

CHAPTER 3-1 CRIMINAL CODE

OFFENSES AGAINST THE PERSON

3-1-1 **Abduction**

Any person who shall willfully take away or detain another person against his will so as to interfere substantially with his liberty, or knowingly and without the consent of the lawful custodian shall take away, entice, or detain a child from the custody of his lawful custodian when he lacks lawful permission or authority to do so, shall be guilty of Abduction. Abduction is a Class A offense with a mandatory minimum 30 day jail sentence.

(Amended 4/18/2024, Resolution 2024-315, Certified 4/29/2024)

3-1-2 **Adulteration of Food and Drink**

Any person who shall manufacture, sell or keep or offer for sale any food, drug or drink which contains any harmful substance shall be guilty of the offense of Adulteration of Food and Drink. Adulteration of Food and Drink is a Class B offense.

3-1-3 **Assault**

Any person who shall threaten bodily injury to another person through unlawful force or violence shall be guilty of Assault. Assault is a Class C offense.

3-1-4 **Battery**

Any person who shall willfully strike another person or otherwise inflict bodily injury, or who shall by offering violence cause another to harm himself, shall be guilty of Battery. Battery is a Class A offense.

3-1-5 **Causing or Aiding Suicide**

Any person who shall willfully cause or aid another to commit suicide shall be guilty of the offense of Causing or Aiding Suicide. Causing or Aiding Suicide is a Class A offense.

3-1-6 **Criminal Homicide**

Any person who shall knowingly, recklessly or negligently cause the death of another human being shall be guilty of Criminal Homicide. Criminal Homicide is a Class A offense with a mandatory minimum 90 day jail sentence.

(Amended 4/18/2024, Resolution 2024-315, Certified 4/29/2024)

3-1-7 **Dangerous Nuisance**

Any person who shall have on his premises any abandoned ice-box, chest, or other container not in active use, any door to which has a latch or lock which automatically fastens when the door is closed and which cannot be readily opened from the inside, shall be guilty of Dangerous Nuisance. Dangerous Nuisance is a Class C offense.

3-1-8 **Defamation**

Any person who shall knowingly and with malicious intent, communicate to any other person orally or in writing any information which he knows or should know to be false and knows that the information tends to impeach the honesty and integrity or reputation of a third person and thereby expose him to public hatred, contempt or ridicule shall be guilty of Defamation. Defamation is a Class C offense.

3-1-9 **Harassment**

(a) Any person who knowingly threatens:

- 1) To cause bodily injury immediately or in the future to the person threatened or to any other person; or
- 2) To cause physical damage to the property of a person other than the actor; or

- 3) To subject the person threatened or any other person to physical confinement or restraint; or
- 4) Maliciously to do other act which is intended to substantially harm the person threatened or another with respect to his or her physical or mental health or safety; and

(b) The person by words or conduct places the person threatened in reasonable fear that the threat will be carried out. “Words or conduct” includes, in addition to any other form of communication or conduct, the sending of an electronic communication. Harassment is a Class C offense.

(Amended 4/11/13, Resolution 2013-299, Certified 4/22/13)
(Subsequent code numbering changed pursuant to this new inserted amendment)

3-1-10 Indecent Liberties

(a) A person is guilty of Indecent Liberties when such person causes another person under the age of sixteen who is not his or her spouse to have sexual contact with him, her or another.

(b) A person is guilty of Indecent Liberties when such person knowingly causes another person to have sexual contact with him, her or another:

(1) by forcible compulsion;

(2) when the victim is incapable of consent by reason of being physically helpless or mentally incapacitated; or

(3) when the victim is developmentally disabled, a frail elder or vulnerable adult and the perpetrator is a person who is not married to the victim and who has a significant or dependent relationship with the perpetrator;

(c) “Sexual contact” means any touching, regardless of who does the touching, of the sexual or other intimate parts of a person done for the purpose of gratifying sexual desire of either party or a third party.

(d) “Forcible compulsion” means:

(1) physical force that overcomes resistance; or

(2) an express or implied threat that places a person in fear of death or physical injury to himself, herself or another person, or in fear that he, she or another person will be abducted or kidnapped.

