, Business Committee


Secretary/Treasurer

REVIEWED
7/27/17

TITLE IV

CHAPTER 5- OFFENSES AGAINST CHILDREN AND DEPENDENTS

TITLE IV2

CHAPTER 5 - OFFENSES AGAINST CHILDREN AND DEPENDENTS.....2

Part 1 - Criminal Offenses.....2

4-5-101. Child Abuse or Neglect.....2

4-5-102. Criminal Child Endangerment.....2

4-5-103. Abandonment.....3

4-5-104. Sexual abuse of children.....3

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

4-5-106. Incest.....5

4-5-107. Aggravated promotion of prostitution.....5

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

4-5-109. Contributing to the delinquency of an underage person.....6

4-5-110. Failure to send children to school.....6

4-5-111. Visitation interference.....6

4-5-112. Curfew violation.....6

Part 2 - Penalties.....7

4-2-201. Penalties.....7

Part 3 - Sovereign Immunity.....7

4-5-301. Sovereign Immunity.....7

Part 4 - Choice of Law.....7

4-5-401. Choice of Law.....7

Part 5 - Legislative History.....7

4-5-501. Legislative History.....7

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 misappropriation 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 be considered 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 to 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.

PART THREE: TRAFFIC CODE CHAPTER 11. TRAFFIC OFFENSES

11.1 Territory - This traffic Code covers any traffic violations herein listed which occurs within the exterior boundaries of the Rocky Boy's Indian Reservation.

11.2 Power - The Tribal police have the power to control and supervise all public roadways within the exterior boundaries of the Rocky Boy's Indian Reservation, and issue warnings for minor infractions.

11.3 Citations - The Tribal Police may issue citations appropriate for any violation of the Traffic Code, ordering the cited party to appear before any Tribal Court of the Rocky Boy's Indian Reservation at a reasonable time.

11.3.1 Use of Radar-Evidence Admissible - The Tribal police are authorized to employ the use of radio microwaves or other equivalent electrical device for the purpose of measuring the speed of motor vehicles within the Reservation. The results of such measurements shall be admissible as

evidence of the speed of a motor vehicle in the Tribal Court in any legal proceeding where the speed of such motor vehicle is issue.

11.3.2 Arrest Without Warrant in Radar Cases:

1. the driver of any motor vehicle determined to be traveling in excess of the posted speed limit may be arrested without a warrant, provided the arresting officer is in uniform or displays his badge of authority and has;
 - a. Observed the recording of the speed of the vehicle by radio microwaves or other equivalent electrical devise; or
 - b. Received, from the officer who has observed the speed of the vehicle recorded by such devise, a radio message giving the license number or other sufficient identification of the vehicle and the recorded speed, dispatched immediately after the speed of the vehicle was recorded.
2. The arrest without warrant of an such driver must be made immediately after such observation or radio message and as a result of interrupted pursuit

11.4 Class D Offense.

Unless otherwise designated, all offenses of the Traffic Code are Class D Offenses.

11.5 Court Discretion.

The Tribal Court may suspend or revoke driving privileges for a violation of the Traffic Code.

11.6 Contempt of Court for Failure to Pay Traffic Fines.

If an offender fails to pay a fine imposed under this Chapter, the Court may hold the offender in Contempt of Court for which the maximum penalty not to exceed thirty (30) days or payment of the original fine.

11.7 Arrest.

The Tribal Police may arrest any person without warrant for any violation of the Traffic Code which is committed in their presence.

11.8 Inspection and Investigation.

The Tribal police may inspect any vehicle in a public garage or repair shop or wrecking yard in order to investigate the title and registration.

11.9 Tribal Children's Driving Permit.

- (1) It is unlawful for a child under the age of thirteen (13) years to drive a motor vehicle within the exterior boundaries of the reservation, except with the authorization of the Business Committee.
 - (2) a child who is at least thirteen (13) years of age and less than seventeen (17) years of age may drive a motor vehicle with then exterior boundaries of the reservation only if he or she possesses a valid Tribal children’s driving permit or a state of Montana Driver’s license.
 - (3) The Tribe shall maintain a place and provide the necessary staff to license children to drive within the boundaries of the reservation.
 - (4) Any child who is at least thirteen (13) years of age and who passes the Tribal driving test shall be issued a Tribal children’s permit.
- 11.10 Failure to Possess a Valid Tribal Children’s Driving Permit. A child who violates Section 11.9 commits a delinquent act within the meaning of Chapter 2, Section 2.6 of the Tribal Juvenile Code.
- 11.11 Responsibility for Unlicensed Drivers. A person who permits a child to drive a motor vehicle in violation of Section 11.9 commits an offense.
- 11.12 Driving When Driving Privileges Have Been Suspended. A person who operates a motor vehicle upon the public roadways when his driving privileges have been suspended by the Court’s order commits a Class b OFFENSE. In addition to the other penalties imposed for the Class B offense, the Court may suspend the person’s driving privileges for the period not to exceed one (1) year in addition to the previous suspension from which this offense arose.
- 11.13 Failure to Operate a Vehicle in a Safe Condition. A person who operates a motor vehicle which is in unsafe mechanical or electrical condition commits an offense.
- 11.14 Driving at Night with Substandard Lights.
- (1) A person who operates a motor vehicle on the roadway at night without standard lights commits an offense.
 - (2) Standard lights must be clearly visible for a distance of five hundred (500) feet and are, on a vehicle with four (4) or more wheels, two (2) regular white light head lamps and two (2) red tail lights, or on a motorcycle, one (1) which head lamp and one (1) red tail light.
- 11.15 Failure to Drive upon the Right Side of the Roadway. A person who drives a motor vehicle on the left side of the roadway unless posted as a one (1) way roadway or when safely overtaking another vehicle commits an offense.
- 11.16 Failure to Drive in a Careful and Prudent Manner. A person who fails to operate a motor vehicle in a careful and prudent manner and thereby endangers the life,

health, safety, property or rights of a person entitled to the use of the roadway commits an offense.

11.17 Failure to Obey Traffic Signs. A person who while operating a motor vehicle fails to conform to any highway sign, any road marking, or any traffic signal put into use by any traffic official for the purpose of traffic safety and movement commits an offense.

11.18 Maneuvering without Regard to Safety. A driver of a motor vehicle who starts, stops, or turns a vehicle when it is not reasonable and prudent commits an offense.

11.19 Tailgating. A driver of a motor vehicle who follows another vehicle more closely than is reasonable and prudent commits an offense.

11.20 Improper Passing.

(1) A driver of a motor vehicle overtaking another vehicle proceeding in the same direction

(a) who drives to the left side of the center line of the roadway when it is not clearly visible and free from oncoming traffic for a sufficient distance to permit overtaking safely; or

(b) who, when passing on the left, returns to the right side of the roadway before he is safely clear of the overtaking vehicle; or (c) who, when passing on the left, fails to pass at a safe distance to the left commits an offense.

11.21 Exceeding the Maximum Speed Limit.

(1) A person who exceeds the speed limit while driving on the roadways commits an offense.

(2) The speed limit on roadways shall be fifty-five (55) miles per hour unless otherwise posted on unless driving conditions require a lesser speed. The maximum speed limit in residential areas and in the Tribal Officers zones shall be twenty-five (25) miles per hour. The maximum speed limit in a posted school zone is twenty (20) miles per hour.

11.22 Failure to Stop for a School Bus.

A driver of a motor vehicle who approaches from either direction and (1) fails to stop for a school bus with flashing lights in operation which is receiving or discharging children; or

(2) having stopped for a school bus, proceeds before the bus resume motion or before the bus driver signals him to proceed commits an offense.

11.23 Failure to Yield Right of Way. (1)

A person driving a vehicle:

(a) who approaches an intersection posted with a "YIELD" sign must slow to fifteen (15) miles per hour or less and yield right of way to all vehicles on the intersecting roadway which are close enough to present a hazard;

- (b) Who approaches a roadway, whether or not posted, has a duty to stop and yield right of way to all approaching vehicles which are close enough to present a hazard or
- (c) Who will reach an intersection at the same time as another vehicle must yield the right of way if the other vehicle is on his right.

11.24 Failure to Stop Before Driving Onto a Roadway.

A person driving a motor vehicle who enters a roadway without stopping commits an offense.

11.25 Parking on the Roadway.

A person who parks a vehicle in manner which interferes with the safety and movement of other vehicles upon a roadway commits an offense.

11.26 Obstructing or Interfering with a Driver.

- (1) A person who drives a motor vehicle which carries passengers or cargo in a manner which unreasonably
 - (a) obstructs the view of the driver; or
 - (b) interferes with the driver's control over the vehicle commits an offense.
- (2) A passenger in a motor vehicle who unreasonably
 - (a) obstructs the view of the driver; or
 - (b) interferes with the driver's control over the vehicle commits an offense.

11.27 Responsibility for and of Passengers.

- (1) A person who (a) drives a motor vehicle and permits another to ride on the fender, bumper, hood, or any other exterior part of the motor vehicle or attach himself so as to be propelled or pulled by the motor vehicle commits an offense.
- (2) Riding in the back of a truck is not prohibited and reasonable exceptions shall be made for activities such as parades.

11.28 Failure to Use Protective Headgear.

A person who operates or rides a motorcycle or moped without protective headgear commits an offense. Protective headgear must be designed to lessen the change of injury upon impact.

11.29 Pedestrians on Roadways Without Regard for Safety.

A pedestrian who

- (1) fails to yield the right of way to all vehicles upon the roadway when crossing a roadway at any point other than a marked crosswalk or an unmarked crosswalk at an intersection; or
- (2) walks along or upon a roadway while intoxicated; or
- (3) walks along or upon a roadway when a sidewalk is provided commits an offense.

11.30 Implied Consent to Chemical Breath Test.

- (1) Any person who operates a motor vehicle upon roads or highways within the exterior boundaries of the Rocky Boy's Reservation and is arrested under Section 8.5 of this Title, Driving While Under the Influence of Alcohol or Drugs, shall be considered to have consented to a chemical breath test for the purpose of determining the alcohol content of his blood. Such a test may be given by or at the direction of the Tribal police officer who has reasonable cause to believe that the person has been driving under the influence of alcohol and drugs.
- (2) Unconsciousness or any other condition which makes a person incapable of refusal shall not be considered as withdrawal of consent to a chemical breath test.
- (3) If a person refuses the request of the Tribal police officer to submit to a chemical breath test, none shall be given. However, the Tribal police officer shall prepare a sworn report that he has reasonable ground to believe the arrested person has been driving or was in actual physical control of a motor vehicle upon the public highways of the Rocky Boy's Indian Reservation while under the influence of intoxicating liquor, and that the person had refused to submit to the test upon the request of the Tribal police officer. That report shall be submitted to the Tribal administrative body which determines who has the privilege to drive on the Reservation. The administrative body shall suspend that person's privilege or license to drive on the highways of the Rocky Boy's Indian Reservation for a period of sixty (60) days.

REFER TO COURT OF APPEALS

11.31 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 whose 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 in 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 hearing 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, progestin's, 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.

(1)(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 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; 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 supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;

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

(13) the existence and scope of legitimate 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. PUBLIC SAFETY

CHAPTER 11. ABUSE OF ELDERS & VULNERABLE ADULTS

Part 1. General Provisions

4-11-101. Statement of Policy - It is the policy of the Chippewa-Cree to continue the traditional respect which members of the Chippewa-Cree Tribe have for Chippewa-Cree elders. Elders are valuable resources to the Rocky Boy's Indian Reservation because they are repositories and custodians of the Rocky Boy history, culture, language, and tradition; vested in Chippewa-Cree elders is the hope of the Chippewa-Cree to retain our tribal history, culture, language and traditions. Chippewa-Cree elders provide stability by being role models for their children and employment, profession and other social institutions. Based upon these premises, it is in the Tribe's best interest and welfare to protect its elders and vulnerable adults from abuse, neglect, mistreatment, exploitation, and other mistreatment.

4-11-102. Purpose - The purpose of this code is to protect elders and vulnerable adults within the jurisdiction of the Chippewa-Cree Community from abuse and neglect. The Act will be liberally interpreted in order to achieve this purpose. This Act is not intended to abrogate any existing civil or criminal laws of the Rocky Boy Reservation.

(1). The Business Council finds that elders and vulnerable adults may be subjected to abuse, neglect, exploitation, or abandonment and that there are a number of adults fifty years of age or older who lack the ability to perform or obtain those services necessary to maintain or establish their well-being.

(2). The Business Council further finds that many elders and vulnerable adults have health problems that place them in a dependent position and that a significant number of elders and vulnerable adults have mental and verbal limitations that leave them vulnerable and incapable of asking for help and protection.

(3). It is the intent of the Business Council to prevent or remedy the abuse, neglect, exploitation, or abandonment of elders and vulnerable adults who have a functional, mental, or physical inability to care for or protect themselves and to provide these persons with the protection of the Chippewa Cree Tribal Court and the least-restrictive services, such as home care, and preventing or reducing inappropriate institutional care. The Council finds that it is in the interests of the public health, safety, and welfare of the Chippewa Cree Tribe to provide a procedure for identifying these elder and vulnerable persons and providing the services and remedies necessary for their well-being.

(4). The Business Council further finds that many elders and vulnerable adults may be

homebound or otherwise may be unable to represent themselves in court or to retain legal counsel in order to obtain the relief available to them under this Chapter. It is the intent of the Business Council to improve access to the courts for victims of abuse, neglect, exploitation, and abandonment in order to better protect the elderly and vulnerable adults.

4-11-103. General Jurisdiction. The Tribe will have exclusive jurisdiction over any misdemeanor offense in this Chapter.

4-11-104. Misdemeanor Jurisdiction. Any offense classified as a misdemeanor may be a Class (A through D) offense over which the Tribe has exclusive jurisdiction

4-11-105. Felony Jurisdiction. The Tribe and the Federal Government shall have concurrent jurisdiction over any felony offense and which shall be classified as a Class (AA) offense.

Part 2. Definitions

4-11-201. As used in this Chapter the following definitions will apply and these definitions will be liberally construed so as to protect all elders and vulnerable adults. Unless the context clearly requires otherwise, the definitions in this section apply throughout this Chapter.

(1) “Abandonment” means action or inaction by a person or entity with a duty of care for an elder or a vulnerable adult that leaves the elder or vulnerable person without the means or ability to obtain essential services.

(2). “Abandonment Desertion” of an elder by the elder's family or caregiver(s), which includes refusing or neglecting to provide for an elder when there is a duty to do so.

(3). “Abuse” means a non-accidental act of physical or mental mistreatment or injury, or sexual mistreatment, which harms a person through action or inaction by another individual.

(4). “Agency” means the Chippewa Cree Elder Protection Team.

(5). “Assault” means an attempt to cause bodily harm to another person through the use of force, or the creation in another of a reasonable fear of imminent bodily harm.

(6). “Battery” means the application of force to the person of another resulting in bodily harm or an offensive touching.

(7). “Breach of a fiduciary duty” breach by a family member or caregiver of his or her fiduciary duties toward an elder or vulnerable adult.

(8). “Caregiver” a person(s) who is required by Chippewa-Cree Tribe statutory or common law to provide services or resources to an elder; or a person who has undertaken to provide care or resources to an elder; or an institution or agency or employees or agents of an institution or agency which provides or

is required by the Rocky Boy Reservation statutory or common law, or state or federal law or tribal-state agreement to provide services or resources to an elder or vulnerable adult.

(9). “Coercion” compelling and unwilling person, through force or threat of force to engage in or abstain from conduct which the person has a right to abstain from or engage in.

(10). “Consent” means express written consent granted after the person has been fully informed of the nature of the services to be offered and that the receipt of services is voluntary.

(11). “Director” means the director or administrator of the Chippewa Cree Elder Protection Team.

(12). “Elder” means any person who is fifty (50) years of age or older.

(13). “Emergency” is a situation in which an elder or vulnerable adult is immediately at risk of death or injury.

(14). “Emotional abuse” means the infliction of threats, humiliation, or intimidation.

(15). “Essential Services” means those services or things necessary to sustain a person's life, physical and mental health, and general wellbeing, such as adequate food, clothing shelter, and health care. It may include service or items considered essential under the person's customs, tradition or religion, including but not limited to, access to traditional foods and access to religious ceremonies or services.

(16). “Exploitation” means the use of funds, property (including grazing permits, livestock and home-sites) or other resources of an elder for personal gain without the informed or true consent of the elder, or the gaining of funds, property (including grazing permits, livestock and home-sites) or other resources of an elder by threat, humiliation, intimidation, or other coercion. Exploitation is also failure to use the funds, property, or other resources of any elder for the elder's benefit or according to the elder's wish. Exploitation also includes the unreasonable imposition on the elder's time resources, such as leaving children or other persons in the care of the elder or vulnerable adult for extended periods or under circumstances in which the elder or vulnerable adult cannot adequately care for such children or other persons.

(17). “Family” means the immediate circle of relatives, including spouse, biological/clan/adopted children, grandchildren, in-laws, siblings, aunts, uncles, nieces, nephews, first, second and third cousins, biological, clan and adopted parents.

(18). “Good Faith” means an honest belief or purpose and the lack of intent to defraud.

(19). “Incapacity” means the current functional inability of a person to sufficiently understand, make and communicate informed decisions as a result of mental illness, mental deficiency, physical illness, or disability, or chronic use of drugs or liquor, as determined by the Chippewa-Cree Courts. Incapacity may vary in degree and duration.

(20). "Intimidation" means willfully placing another in fear of harm by coercion, extortion or duress.

(21). "Least Restrictive Alternative" means an approach which allows an elder or vulnerable adult the most independence and freedom from intrusion, consistent with the elder's or vulnerable adults needs, by requiring that the least drastic method of intervention is used to protect the elder or vulnerable adult from harm.

(22). "Neglect" means a pattern of conduct or inaction by a person or entity with a duty of care for an elder or vulnerable adult that result in the deprivation of essential services to the elder or vulnerable person.

(23). "Other Protective Service Unit of the Tribe" means any other agency of the tribe, including but not limited to Social Services personnel, Rocky Boy Health Board personnel, Senior Citizens personnel, Tribal Police, or any department of the Tribe that has a responsibility to protect the wellbeing of an elder or vulnerable adult.

(24). "Retaliation" consists of threatening, harming, or otherwise interfering with an individual reporting elder or vulnerable adult abuse, including threats or injury to a person's family, property, and employment status of the reporter or the reporter's family in any way.

(25). "Sexual abuse" means any physical contact with an elder for emotional or physical gratification of the person making the contact and to which the elder does not give informed consent or for which the consent is obtained by intimidation or fraud.

(26). "Threatening" means words or conduct which place another in fear of physical or other harm on any person or on property.

(27). "Unreasonable confinement" means intimidation or cruelty, acts which result in physical harm or pain or mental anguish of an elder or vulnerable adult by any person, particularly anyone such as a spouse, a child, other family members, caregiver(s) or other persons recognized by the Chippewa-Cree Tribe statutory or common law as having a special relationship with the elder or vulnerable adult.

(28). "Vulnerable adult" means a person eighteen (18) years of age or older who has the functional, mental, or physical inability to care for himself/herself. "Vulnerable adult" shall include:

(a) Persons found incapacitated or adult persons who are otherwise eligible for the appointment of a guardian under this Code;

(b) A person who has a disability attributable to mental retardation, cerebral palsy, epilepsy, autism, or another neurological or other condition of an individual found by the Director to be closely related to mental retardation or to require treatment similar to that required for individuals with mental retardation, which disability originates before the individual attains age

eighteen, which has continued or can be expected to continue indefinitely, and which constitutes a substantial handicap to the individual. The Agency may adopt criteria which define neurological or other conditions under this Subpart in a way that is not limited to intelligence quotient scores as the sole determinant of these conditions and notify the Business Council upon such adoption.