(e) Indecent Liberties is a Class A offense with a mandatory minimum 30 day jail sentence.

(f) Defenses are set out in 3-1-20.

(Amended 1/5/06, Resolution 2006-004)
(Amended 8/19/04, Resolution 2004-560)
(Certified 8/25/04)

(Scrivener’s error, corrected 8/5/19)

(Amended 4/18/2024, Resolution 2024-315, Certified 4/29/2024)

3-1-11 Rape

(a) A person is guilty of rape when such person engages in sexual intercourse with another person under the age of sixteen.

(b) A person is guilty of rape when such person engages in sexual intercourse with another person:

(1) by forcible compulsion;

(2) when the victim is incapable of consent by reason of being physically helpless or mentally incapacitated;

(3) when the victim is developmentally disabled, a frail elder or vulnerable adult and the perpetrator is a person who is not married to the victim and the victim has a significant or dependent relationship with the perpetrator; or

(4) when the victim did not consent to sexual intercourse with the perpetrator and such lack of consent was expressed by the victim's word or conduct.

(c) "Sexual Intercourse":

(1) has its ordinary meaning and occurs upon any penetration, however slight;

(2) also means any penetration of the vagina or anus however slight, by an object, when committed on one person by another, whether such persons are of the same or opposite sex, except when such penetration is accomplished for medically recognized treatment or diagnostic purposes; or

(3) also means any act of sexual contact between persons involving the sex organs of one person and the mouth or anus of another whether such persons are of the same or opposite sex.

(d) "Forcible compulsion" means the same as in section 3-1-9 (d)

(e) Rape is a Class A offense with a mandatory minimum 90 day jail sentence.

(f) Defenses are set out in section 3-1-20.

(Amended 8/19/04, Resolution 2004-560)

(Certified 8/25/04)

(Scrivener's error, corrected 8/5/19)

(Amended 4/18/2024, Resolution 2024-315, Certified 4/29/2024)

3-1-12

Reckless Endangerment

Any person who shall recklessly engage in conduct which places or may place another human being in danger of death or serious bodily injury shall be guilty of Reckless Endangerment. Reckless Endangerment shall be presumed whenever a person shall knowingly point or discharge a firearm at or in the direction of another whether the actor believes the firearm to be loaded or not. Reckless Endangerment is a Class A offense with a mandatory minimum 15 day jail sentence.

(Amended 4/18/2024, Resolution 2024-315, Certified 4/29/2024)

3-1-13

Strangulation

Any person who uses their hands or any other object to impede the normal breathing or circulation of blood by applying pressure on the throat or neck, or obstructing the nose or mouth. Strangulation is a Class A offense with a mandatory minimum 30 day jail sentence.

(Amended 4/18/2024, Resolution 2024-315, Certified 4/29/2024)

3-1-14

Unlawful Imprisonment

Any person who uses unlawful force to prevent or attempts to prevent another from leaving is guilty of unlawful imprisonment. Unlawful Imprisonment is a Class B offense.

(Amended 4/11/13, Resolution 2013-299, Certified 4/22/13)

3-1-15

Vehicular Homicide

Any person who shall, while under the influence of an alcoholic beverage or a controlled substance or drug to a degree which renders him incapable of safely driving a vehicle, cause the death of another by operating a motor vehicle, shall be guilty of Vehicular Homicide. Vehicular Homicide is a Class A offense with a mandatory minimum 30 day jail sentence.

(Amended 4/18/2024, Resolution 2024-315, Certified 4/29/2024)

3-1-16

Weapons, Carrying Concealed

Any person, other than a bona fide law enforcement officer of any jurisdiction, who shall go in a public place armed with a loaded or unloaded firearm, any explosive device, any instrument with a sharpened

blade longer than four inches, or a club longer than twelve inches, concealed upon his or her person, unless he or she shall have a current valid permit to carry such a weapon concealed signed by the Chief of the Colville Tribal Police under regulations promulgated by the chief, shall be guilty of Carrying A Concealed Weapon. Carrying A Concealed Weapon is a Class A offense. Weapons lawfully seized under this section may be forfeited to the Tribes pursuant to tribal civil forfeiture procedures.

(Adopted 11/20/86, Resolution 1986-598)

3-1-17 Weapons, Firing

Any person, excepting a bona fide law enforcement officer acting within the scope of his or her duty, who discharges a firearm within any settled community on the lands of the Colville Indian Reservation shall be guilty of Unlawful Discharge of a Firearm.

Unlawful Discharge of a Firearm is a Class B offense. Weapons lawfully seized under this section may be forfeited to the Tribes pursuant to Tribal civil forfeiture procedures.

(Adopted 11/20/86, Resolution 1986-598)

3-1-18 Stalking

(a) A person commits the offense of stalking if the person:

(1) purposefully engages in a course of conduct directed at a specific person that would cause a reasonable person to fear bodily injury, indecent liberties, rape, death of himself or herself or a family or household member or uninvited intrusion into a residence or place of employment; and

(2) has knowledge or should have knowledge that the specific person will be placed in reasonable fear of bodily injury, indecent liberties, rape, death of himself or herself or a family or household member, or uninvited intrusion into a residence or place of employment; and

(3) whose acts induce fear in the specific person of bodily injury, indecent liberties, rape, death of himself or herself or a family or household member or uninvited intrusion into a residence or place of employment.

(b) For purposes of this section:

(1) "Course of conduct" means repeatedly maintaining a visual or physical proximity to a person or repeatedly conveying verbal or written threats, or threats implied by conduct or a combination thereof directed at or toward a person.

(2) "Repeatedly" means on two or more occasions.

(3) "Has knowledge" means a person acts knowingly with respect to conduct or to a circumstance described by a statute defining an offense when the person is aware of the person's own conduct or that the circumstances exist. A person acts knowingly with respect to the result of conduct described by a statute defining an offense when the person is aware that it is highly probable that the result will be caused by the person's conduct. When knowledge of the existence of a particular fact is an element of an offense, knowledge is established if a person is aware of a high probability of its existence. Equivalent terms, such as "knowing" or "with knowledge", have that same meaning.

(c) Attempts to engage in this course of conduct after being given actual notice that the person does not want the course of conduct to continue constitutes prima facie evidence that the stalker's actions are purposeful, as required in (a)(1) of this section, and that the stalker has knowledge, as required in (a)(2) of this section.

(d) A conviction for the offense of stalking is a Class C offense, except that a conviction is a Class B offense with a mandatory minimum 30 day jail sentence if any of the following apply:

- (1) the stalker has previously been convicted of the offense of stalking under this section;
- (2) the stalker has previously been convicted in Tribal Court or another court of domestic violence, or harassment of the same victim or any person specifically named in a protective order;
- (3) the stalking violates any protective order protecting the person being stalked;
- (4) the stalker was armed with a deadly weapon while stalking the person;
- (5) the stalker's victim is or was a law enforcement officer, judge, juror, attorney, victim advocate, spokesperson, legislator, or community correction's officer, and the stalker stalked the victim to retaliate against the victim for an act the victim performed during the course of official duties or to influence the victim's performance of official duties; or
- (6) the stalker's victim is a current, former, or prospective witness in an adjudicative proceeding, and the stalker stalked the victim to retaliate against the victim as a result of the victim's testimony or potential testimony.

(Amended 8/19/04, Resolution 2004-529)

(Certified 8/25/04)

(Amended 4/18/2024, Resolution 2024-315, Certified 4/29/2024)

3-1-19 Sexual Exploitation of a Minor

(a) A person is guilty of Sexual Exploitation of a Minor if the person, for his, her or another's sexual gratification, monetary or other benefit:

- (1) compels a minor by threat or force to engage in sexually explicit conduct;
- (2) aids, invites, employs, authorizes, permits, or causes a minor to engage in sexually explicit conduct; or
- (3) being a parent, legal guardian, or person having custody or control of a minor, aids, invites, employs, authorizes, causes or permits the minor to engage in sexually explicit conduct.