(c) Persons admitted to any long-term care facility or receiving services from home health, hospice, or home care agencies located or operating on the Rocky Boy's Indian Reservation.

Part 3. Funding

4-11-301. Any services or functions of the Agency under this Chapter shall be subject to the availability of funding and resources and the Agency shall not be required to expend additional funds or resources beyond those appropriated. Subject to the approval of the Business Council, the Agency may enter into cooperative agreements with state or other agencies for funding or other services necessary to implement this Chapter.

Part 4. Additional Remedies

4-11-401. Unless otherwise provided by this Chapter, nothing in this Chapter shall be deemed to preclude the Tribal Court, to the extent authorized by Tribal law, from:

- (1). Issuing an injunction, temporary restraining order, or similar relief by ordering a respondent to temporarily or permanently refrain from conducting the acts or actions that gave rise to a complaint under this Chapter;
- (2). Ordering the respondent to pay compensation or restitution to an individual or any other entity injured by the actions of the respondent; or
- (3). Imposing any other civil or criminal remedy for violations of Tribal law or regulations.

Part 5. Immunity from Liability

4-11-501. Nothing in this Chapter shall be construed as a waiver of the sovereign immunity of the Chippewa Cree Tribes unless otherwise provided by tribal law or the Business Council. Nor shall this Chapter be construed as superseding or abridging remedies provided by tribal law or the Business Council against any tribal officers, employees or volunteers.

4-11-502. A person is immune from liability resulting from a report made under this Chapter or testimony, if in good faith he/she:

- (1) Participates in making such report; or
- (2) Testifies about the abuse, neglect, abandonment, or exploitation of an elder or vulnerable adult in a judicial proceeding under this Chapter.

4-11-503. Conduct conforming to the reporting and testifying provisions of this Chapter shall not be deemed a violation of any confidential communication privilege.

Part 6. Standing—Jurisdiction

4-11-601. A petition for a protective order or an action for damages under this Chapter may be brought by the plaintiff, or where necessary, by his or her family members and/or guardian or legal fiduciary or as otherwise provided under this Chapter. The death of the plaintiff shall not deprive the court of jurisdiction over a petition or claim brought under this Chapter. Upon petition, after the death of the plaintiff, the right to initiate or maintain the action shall be transferred to the executor or administrator of the deceased, for the benefit of the surviving spouse, child or children, or other heirs as set forth in the date of adoption of this Chapter by the Business Council.

Part 7. Custom and Tradition

4-11-701. Any action under this Chapter shall be conducted in a manner, which is consistent with the custom and/or traditional beliefs, if any, of the elder or vulnerable adult to which the action applies and any such action which is contrary to such custom and/or traditional beliefs is prohibited. In determining the custom or traditional beliefs of a particular elder or vulnerable adult, any person taking action under this Chapter may rely on the advice of the Elder Protection Team familiar with such custom or traditional beliefs.

Part 8. Severability

4-11-801. If any provision of this Chapter or its application to any person or circumstance is held invalid, the remainder of the Chapter or the application of the provision to other persons or circumstances is not affected.

Part 9. Prevention of Abuse, Exploitation, Neglect and Abandonment

4-11-901. Reporting Requirements. Except as otherwise provided by this Section, any:

(1). Person, including but not limited to, financial institutions or attorneys, having reasonable cause to believe that an elder or vulnerable adult has suffered abuse, exploitation, neglect, or abandonment, or is otherwise in need of protective services may, report such information to the Agency;

(2). Professional, police officer, social worker, employee of the agency, a social service, welfare, mental health, or health agency, including, but not limited to Rocky Boy Health Board personnel, Indian Health Service (IHS) personnel, home health, hospice, and home care agencies located on the Rocky Boy's Indian Reservation, congregate long-term care facility, including but not limited to adult family homes, boarding homes or assisted living services located or operating on the Rocky Boy's Indian Reservation, or health care provider(s) located or operating on the

Rocky Boy's Indian Reservation, including but not limited to doctors, nurses, psychologists, and pharmacists having reasonable cause to believe that an elder or vulnerable adult has suffered abuse, exploitation, neglect, or abandonment, shall make an immediate oral report of such information to the agency and shall report such information in writing to the agency within ten (10) days of receiving the information.

4-11-902. Permissive Reports. The making of permissive reports as provided under this Section does not create any duty to report and no civil liability shall attach for any failure to make such report. Any report submitted under this Section regarding an elder who is not a vulnerable adult shall not be submitted without the written consent of the elder. Any person mandated to report abuse, neglect, exploitation or abandonment of an elder or vulnerable adult as provided by this Section who knowingly fails to do so or willfully prevents someone else from doing so shall be subject to a civil cause of action by the elder or vulnerable adult, or where necessary, by his or her family members and/or guardian or legal fiduciary.

4-11-903. Reports-Contents.

(1). A report made under this Chapter shall contain, if known:

- (a) The identification of the elder or vulnerable adult;
- (b) The person(s) who are alleged to be inflicting the abuse;
- (c) The nature and extent of the suspected abuse, neglect, exploitation, or abandonment;
- (d) Any evidence of previous abuse, neglect, exploitation, or abandonment;
- (e) The name and address of the person making the report; and
- (f) Any other helpful information.

(2). Unless there is a judicial proceeding or the person consents, the identity of the person making the report shall be confidential.

4-11-904. Investigations.

(1). Within the limits of available resource, the Agency, police officer, social worker, employee of the agency, social service personnel, welfare personnel, mental health agency, Rocky Boy Health Board personnel, or other protective service unit of the Tribe will investigate the report within 72 hours, including weekends and holidays, and prepare a written report of the investigation which will include the information as well as the results of interviews, observations, assessments and other fact-finding information. If possible, the investigator will conduct personal interviews with the elder or vulnerable adult, elder or vulnerable adult's family and caregiver(s), persons suspected of having committed the acts complained of, employees of agencies or institutions with knowledge of the elder or vulnerable adult's circumstances, and any other person the investigator believes has pertinent information. The existence and contents of medical records and other reports of abuse or neglect will be ascertained. The investigator will personally assess the elder or vulnerable adult's living conditions, with assistance of the Agency or other protective service unit of the Tribe and the Rocky Boy Law Enforcement, as necessary.

(2). An elder or vulnerable adult, the elder or vulnerable adult's family and caregiver(s) will be informed about an elder or vulnerable adult's abuse investigation before it begins unless an emergency exists, in which case, they will be informed as soon as possible, but not later than 48 hours after an investigation begins.

(3). An elder or vulnerable adult who may refuse to accept elder or vulnerable adult protection services, even if there is good cause to believe that the elder or vulnerable adult has been or is being abused, provided that he/she is able to care for him/herself and has the capacity to understand the nature of the services offered.

(4). The elder or vulnerable adult's family or caregiver(s) may refuse for themselves, but not for the elder or vulnerable adult, elder or vulnerable adult protection services offered pursuant to this Act, unless the elder or vulnerable adult cannot take care for him/herself or lacks the capacity to understand the nature of the services offered.

(5). An elder or vulnerable adult, the elder or vulnerable adult's family or caregiver(s) may refuse to allow an investigator into their home and the investigator will so inform the elder or vulnerable adult, the elder or vulnerable adult's family and caregiver(s) of this right.

(6). The investigator will inform the elder or vulnerable adult's family and caregiver(s) of their rights as allowed by this Chapter, whenever it appears that the investigation may lead to criminal charges being filed under this Chapter or any other part of the Chippewa Cree Law & Order Code.

(7). The elder or vulnerable adult, elder or vulnerable adult's family and caregiver(s) will be served personally with a petition filed pursuant to this Chapter.

(8). The elder or vulnerable adult, elder or vulnerable adult's family and caregiver(s) have the right to personally attend any hearing pertaining to the determination of the elder or vulnerable adult's capacity.

(9). The elder or vulnerable adult, the elder or vulnerable adult's family and caregiver(s) have the right to be represented by counsel at all hearings.

(10). The elder or vulnerable adult, the elder or vulnerable adult's family and caregiver(s) have the right to seek independent medical, psychological, or other evaluations at their own expense.

4-11-905. Response to Reports/Investigations.

(1). The agency or other protective service unit of the Tribe shall insure that all reports made under this Chapter are responded to. In non-emergency situations the agency or other protective service unit of the Tribe shall investigate a report submitted under this Chapter within three (3) days of receiving the report. In the case of an emergency, the agency or other protective service unit of the Tribe and/or the Tribal Police shall immediately investigate a report submitted under this Chapter.

(2). Entry of a private dwelling or any other location where there is a reasonable expectation of privacy for the purpose of investigating a report submitted under this Chapter may be conducted in accordance with the Chippewa Cree Law & Order Code and/or other tribal law.

(3). If the agency, other protective service unit of the Tribe, or Tribal Police Officer finds that an incident of abuse, neglect, exploitation, or abandonment has occurred, or has probable cause to believe it has occurred, it may:

(a) Immediately detain the suspected/alleged perpetrator for a period of up to seventy-two (72) hours without filing formal charges. During the detainment period, the suspected/alleged perpetrator may be required to undergo the following:

- (i). A chemical dependency evaluation conducted by a provider licensed to do so, including, but not limited to staff of the White Sky Hope Center. Results of this evaluation will be forwarded to the Chippewa Cree Tribal Courts for consideration during any sentencing obligations.
- (ii). A mental health evaluation conducted by a provider licensed to do so, including, but not limited to staff of the Rocky Boy Health Board. Results of this evaluation will be forwarded to the Chippewa Cree Tribal Courts for consideration during any sentencing obligations.

(b) Provide information to the elder or vulnerable adult on protective services available to the elder or vulnerable adult;

(c) Inform the elder or vulnerable adult of the right to refuse such services; and

(d) With the consent of the elder or vulnerable adult, insure that appropriate protective services are provided to the elder or vulnerable adult.

(4) As part of its obligations under this Section, the agency or other protective service unit of the Tribe may develop cooperative agreements with Chippewa Cree Tribal or other community-based agencies servicing the abused elderly and vulnerable adults. The agreements may cover such subjects as the appropriate roles and responsibilities of the agency and community-based agencies in identifying and responding to reports of abuse, neglect, exploitation or abandonment, the provision of case-management services, standardized data collection procedures, and related coordination activities. The services shall not be provided if the elder or vulnerable adult withdraws or refuses consent. If the agency determines that the elder or vulnerable adult lacks the ability or capacity to consent, it may file a petition for guardianship as provided by this Code for the purpose of providing the services under this Section.

4-11-906. Immunity of Reporting. A person who in good faith makes a report pursuant to this Chapter is immune from civil or criminal liability.

4-11-907. Obstruction or Denial of Access.

(1). If access to an elder or vulnerable adult alleged to be abused, neglected, exploited, or abandoned, is denied to an employee of the agency or other protective service unit of the Tribe seeking to investigate such abuse, neglect, exploitation, or abandonment:

(a) The agency or other protective service unit of the Tribe may seek an injunction to prevent interference with the investigation. The Tribal Court shall issue the injunction if the agency shows that:

- (i) There is reasonable cause to believe that the person is an elder or vulnerable adult and is or has been abused, neglected, exploited, or abandoned; and
- (ii) The employee of the agency or other protective service unit of the Tribe seeking to investigate the report has been denied access as provided by this section.

(b) The person authorized to seek entry of the premises may contact the Tribal Law Enforcement who shall assist in obtaining access, if the denial of access is conducted in a manner which causes such authorized person to reasonably believe that efforts to obtain entry will be forcibly resisted or there is otherwise apparent danger to such person. If peaceable entry is not feasible, the tribal police may take such action as is authorized by tribal law to obtain entry.

4-11-908. Data Collection. The agency or other protective service unit of the Tribe may maintain a system for statistical data collection, accessible for bona fide research only as determined by the Business Council by rule, adopted in accordance with the administrative procedure provisions of this Code, prescribes. The identity of any person obtained through such data collection system is strictly confidential.

4-11-909. Cause of Action for Damages.

(1). In addition to other remedies available under tribal law, an elder or vulnerable adult who has been subjected to abuse, neglect, exploitation, or abandonment, shall have a cause of action for damages on account of his injuries, pain and suffering or loss of property sustained thereby, against any person who has caused the abuse, neglect, exploitation, or abandonment or who has permitted another to engage in the abuse, neglect, exploitation, or abandonment.

(2). The tribal prosecutor or the Director may:

(a) Upon consultation with the alleged victim, bring an action against any person who engages in the conduct described under this Section; or

(b) If he certifies that in his/her opinion, the action is of general public importance, intervene in any action brought under this Section.

(3). In addition to remedies otherwise provided in this section, upon prevailing in an action under this Subsection, the court shall award the tribes costs of investigation and penalties. Penalties may not exceed \$5,000 per occurrence.

(4). In an action brought under this section, a prevailing plaintiff shall be awarded his actual damages, together with the costs of the suit, including a reasonable attorney's fee. The term "costs" includes, but is not limited to, the reasonable fees for a guardian, guardian ad litem, and experts, if any that may be necessary to the litigation of a claim brought under this section.

Part 10. Abuse & Exploitation Protective Order

4-11-1001. Petition for Protective Order

(1). An elder or vulnerable adult or the agency or other protective service unit of the Tribe on behalf of and with or without the consent of an elder or vulnerable adult may file a petition for a protective order from abuse or exploitation, or the threat thereof, in Tribal Court. The petition:

(a) Shall allege that the petitioner is an elder or vulnerable adult and that he has been abused or exploited or is threatened with abuse or exploitation by the respondent;

(b) Shall be accompanied by affidavit made under oath stating the specific facts and circumstances which demonstrate the need for the relief sought;

(c) May be made whether or not there is a pending lawsuit, complaint, petition, or other action between the parties.

(2). A petitioner is not required to post bond to obtain relief in any proceeding for a protective order under this Chapter.

(3). Neither the agency or other protective service unit of the Tribe nor the Chippewa Cree Tribes shall be liable for failure to seek relief on behalf of any persons under this section.

4-11-1002. Hearing

(1). Unless otherwise provided by this section, the Tribal Court shall order a hearing on a petition for protective order filed under this Chapter not later than fourteen (14) days from the date of such filing. Personal service shall be made upon the respondent not less than five (5) days before the hearing. If timely service cannot be made, the Court may set a new hearing date.

(2). In the event that the Tribal Court determines that an emergency exists involving danger of immediate harm to person or property, or there is other good cause, it may issue a temporary protection order without notice or hearing. Such protection order shall not be enforced until the person to whom it is directed has been served with a copy of it or has otherwise been informed of its contents, and a hearing shall be held as soon thereafter as possible.

4-11-1003. Issuance of Order

(1). An order of protection issued by the Tribal Court under this Chapter may:

- (a) Restrain the respondent from committing acts of abuse or exploitation;
- (b) Exclude the respondent from petitioner's residence for a specified period or until further order of the court;
- (c) Prohibit contact by respondent for a specified period or until further order of the court;
- (d) Require an accounting by respondent of the disposition of petitioner's income or other resources;
- (e) Restrain the transfer of property for a specified period not exceeding ninety (90) days;
- (f) Require the respondent to pay filing fees and court costs, including service fees, and to reimburse the petitioner for costs incurred in bringing the action, including a reasonable attorney's fee;
- (g) Require other relief as the court deems necessary.

(2). Any relief granted by a protective order, other than a judgment for costs, shall be for a fixed period not to exceed one (1) year after which time it shall be reviewed by the Court to determine if the order should remain in effect for such period as is necessary to protect the elder or vulnerable adult from abuse or exploitation as determined by the Court.

4-11-1004. Execution of Protective Order. When a protective order under this Chapter is issued, the court may, upon request of the petitioner, Agency, or other protective service unit of the Tribe, order a Tribal Police officer to assist in the execution of such order.

Part 11. Bad Faith Report; Civil Penalty; Damages; Criminal Liability.

4-11-1101. Bad Faith Report. Any person who knowingly makes a false report of a suspected elder or vulnerable adult abuse is subject to a civil penalty of up to seven hundred fifty dollars (\$750.00). The Chippewa Tribal Court will assess the penalty after petition, notice, an opportunity for hearing, and a determination that the reporter made the report knowing it to be false.

4-11-1102. Penalties. The false reporter will be subject to any civil suit brought by or on behalf of the person(s) named as the suspected abusers in the false report for damages suffered as a result of the false report. The person is also subject to any criminal penalties as set forth in the Chippewa Cree Law & Order Code or as allowed by this Act.

Part 12. Elder Protection Services

4-11-1201. Protective Services.

- (1). Consistent with available resources, the Agency or other protective service unit of the Tribe will have a duty to seek appropriate agency support to provide necessary protection services to an elder who has been or is being abused, neglected or exploited. Any protection services provided shall be the least restrictive alternative available and necessary to meet the needs of the elder, the elder's family and caregiver(s). When possible, the affected elder and the elder's family and caregiver(s) shall be consulted in determining what services shall be provided.
- (2). The Agency, other protective service unit of the Tribe, or interested person or party may file a petition seeking an Elder or Vulnerable Adult Protection Order when good cause exists to believe that an elder is abused, neglected, exploited or incapacitated and is therefore suffering harm.
- (3). The elder or vulnerable adult, the elder or vulnerable adult's family or caregiver(s), if financially able to do so, will pay for some or all of the cost of services or resources provided to the elder or vulnerable adult pursuant to this Chapter.
- (4). Before providing any services, the Agency or other protective service unit of the Tribe will inform the elder or vulnerable adult of the protection services which will be provided and possible alternatives to these services, if any.

Part 13. Referral for Criminal Investigation

4-11-1301. Referral. A report of suspected elder or vulnerable adult abuse or neglect will be referred the appropriate law enforcement officers if the investigation indicates that the criminal laws of the Chippewa Cree Tribe or applicable federal criminal laws have been violated.

Part 14. Penalty

4-11-1401. Penalties. Any violation of this code may be subject to:

- (1). 1st Offense is a class (B or C) offense and each individual can be referred to the Agency for up to two (2) months of traditional teaching, up to a five hundred dollar (\$500.00) fine, or both. Documentation will need to be in each individual file upon completion. Individual will be referred back to court if a report of non-compliance is made.
- (2). 2nd Offense (B or C) offense and each individual can be referred to the Agency for up to four (4) months of traditional teaching, up to a one thousand dollar (\$1,000.00) fine, or both. Documentation will need to be in each individual file upon completion. Individual will be referred back to court if a report of non-compliance is made.

(3). 3rd Offense is a class (A or B) offense and each individual may receive up to one (1) year in jail, up to a one thousand dollar (\$1,000.00) fine, or both.

CHIPPEWA CREE TRIBE OF THE ROCKY BOY'S INDIAN RESERVATION



CHIPPEWA CREE TRIBAL SEX OFFENDER REGISTRATION AND NOTIFICATION CODE

Passed by Resolution No. 66-11, Amended by
Resolution No. 30-12 on March 8, 2012.

Incorporated within Title IV, Chapter 12 of the
Chippewa Cree Tribal Law and Order Code.