(b) "Sexually explicit conduct" means actual or simulated:

- (1) sexual intercourse as defined in section 3-1-10 (c);
- (2) sexual contact as defined in section 3-1-9 (c);
- (3) masturbation;
- (4) sadomasochistic abuse for the purpose of sexual stimulation of the viewer;
- (5) exhibition of the genitals or unclothed pubic or rectal areas of any minor, or the unclothed breast of a female minor, for the purpose of sexual stimulation of the viewer;
- (6) defecation or urination for the purpose of sexual stimulation of the viewer; or
- (7) any other conduct done for the purpose of sexual stimulation of the viewer.

(c) Sexual Exploitation of a Minor is a Class A offense with a mandatory minimum 30 day jail sentence.

(d) Defenses are set out in section 3-1-20.

(Amended 8/19/04, Resolution 2004-560)

3-1-20 Defenses to prosecution for Indecent Liberties, Rape and Sexual Exploitation of a Minor

In any prosecution for Indecent Liberties, Rape or Sexual Exploitation of a Minor in which lack of consent is based solely upon the alleged victim's mental incapacity or upon the alleged victim's being physically helpless, it is a defense which the defendant must prove by a preponderance of the evidence that at the time of the offense the defendant reasonably believed that the alleged victim was not mentally incapacitated or was not physically helpless, as alleged.

(Amended 8/19/04, Resolution 2004-560)
(Certified 8/25/04)

3-1-21 Testimony- Evidence-Written motion-Admissibility

(a) To convict a person of Indecent Liberties, Rape, or Sexual Exploitation of a Minor it shall not be necessary that the testimony of the alleged victim be corroborated.

(b) Evidence of the victim's past sexual behavior including but not limited to the victim's marital history, divorce history, or general reputation for promiscuity, non-chastity, or sexual behaviors contrary to community standards is inadmissible on the issue of credibility and is inadmissible to prove the victim's consent except as provided in subsection (c) below, but when the perpetrator and the victim have engaged in sexual intercourse with each other in the past, and when the past behavior between the perpetrator and the victim may be admissible on the issue of consent to the offense.

(c) In any prosecution for the crime of Indecent Liberties, Rape, or Sexual Exploitation of a Minor, evidence of the victim's past sexual behavior including but not limited to the victim's marital behavior, divorce history, or general reputation for promiscuity, non-chastity, or sexual mores contrary to community standards is not admissible if offered to attack the credibility of the victim but may be admissible on the issue of consent only pursuant to the following procedure:

(1) The defendant shall file with the court a pretrial motion and serve the prosecutor. The motion shall contain an offer of proof in affidavit form supporting the argument that the victim's past sexual behavior is relevant to the issue of consent.

(2) If the court finds that the offer of proof in the motion is sufficient, the court shall order a hearing out of presence of the jury, if any, and the hearing shall be closed except to the necessary witnesses, the defendant, counsel, and those who have a direct interest in the case or in the work of the court.

(4) At the conclusion of the hearing, if the court finds:

(A) that the evidence proposed to be offered by the defendant regarding the past sexual behavior of the victim is relevant to the issue of the victim's consent;

(B) that this evidence is admissible because its probative value is substantially outweighed by the probability that its admission will create a substantial danger of undue prejudice; and

(C) that exclusion of this evidence would result in denial of substantial justice to the defendant.

Then, the court shall make an order stating what evidence may be introduced by the defendant, and may include the nature of the questions to be permitted. The defendant may then offer evidence of past sexual behavior pursuant to the order of the court.

(d) Nothing in this section shall be construed to prohibit cross-examination of the victim on the issue of past sexual behavior when the prosecution presents evidence on its case in chief tending to prove the

nature on the victim's past sexual behavior, but the court may require a hearing pursuant to subsection (c) of this section concerning such evidence.

(Enacted 11/18/04, Resolution 2004-729)

3-1-22 Repeat and habitual sex offenders

(a) If an adult has been convicted of Indecent Liberties, Rape, or Sexual Exploitation of a Minor and is subsequently convicted or pleads guilty to any one or more of said offenses, the defendant shall be found to be a habitual sex offender.

(b) Said offense shall be a separate Class A offense and the Court shall sentence said defendant on said offense to a mandatory minimum 360 days in jail and a \$5,000 fine to be served consecutively to any other sentence imposed by the Court in the above cases.