CHIPPEWA CREE TRIBAL SEX OFFENDER REGISTRATION AND NOTIFICATION CODE

TABLE OF CONTENTS

SECTION 1 GENERAL MATTERS 3
SUBSECTION 1.01 Title..... 3
SUBSECTION 1.02 Purpose..... 3
SUBSECTION 1.03 Need..... 3
SUBSECTION 1.04 Creation of Registries..... 3

SECTION 2 TERMINOLOGY AND REGISTERABLE OFFENSES..... 3
SUBSECTION 2.01 Definitions 3
SUBSECTION 2.02 Registerable Offenses 5

SECTION 3 REQUIRED INFORMATION 8
SUBSECTION 3.01 General Requirements..... 8
SUBSECTION 3.02 Criminal History 9
SUBSECTION 3.03 Date of Birth 9
SUBSECTION 3.04 DNA Sample..... 9
SUBSECTION 3.05 Driver’s Licenses, Identification Cards, Passports, and Immigration Documents 9
SUBSECTION 3.06 Employment Information..... 10
SUBSECTION 3.07 Finger and Palm Prints..... 10
SUBSECTION 3.08 Internet Identifiers..... 10
SUBSECTION 3.09 Name..... 10
SUBSECTION 3.10 Telephone Numbers..... 11
SUBSECTION 3.11 Picture 11
SUBSECTION 3.12 Physical Description 11
SUBSECTION 3.13 Professional Licensing Information..... 11
SUBSECTION 3.14 Residence Address 11
SUBSECTION 3.15 School 12
SUBSECTION 3.16 Social Security Number 12
SUBSECTION 3.17 Temporary Lodging 12
SUBSECTION 3.18 International Travel..... 12
SUBSECTION 3.19 Offense Information..... 12
SUBSECTION 3.20 Vehicle Information..... 13
SUBSECTION 3.21 Frequency, Duration and Reduction 13
SUBSECTION 3.22 Requirements for In Person Appearances..... 13
SUBSECTION 3.23 Sex Offender Acknowledgement Form 13

SECTION 4 REGISTRATION 14
SUBSECTION 4.01 Where Registration Is Required..... 14
SUBSECTION 4.02 Timing of Registration..... 14
SUBSECTION 4.03 Retroactive Registration 15
SUBSECTION 4.04 Keeping Registration Current 15
SUBSECTION 4.05 Failure To Appear For Registration and Absconding..... 16

SECTION 5 PUBLIC SEX OFFENDER REGISTRY WEBSITE 17
SUBSECTION 5.01 Website 17
SUBSECTION 5.02 Required and Prohibited Information 17
SUBSECTION 5.03 Community Notification 18

SECTION 6 SOVEREIGN IMMUNITY 19

SECTION 7 CRIMES AND CIVIL SANCTIONS 19

SECTION 1 GENERAL MATTERS

SUBSECTION 1.01 TITLE

This Code shall be known as the Chippewa Cree Tribal Sex Offender Registration and Notification Code.

SUBSECTION 1.02 PURPOSE

The intent of this code is to implement the federal Sex Offender Registration and Notification Act (SORNA) (Title I of Public Law 109-248) (42 USC 16901 et seq) and shall be interpreted liberally to comply with the terms and conditions of SORNA as presently written or hereafter amended.

SUBSECTION 1.03 NEED

Violent crime in Indian Country is more than twice the national average. On some reservations it is twenty times the national average. An astounding thirty percent of Indian and Alaska Native women will be raped in their lifetimes. Tribal nations are disproportionately affected by violent crime and sex offenses in particular from both Indian and non-Indian perpetrators; consequently, the conduct and presence of convicted sex offenders in Indian Country threatens the political integrity, economic security, health and welfare of tribal nations even to the point of imperiling the subsistence of tribal communities.

SUBSECTION 1.04 CREATION OF REGISTRIES

- A. **Sex Offender Registry.** There is hereby established a sex offender registry program, which the Tribe or designee shall maintain and operate pursuant to the provisions of this Code, as amended.
- B. **Public Sex Offender Registry Website.** There is hereby established the Chippewa Cree Tribe Sex Offender Website, <http://chippewacree.nsopw.gov/>, which the Chippewa Cree Tribal Human Services Department (Human Services Department) or designee shall maintain and operate pursuant to the provisions of this Code, as amended.

SECTION 2 TERMINOLOGY AND REGISTERABLE OFFENSES

SUBSECTION 2.01 DEFINITIONS

The Definitions below apply to this Code only.

- A. **Convicted.** An adult sex offender is “convicted” for the purposes of this Code if the sex offender has been subjected to penal consequences based on the conviction, however the conviction may be styled.

A juvenile offender is “convicted” for purposes of this Code if the juvenile offender is either:

1. Prosecuted and found guilty as an adult for a sex offense; or
2. Is adjudicated delinquent as a juvenile for a sex offense, but only if the offender is 14 years of age or older at the time of the offense and the offense adjudicated was comparable to or more

severe than aggravated sexual abuse (as described in either (a) or (b) of section 2241 of title 18, United States Code), or was an attempt or conspiracy to commit such an offense.

- B. **Foreign Convictions.** A foreign conviction is one obtained outside of the United States.
- C. **Employee.** The term “employee” as used in this Code includes, but is not limited to, an individual who is self-employed or works for any other entity, regardless of compensation. Volunteers of a tribal agency or organization are included within the definition of employee for registration purposes.
- D. **Immediate.** “Immediate” and “immediately” mean within 3 business days.
- E. **Imprisonment.** The term “imprisonment” refers to incarceration pursuant to a conviction, regardless of the nature of the institution in which the offender serves the sentence. The term is to be interpreted broadly to include, for example, confinement in a state “prison” as well as in a federal, military, foreign, BIA, private or contract facility, or a local or tribal “jail”. Persons under “house arrest” following conviction of a covered sex offense are required to register pursuant to the provisions of this Code during their period of “house arrest”.
- F. **Jurisdiction.** The term “jurisdiction” as used in this Code refers to the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, and any Indian Tribe that elected to function as a SORNA registration and notification jurisdiction pursuant to PL 109-248 Section 127 (42 USC § 16927).
- G. **Minor.** The term “minor” means an individual who has not attained the age of 18 years.
- H. **Resides.** The term “reside” or “resides” means, with respect to an individual, the location of the individual's home or other place where the individual habitually lives or sleeps.
- I. **Sex Offense.** The term “sex offense” as used in this Code includes those offenses contained in 42 U.S.C. §16911(5) (as amended) and those offenses enumerated in Section 2.02 of this Code or any other registerable offense under tribal law.
- J. An offense involving consensual sexual conduct is not a sex offense for the purposes of this Code if the victim was an adult, unless the adult was under the custodial authority of the offender at the time of the offense, or if the victim was at least 13 years old and the offender was not more than 4 years older than the victim.
- K. **Sex Offender.** A person convicted of a sex offense is a “sex offender”.
- L. **Sexual Act.** The term “sexual act” means:
1. Contact between the penis and the vulva or the penis and the anus, and for purposes of this definition contact involving the penis occurs upon penetration, however slight;
 2. Contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus;
 3. The penetration, however slight, of the anal or genital opening of another by a hand or finger or by any object, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person; or
 4. The intentional touching, not through the clothing, of the genitalia of another person that has not attained the age of 18 years with intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.

- M. **Sexual Contact.** The intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desires of another person.
- N. **Student.** A “student” is a person who enrolls in or attends either a private or public education institution, including a secondary school, trade or professional school, or an institution of higher education.
- O. **SORNA.** The Sex Offender Registration and Notification Act (Title I of the Adam Walsh Child Protection and Safety Act of 2006 P.L. 109-248), 42 U.S.C. § 169111 *et. seq.*, as amended.
- P. **Sex Offender Registry.** The term “sex offender registry” means the registry of sex offenders, and a notification program, maintained by the Chippewa Cree Tribe or designee.
- Q. **National Sex Offender Registry (NSOR).** The national database maintained by the Federal Bureau of Investigation pursuant to 42 U.S.C. §16919.
- R. **SMART Office.** The Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking, which was established within the United States Department of Justice under the general authority of the Attorney General of the United States pursuant to 42 U.S.C. §16945.
- S. **Dru Sjodin National Sex Offender Public Website (NSOPW).** The public website maintained by the Attorney General of the United States pursuant to 42 U.S.C. §16920.
- T. **Tribal Court.** “Tribal Court” means the Chippewa Cree Tribal Court of the Rocky Boy’s Indian Reservation or such other court as may from time to time be established or approved by the Chippewa Cree Tribe.

SUBSECTION 2.02 REGISTERABLE OFFENSES

An individual who resides, is employed or attending school within the exterior boundaries of the Rocky Boy’s Indian Reservation or on property owned by the Tribe in fee or trust regardless of location, that have been convicted of any of the registerable offenses listed, or convicted of an attempt or conspiracy to commit any of the following registerable offenses listed, shall be subject to lifetime registration, quarterly verification appearances, and full website posting.

- A. **Tribal offenses.** A conviction under the Chippewa Cree Tribe Law and Order Code (CCT-LOC) for any of the following:
 1. CCT-LOC Title IV, Chapter 4, § 4.4 (rape),
 2. CCT-LOC Title IV, Chapter 4, § 4.5 (sexual assault),
 3. CCT-LOC Title IV, Chapter 5, § 5.1 (child molestation),
 4. CCT-LOC Title IV, Chapter 10, § 10.1 (prostitution).
- B. **Federal Offenses.** A conviction, for or a conviction for an attempt or conspiracy to commit any of the following, and any other offense hereafter included in the definition of “sex offense” at 42 U.S.C. §16911(5): Including any offenses prosecuted under the Assimilative Crimes Act (18 USC §1152 or § 1153).
 1. 18 U.S.C. §1591 (sex trafficking of children),
 2. 18 U.S.C. §1801 (video voyeurism of a minor),

3. 18 U.S.C. §2241 (aggravated sexual abuse),
 4. 18 U.S.C. §2242 (sexual abuse),
 5. 18 U.S.C. §2243 (sexual abuse of a minor or ward),
 6. 18 U.S.C. §2244 (abusive sexual contact),
 7. 18 U.S.C. §2245 (offenses resulting in death),
 8. 18 U.S.C. §2251 (sexual exploitation of children),
 9. 18 U.S.C. §2251A (selling or buying of children),
 10. 18 U.S.C. §2252 (material involving the sexual exploitation of a minor),
 11. 18 U.S.C. §2252A (material containing child pornography),
 12. 18 U.S.C. §2252B (misleading domain names on the internet),
 13. 18 U.S.C. §2252C (misleading words or digital images on the internet),
 14. 18 U.S.C. §2260 (production of sexually explicit depictions of a minor for import into the U.S.),
 15. 18 U.S.C. §2421 (transportation of a minor for illegal sexual activity),
 16. 18 U.S.C. §2422 (coercion and enticement of a minor for illegal sexual activity),
 17. 18 U.S.C. §2423 (), (Transportation of Minors for Illegal Sexual Activity, Travel With the Intent to Engage in Illicit Sexual Conduct with a Minor, Engaging in Illicit Sexual Conduct in Foreign Places),
 18. 18 U.S.C. §2424 (failure to file factual statement about an alien individual),
 19. 18 U.S.C. §2425 (transmitting information about a minor to further criminal sexual conduct).
- C. **Foreign Offenses.** Any conviction for a sex offense involving any conduct listed in this Section that was obtained under the laws of Canada, the United Kingdom, Australia, New Zealand, or under the laws of any foreign country when the United States State Department in its Country Reports on Human Rights Practices has concluded that an independent judiciary generally or vigorously enforced the right to a fair trial in that country during the year in which the conviction occurred.
- D. **Military Offenses.** Any military offense specified by the Secretary of Defense under section 115(a) (8) (C) (i) of Public Law 105-119 (codified at 10 U.S.C. 951 note).
- E. **Juvenile Offenses or Adjudications.** Any sex offense, or attempt or conspiracy to commit a sex offense, that is comparable to or more severe than the federal crime of aggravated sexual abuse (as codified in 18 U.S.C. §2241(a) and (b)) and committed by a minor who is 14 years of age or older at the time of the offense. This includes engaging in a sexual act with another by force or the threat of serious violence; or engaging in a sexual act with another by rendering unconscious or involuntarily drugging the victim.
- F. **Jurisdiction Offenses.** Any sex offense committed in any jurisdiction, including this Tribe, that involves:
1. Any conduct that by its nature is a sex offense against a minor,

2. Any type or degree of genital, oral, or anal penetration,
3. Any sexual touching of or sexual contact with a person's body, either directly or through the clothing,
4. Criminal sexual conduct that involves physical contact with a minor or the use of the Internet to facilitate or attempt such conduct. This includes offenses whose elements involve the use of other persons in prostitution, such as pandering, procuring, or pimping in cases where the victim was a minor at the time of the offense,
5. False imprisonment of a minor,
6. Kidnapping of a minor,
7. Possession, production, or distribution of child pornography,
8. Solicitation of a minor to practice prostitution,
9. Solicitation to engage a minor in sexual conduct understood broadly to include any direction, request, enticement, persuasion, or encouragement of a minor to engage in sexual conduct,
10. Use of a minor in a sexual performance,
11. Any offense similar to those outlined in:
 - a. 18 U.S.C. §1591 (sex trafficking by force, fraud, or coercion),
 - b. 18 U.S.C. §1801 (video voyeurism of a minor),
 - c. 18 U.S.C. §2241 (aggravated sexual abuse),
 - d. 18 U.S.C. §2242 (sexual abuse),
 - e. 18 U.S.C. §2244 (abusive sexual contact),
 - f. 18 U.S.C. §2422(b) (coercing a minor to engage in prostitution), or
 - g. 18 U.S.C. §2423(a) (transporting a minor to engage in illicit conduct).

G. Sex Offense. Except as limited by subparagraph 6 or 7, the term "sex offense" means:

1. A criminal offense that has an element involving a sexual act or sexual contact with another;
2. A criminal offense that is a "specified offense against a minor". The term "specified offense against a minor" means an offense against a minor that involves any of the following:
 - a. An offense (unless committed by a parent or guardian) involving kidnapping.
 - b. An offense (unless committed by a parent or guardian) involving false imprisonment.
 - c. Solicitation to engage in sexual conduct.
 - d. Use in a sexual performance.
 - e. Solicitation to practice prostitution.

- f. Video voyeurism as described in 18 U.S.C. §1801.
 - g. Possession, production, or distribution of child pornography.
 - h. Criminal sexual conduct involving a minor, or the use of the Internet to facilitate or attempt such conduct.
 - i. Any conduct that by its nature is a sex offense against a minor;
3. A Federal offense (including an offense prosecuted under section 1152 or 1153 of Title 18 of the United States Code) under section 1591, or chapter 109A, 110 (other than section 2257, 2257A, or 2258), or 117, of Title 18 of the United States Code;
 4. A military offense specified by the Secretary of Defense under section 115(a)(8)(C)(i) of Public Law 105-119 (10 U.S.C. 951 note); or
 5. An attempt or conspiracy to commit an offense described in clauses (1) through (4).
 6. Offenses involving Consensual Sexual Conduct. An offense involving consensual sexual conduct is not a sex offense for the purposes of this Code if the victim was an adult, unless the adult was under the custodial authority of the offender at the time of the offense, or if the victim was at least thirteen (13) years old and the offender was not more than four (4) years older than the victim.
 7. Foreign Offenses. A foreign conviction is not a sex offense for the purposes of this Code unless it was either:
 - a. Obtained under the laws of Canada, the United Kingdom, Australia, New Zealand, or
 - b. Under the laws of any foreign country when the United States State Department in its Country Reports on Human Rights Practices has concluded that an independent judiciary generally or vigorously enforced the right to a fair trial in that country during the year in which the conviction occurred.

SECTION 3 REQUIRED INFORMATION

SUBSECTION 3.01 GENERAL REQUIREMENTS

- A. **Duties.** A sex offender covered by this Code who is required to register with the Tribe pursuant to Section 4 shall provide all of the information detailed in this Section to the Chippewa Cree Tribal Police Department (Police Department) or designee and the Police Department or designee shall obtain all of the information detailed in this Section from covered sex offenders who are required to register with the Tribe in accordance with this Code and shall implement any relevant policies and procedures.
- B. **Digitization.** All information obtained under this Code shall be, at a minimum, maintained by the Police Department or designee in a digitized format.
- C. **Electronic Database.** A sex offender registry shall be maintained in an electronic database by the Police Department or designee and shall be in a form capable of electronic transmission.

SUBSECTION 3.02 CRIMINAL HISTORY

- A. **Criminal History.** The Police Department or designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's criminal history:
1. The date of all arrests,
 2. The date of all convictions,
 3. The sex offender's status of parole, probation, or supervised release,
 4. The sex offender's registration status, and
 5. Any outstanding arrest warrants.

SUBSECTION 3.03 DATE OF BIRTH

- A. **Date of Birth.** The Police Department or designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's date of birth:
1. The sex offender's actual date of birth, and
 2. Any other date of birth used by the sex offender.

SUBSECTION 3.04 DNA SAMPLE

- A. **DNA.** If the sex offender's DNA is not already contained in the Combined DNA Index System (CODIS), the sex offender shall provide the Police Department or designee a sample of his DNA.
- B. **CODIS.** Any DNA sample obtained from the sex offender shall be submitted either to the state DNA laboratory or to the Federal Bureau of Investigation Laboratory for submission in CODIS.

SUBSECTION 3.05 DRIVER'S LICENSES, IDENTIFICATION CARDS, PASSPORTS, AND IMMIGRATION DOCUMENTS

- A. **Driver's License.** A covered sex offender shall provide all of the sex offender's valid driver's licenses issued by any jurisdiction and the Police Department or designee shall make a photocopy of any such licenses.
- B. **Identification Cards.** A covered sex offender shall provide all of the sex offender's identification cards including the sex offender's tribal enrollment card issued by any jurisdiction and the Police Department or designee shall make a photocopy of any such identification cards.
- C. **Passports.** The Police Department or designee shall obtain, and a covered sex offender shall provide, a photocopy of any passports used by the sex offender.
- D. **Immigration Documents.** The Police Department or designee shall obtain, and a covered sex offender shall provide, a photocopy of any and all immigration documents.

SUBSECTION 3.06 EMPLOYMENT INFORMATION

- A. **Employment.** The Police Department or designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's employment, to include any and all places where the sex offender is employed in any means including volunteer and unpaid positions:
1. The name of the sex offender's employer,
 2. The address of the sex offender's employer, and
 3. Similar information related to any transient or day labor employment.

SUBSECTION 3.07 FINGER AND PALM PRINTS

- A. **Finger and Palm Prints.** The Police Department or designee shall obtain, and a covered sex offender shall provide, both fingerprints, which must be submitted to IAFIS and palm prints, which must be submitted to FBI Next Generation Identification Program.

SUBSECTION 3.08 INTERNET IDENTIFIERS

- A. **Internet Names.** The Police Department or designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's Internet related activity:
1. Any and all email addresses used by the sex offender,
 2. Any and all Instant Message addresses and identifiers,
 3. Any and all other designations or monikers used for self-identification in Internet communications or postings, and
 4. Any and all designations used by the sex offender for the purpose of routing or self-identification in internet communications or postings, including but not limited to social network identifications, Twitter accounts, video posting site identifications such as YouTube etc...

SUBSECTION 3.09 NAME

- A. **Name.** The Police Department or designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's name:
1. The sex offender's full primary given name,
 2. Any and all nicknames, aliases, and pseudonyms regardless of the context in which it is used, and
 3. Any and all ethnic or tribal names by which the sex offender is commonly known. This does not include any religious or sacred names not otherwise commonly known.

SUBSECTION 3.10 TELEPHONE NUMBERS

- A. **Telephone Numbers.** The Police Department or designee shall obtain, and a covered sex offender shall provide, any and all telephone numbers and any other designations used by sex offenders for purposes of routing or self-identification in telephonic communications including but not limited to:
1. Any and all cellular telephone numbers.
 2. Any and all land line telephone numbers.
 3. Any and all Voice over IP (VOIP) telephone numbers.

SUBSECTION 3.11 PICTURE

- A. **Photograph.** The Police Department or designee shall obtain, and a covered sex offender shall provide, a current photograph of the sex offender. A covered sex offender shall permit his photograph to be taken by the Police Department or designee every ninety (90) days.
- B. **Update Requirements.** Unless the appearance of a sex offender has not changed significantly a digitized photograph shall be collected at each appearance indicated in Section 3.11 A.

SUBSECTION 3.12 PHYSICAL DESCRIPTION

- A. **Physical Description.** The Police Department or designee shall obtain, and a covered sex offender shall provide, an accurate description of the sex offender as follows:
1. A physical description,
 2. A general description of the sex offender's physical appearance or characteristics, and
 3. Any identifying marks, such as, but not limited to, scars, moles, birthmarks, or tattoos.

SUBSECTION 3.13 PROFESSIONAL LICENSING INFORMATION

- A. **Professional Licenses.** The Police Department or designee shall obtain, and a covered sex offender shall provide, all licensing of the sex offender that authorizes the sex offender to engage in an occupation or carry out a trade or business.

SUBSECTION 3.14 RESIDENCE ADDRESS

- A. **Address.** The Police Department or designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's residence:
1. The address of each residence at which the sex offender resides or will reside, and

2. Any location or description that identifies where the sex offender habitually resides regardless of whether it pertains to a permanent residence or location otherwise identifiable by a street or address.

SUBSECTION 3.15 SCHOOL

- A. **School Location.** The Police Department or designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's school:
 1. The address of each school where the sex offender is or will be a student, and
 2. The name of each school the sex offender is or will be a student.

SUBSECTION 3.16 SOCIAL SECURITY NUMBER

- A. **Social Security Number.** The Police Department or designee shall obtain, and a covered sex offender shall provide, the following information:
 1. A valid social security number for the sex offender, and
 2. Any social security number the sex offender has used in the past, valid or otherwise.

SUBSECTION 3.17 TEMPORARY LODGING

- A. **Lodging Information.** The Police Department or designee shall obtain, and a covered sex offender shall provide, the following information when the sex offender will be absent from his residence for seven (7) days or more:
 1. Identifying information of the temporary lodging locations including addresses and names,
 2. The dates the sex offender will be staying at each temporary lodging location, and
 3. The registered sex offender shall provide the information in Section 4.17 (1) and (2) no later than seven (7) days before his scheduled travel. The information shall be provided in person.

SUBSECTION 3.18 INTERNATIONAL TRAVEL

- A. **Travel Abroad.** Sex offenders must inform their residence jurisdictions twenty-one (21) days in advance if they intend to travel outside of the United States. Jurisdictions must notify the U.S. Marshals Service and immediately notify any other jurisdiction where the sex offender is either registered, or is required to register, of that updated information. Update also must be made to NCIC/NSOR.

SUBSECTION 3.19 OFFENSE INFORMATION

- A. **Offense Information.** The Police Department or designee shall obtain the text of each provision of law defining the criminal offense(s) for which the sex offender is registered.

SUBSECTION 3.20 VEHICLE INFORMATION

- A. **Detailed Information.** The Police Department or designee shall obtain, and a covered sex offender shall provide, the following information related to all vehicles owned or operated by the sex offender for work or personal use including land vehicles, aircraft, and watercraft:
1. License plate numbers,
 2. Registration numbers or identifiers, vehicle identification number,
 3. General description of the vehicle to include color, make, model, and year, and
 4. Any permanent or frequent location where any covered vehicle is kept.

SUBSECTION 3.21 FREQUENCY, DURATION AND REDUCTION

- A. **Frequency.** A sex offender who is required to register shall, at a minimum, appear in person at the Police Department or designee for purposes of verification and keeping their registration once every ninety (90) days for the rest of their lives.
- B. **Reduction of Registration Periods.** A sex offender may have their period of registration reduced to twenty-five (25) years if he or she was adjudicated delinquent of an offense as a juvenile that required registration once every ninety (90) days for the rest of their lives and he or she has maintained a clean record for twenty-five (25) consecutive years.

SUBSECTION 3.22 REQUIREMENTS FOR IN PERSON APPEARANCES

- A. **Photographs.** At each in person verification, the sex offender shall permit the Police Department or designee to take a photograph of the offender.
- B. **Review of Information.** At each in person verification the sex offender shall review existing information for accuracy.
- C. **Notification.** If any new information or change in information is obtained at an in person verification, the Police Department or designee shall immediately notify all other jurisdictions in which the sex offender is required to register of the information or change in information.
- D. If any new information or change in information is obtained at an in person verification, the Police Department or designee shall immediately notify the Human Services Department to update the public website, if applicable, and update information in NCIC/NSOR.

SUBSECTION 3.23 SEX OFFENDER ACKNOWLEDGEMENT FORM

- A. The sex offender shall read, or have read to them, and sign a form stating that the duty to register has been explained to them by the Police Department or designee and that the sex offender understands the registration requirement.
1. The form shall be signed and dated by the Police Department personnel registering the sex offender.

- B. The Police Department or designee shall immediately upload the acknowledgement form into the Tribe's sex offender registry.

SECTION 4 REGISTRATION

SUBSECTION 4.01 WHERE REGISTRATION IS REQUIRED

- A. **Jurisdiction of Conviction.** A sex offender must initially register in person with the Police Department or designee of the Rocky Boy's Indian Reservation if the sex offender was convicted by the Tribal Court of a covered sex offense regardless of the sex offender's actual or intended residency.
- B. **Jurisdiction of Incarceration.** A sex offender must register in person with the Police Department or designee of the Rocky Boy's Indian Reservation if the sex offender is incarcerated by the Tribe while completing any sentence for a covered sex offense, regardless of whether it is the same jurisdiction as the jurisdiction of conviction or residence.
- C. **Jurisdiction of Residence.** A sex offender must register in person with the Police Department or designee of the Rocky Boy's Indian Reservation if the sex offender resides within the exterior boundaries of the Rocky Boy's Indian Reservation or on property owned by the Tribe in fee or trust regardless of location.
- D. **Jurisdiction of Employment.** A sex offender must register in person with the Police Department or designee of the Rocky Boy's Indian Reservation if he or she is employed by the Tribe in any capacity or otherwise is employed within the exterior boundaries of the Rocky Boy's Indian Reservation or on property owned by the Tribe in fee or trust regardless of location.
- E. **Jurisdiction of School Attendance.** A sex offender must register in person with the Police Department or designee of Rocky Boy's Indian Reservation if the sex offender is a student in any capacity within the exterior boundaries of the Rocky Boy's Indian Reservation or on property owned by the Tribe in fee or trust regardless of location.

SUBSECTION 4.02 TIMING OF REGISTRATION

- A. **Timing.** A sex offender required to register with the Tribe under this Code shall do so in the following timeframe:
1. If convicted by Tribal Court for a covered sex offense and incarcerated, the sex offender must register before being released from incarceration;
 2. If convicted by Tribal Court but not incarcerated, within three (3) business days of sentencing for the registration offense, and
 3. Within three (3) business days of establishing a residence, commencing employment, or becoming a student within the exterior boundaries of the Rocky Boy's Indian Reservation or on property owned by the Tribe in fee or trust regardless of location must appear in person to register with the Police Department or designee.
- B. **Additional Duties of the Police Department or designee.** The Police Department or designee shall have policies and procedures in place to ensure the following:
1. That any sex offender incarcerated or sentenced by the Tribe for a covered sex offense completes their initial registration with the Tribe,

2. That the sex offender reads, or has read to them, and signs a form stating that the duty to register has been explained to them and that the sex offender understands the registration requirement,
3. That the sex offender is registered, and added to the public website if applicable, and
4. That upon entry of the sex offender's information in to the registry, that information is immediately forwarded to all other jurisdictions in which the sex offender is required to register due to the sex offender's residency, employment, or student status.
5. That all information is entered and updated in NCIC/NSOR.

SUBSECTION 4.03 RETROACTIVE REGISTRATION

- A. **Retroactive Registration.** The Police Department or designee shall have in place policies and procedures to ensure the following three categories of sex offenders are subject to the registration and updating requirements of this Code:
 1. Sex offenders incarcerated or under the supervision of the Tribe, whether for a covered sex offense or other crime,
 2. Sex offenders already registered or subject to a pre-existing sex offender registration requirement, and
 3. Sex offenders reentering the justice system due to conviction for any crime.
- B. **Timing of Recapture.** The Police Department or designee shall ensure recapture of the sex offenders mentioned in Section 5.03(A) within the following timeframe to be calculated from the date of passage of this Code ninety (90) days.

SUBSECTION 4.04 KEEPING REGISTRATION CURRENT

- A. **Jurisdiction of Residency.** All sex offenders who reside within the exterior boundaries of the Rocky Boy's Indian Reservation or on property owned by the Tribe in fee or trust regardless of location, who are required to register in this jurisdiction shall immediately appear in person at the Police Department or designated agency to update any changes to their name, residence (including termination of residency), employment, or school attendance. All sex offenders required to register in this jurisdiction shall immediately inform the Police Department or designee in person of any changes to their temporary lodging information, of any changes to their vehicle information, Internet identifiers, or telephone numbers. In the event of a change in temporary lodging, of over seven (7) days the sex offender shall immediately notify the registry official of the residence jurisdiction and the Police Department or designee shall notify the jurisdiction in which the sex offender will be temporarily staying. Jurisdictions must notify the U.S. Marshals Service and immediately notify any other jurisdiction where the sex offender is either registered, or is required to register, of that updated information. Update also must be made to NCIC/NSOR.
- B. **Jurisdiction of School Attendance.** Any sex offender who is a student in any capacity within the exterior boundaries of the Rocky Boy's Indian Reservation or on property owned by the Tribe in fee or trust regardless of location that change their school, or otherwise terminate their schooling, shall immediately appear in person at the Police Department or designated agency to update that information. The Police Department or designee shall ensure that each jurisdiction in

which the sex offender is required to register, or was required to register prior to the updated information being given, are immediately notified of the change.

- C. **Jurisdiction of Employment.** Any sex offender who is employed by the Tribe in any capacity or otherwise is employed within the exterior boundaries of the Rocky Boy's Indian Reservation or on property owned by the Tribe in fee or trust regardless of location that change their employment, or otherwise terminate their employment, shall immediately appear in person at the Police Department or designated agency to update that information. The Police Department or designee shall ensure that each jurisdiction in which the sex offender is required to register, or was required to register prior to the updated information being given, are immediately notified of the change.

SUBSECTION 4.05 FAILURE TO APPEAR FOR REGISTRATION AND ABSCONDING

- A. **Failure to Appear.** In the event a sex offender fails to register with the Tribe as required by this Code, the Police Department or designee shall immediately inform the jurisdiction that provided notification that the sex offender was to commence residency, employment, or school attendance with the Tribe that the sex offender failed to appear for registration.
- B. **Absconded Sex Offenders.** If the Police Department or designee receives information that a sex offender has absconded the Tribe shall make an effort to determine if the sex offender has actually absconded.
1. In the event no determination can be made, the Police Department or designee shall ensure the Chippewa Cree Tribal Police and any other appropriate law enforcement agency is notified.
 2. If the information indicating the possible absconding came through notice from another jurisdiction or federal authorities, they shall be informed that the sex offender has failed to appear and register.
 3. If an absconded sex offender cannot be located then the Police Department shall take the following steps:
 - a. Update the registry/public website to reflect the sex offender has absconded or is otherwise not capable of being located,
 - b. Notify the U.S. Marshals Service,
 - c. Seek a warrant for the sex offender's arrest. The U.S. Marshals Service or FBI may be contacted in an attempt to obtain a federal warrant for the sex offender's arrest,
 - d. Update the NCIC/NSOR to reflect the sex offender's status as an absconder, or is otherwise not capable of being located, and
 - e. Enter the sex offender into the National Crime Information Center Wanted Person File.
- C. **Failure to Register.** In the event a sex offender who is required to register due to their residence, employment or school attendance status fails to do so or otherwise violates a registration requirement of this Code, the Police Department shall take all appropriate follow-up measures including those outlined in Section 4.05(B). The Police Department shall first make an effort to determine if the sex offender is actually resides, is employed or attending school within the exterior boundaries of the Rocky Boy's Indian Reservation or on property owned by the Tribe in fee or trust regardless of location.

SECTION 5 PUBLIC SEX OFFENDER REGISTRY WEBSITE

SUBSECTION 5.01 WEBSITE

- A. **Website.** The Human Services Department shall maintain the Chippewa Cree Tribe Sex Offender Website, <http://chippewacree.nsopw.gov/>.
- B. **Links.** The Tribe's sex offender registry website shall include links to sex offender safety and education resources.
- C. **Instructions.** The Tribe's sex offender registry website shall include instructions on how a person can seek correction of information that the individual contends is erroneous.
- D. **Warnings.** The Tribe's sex offender registry website shall include a warning that the information contained on the website should not be used to unlawfully injure, harass, or commit a crime against any individual named in the registry or residing or working at any reported addresses and that any such action could result in civil or criminal penalties.
- E. **Search Capabilities.** The Tribe's sex offender registry website shall have the capability of conducting searches by (1) name; (2) county, city, and/or town; and, (3) zip code and/or geographic radius.
- F. **Dru Sjodin National Sex Offender Public Website.** The Human Service Department or designee shall include in the design of its registry website all field search capabilities needed for full participation in the Dru Sjodin National Sex Offender Public Website and shall participate in that website as provided by the Attorney General of the United States.
- G. **Juvenile Delinquency Adjudications.** Juvenile delinquency adjudications are exempt from public web site posting.

SUBSECTION 5.02 REQUIRED AND PROHIBITED INFORMATION

- A. **Required Information.** The following information shall be made available to the public on the Tribe's sex offender registry website:
 - 1. Notice that an offender is in violation of their registration requirements or cannot be located if the sex offender has absconded,
 - 2. All sex offenses for which the sex offender has been convicted,
 - 3. The sex offense(s) for which the offender is currently registered,
 - 4. The address of the sex offender's employer(s),
 - 5. The name of the sex offender including all aliases,
 - 6. A current photograph of the sex offender,
 - 7. A physical description of the sex offender,
 - 8. The residential address and, if relevant, a description of a habitual residence of the sex offender,

9. All addresses of schools attended by the sex offender, and
 10. The sex offender's vehicle license plate number along with a description of the vehicle.
- B. **Prohibited Information.** The following information shall not be available to the public on the Tribe's sex offender registry website:
1. Any arrest that did not result in conviction,
 2. The sex offender's social security number,
 3. Any travel and immigration documents,
 4. The identity of the victim,
 5. Internet identifiers (as defined in 42 U.S.C. §16911), and
 6. Juvenile delinquency adjudications.
- C. **Witness Protection.** For sex offenders who are under a witness protection program, the Police Department may honor the request of the U.S. Marshals Service or other agency responsible for witness protection by not including the original identity of the offender on the publicly accessible sex offender registry website.

SUBSECTION 5.03 COMMUNITY NOTIFICATIONS

- A. **Law Enforcement Notification.** Whenever a sex offender registers or updates his or her information with the Police Department or designee shall:
1. Monitor and utilize the SORNA Exchange Portal for inter-jurisdictional change of residence, employment or student status.
 2. Immediately update NCIC/NSOR.
 3. Immediately notify any agency, department, or program within the Tribe that is responsible for criminal investigation, prosecution, child welfare or sex offender supervision functions, including but not limited to, police, whether BIA, tribal, or FBI, tribal prosecutors, and tribal probation.
 4. Immediately notify any and all other registration jurisdictions where the sex offender is registered due to the sex offender's residency, school attendance, or employment.
 5. Immediately notify National Child Protection Act agencies, which includes any agency responsible for conducting employment-related background checks under section 3 of the National Child Protection Act of 1993 (42 U.S.C. 5119a) when a sex offender registers or updates registration.
 6. Enter or update information posted on the public website.
- B. **Community Notification.** The Police Department or designee shall ensure there is an automated community notification process in place that ensures the following:
1. Upon a sex offender's registration or update of information with the Police Department, the Tribe's public sex offender registry website is immediately updated within three (3) business days.

2. The Tribe's public sex offender registry website has a function that enables the general public to request an e-mail notice that will notify them when a sex offender commences residence, employment, or school attendance with the Tribe, within a specified zip code, or within a certain geographic radius. This email notice shall include the sex offender's identity so that the public can access the public registry for the new information.

SECTION 6 SOVEREIGN IMMUNITY

SUBSECTION 6.01 SOVEREIGN IMMUNITY

- A. **No waiver of Sovereign Immunity.** Nothing under this chapter shall be construed as a waiver of sovereign immunity for the Chippewa Cree Tribe of the Rocky Boy's Indian Reservation, its departments, agencies, employees, or agents.
- B. **Good faith.** Any person acting under good faith of this Title shall be immune from any civil liability arising out of such actions.

SECTION 7 CRIMES AND CIVIL SANCTIONS

SUBSECTION 7.01 CRIMES AND CIVIL SANCTIONS

- A. **Criminal penalty.** Each violation of a provision of this Code by a sex offender who is an Indian shall be considered a crime and subject to a period of incarceration for a term of up to one (1) year and/or a fine of five thousand dollars (\$5,000) or both.
- B. **Civil Penalty.** Each violation of a provision of this Code by a sex offender who is not an Indian shall be considered a civil violation subject to enforcement by any means not prohibited by federal law, including, but not limited to the issuance of a fine of five thousand dollars (\$5,000), forfeitures, civil contempt, or any combination thereof.
- C. **Federal Penalty.** Under 18 U.S.C. 2250, the federal failure-to-register offense, a federal criminal penalty of up to 10 years of imprisonment exists for sex offenders required to register under SORNA who knowingly fail to register or update a registration as required where circumstances supporting federal jurisdiction exist, such as interstate or international travel or travel on or off an Indian reservation by a sex offender, or conviction of a federal sex offense for which registration is required.
- D. **Customs and traditions and banishment/exclusion.** Expulsion and Exclusion of Non-Members from Tribal Lands.
 1. Any person who is not a member of the Chippewa Cree Tribe may be excluded from the Rocky Boy's Indian Reservation. *See* Title II, Chapter 5 of the Chippewa Cree Tribal Law and Order Code.
- E. **Hindrance of sex offender registration.**
 1. A person is guilty of an offense if they:
 - a. Knowingly harbors or knowingly attempts to harbor, or knowingly assists another person in harboring or attempting to harbor a sex offender who is in violation of this Title;
 - b. Knowingly assists a sex offender in eluding a law enforcement agency that is seeking to find the sex offender to question the sex offender about, or to arrest the sex offender for, noncompliance with the requirements of this Title; or

- c. Provides information to law enforcement agency regarding a sex offender which the person knows to be false.

History: Title IV, Chapter 12 et seq., SORNA, was enacted by the Chippewa Cree Tribe by Resolution of the Chippewa Cree Business Committee dated July 6, 2011, Resolution No. 66-11. Amendments were enacted to conform this Title to federal requirements by Resolution No. 30-12, dated March 8th, 2012.

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.