(Enacted 11/18/04, Resolution 2004-729)

(Amended 4/18/2024, Resolution 2024-315, Certified 4/29/2024)

3-1-23 Involuntary Manslaughter

Any person who shall negligently cause the death of another human being under circumstances not constituting Vehicular Homicide shall be guilty of Involuntary Manslaughter. Involuntary Manslaughter is a Class A offense.

(Adopted 10/13/16, Resolution 2016-605)

OFFENSES AGAINST PROPERTY

3-1-40 Arson

Any person who shall willfully burn or set on fire any building or who shall willfully set a fire manifestly dangerous to any human or animal life, shall be guilty of Arson. Arson is a Class A offense with a mandatory minimum 30 day jail sentence.

(Amended 4/18/2024, Resolution 2024-315, Certified 4/29/2024)

3-1-41 Burglary

Any person who shall enter or remain unlawfully in a building, structure, or vehicle with the purpose of committing an offense therein, unless he is licensed or privileged to enter, shall be guilty of Burglary. Burglary is a Class A offense with a mandatory minimum 5 day jail sentence.

(Amended 4/18/2024, Resolution 2024-315, Certified 4/29/2024)

3-1-42 Destruction of Advertisement

Any person who shall, without proper authorization, destroy, deface or remove any sign or advertisement authorized by law, shall be guilty of Destruction of Advertisement. Destruction of Advertisement is a Class C offense.

3-1-43 Embezzlement

Any person who shall, having lawful custody of property not his own, appropriate the same to his own use with intent to deprive the owner thereof, shall be guilty of Embezzlement. Embezzlement is a Class B offense.

3-1-44 Extortion

Any person who shall willfully, by making false charges against another person or by any other means whatsoever, extort anything of value, shall be guilty of Extortion. Extortion is a Class B offense.

3-1-45 Failure to Control or Report Fire

Any person who shall know that a fire is endangering life or a substantial amount of property of another while he is under an official, contractual or other legal duty to prevent or combat the fire, and who shall fail to report the fire promptly and to take reasonable measures to control or put out the fire when he can do so without substantial risk or harm to himself, shall be guilty of Failure to Control or Report Fire. Failure to Control or Report Fire is a Class A offense.

3-1-46 Firing Timber

Any person who shall willfully set fire to any timber, woods, meadow, marsh or field within the

Reservation, except in accordance with a permit issued by the Council, shall be guilty of Firing Timber. Firing Timber shall be a Class A offense with a mandatory minimum 30 day jail sentence.

(Amended 4/18/2024, Resolution 2024-315, Certified 4/29/2024)

3-1-47 Forgery or Counterfeiting

Any person who shall, with intent to defraud, falsely sign, execute, alter or counterfeit any written instrument or currency, shall be guilty of Forgery or Counterfeiting. Forgery and Counterfeiting are Class B offenses with a mandatory minimum 5 day jail sentence.

(Amended 4/18/2024, Resolution 2024-315, Certified 4/29/2024)

3-1-48 Fraud

Any person who shall, by willful misrepresentation or deceit or by false interpreting or by the use of false weights or measure, obtain any money or other property shall be guilty of Fraud. Fraud is a Class B offense with a mandatory minimum 5 day jail sentence.

(Amended 4/18/2024, Resolution 2024-315, Certified 4/29/2024)

3-1-49 Fraudulent Credit Card Use

Any person who shall use a credit card for the purpose of obtaining property or services with knowledge that the card is stolen, has been revoked or canceled, or is unauthorized for use, shall be guilty of Fraudulent Credit Card Use. Fraudulent Credit Card Use is a Class B offense.

3-1-50 Injury to Public Property

Any person who shall, without proper authority, willfully injure any public property of the Tribes, State of Washington, or the United States, shall be guilty of Injury to Public Property. As used in this statute, all home monitoring equipment supplied by the Tribes to any individual shall be deemed property of the Tribes. Injury to Public Property is a Class B offense.

(Amended 11/13/97, Resolution 1997-714)
(Certified 3/9/01)

3-1-51 Malicious Mischief

Any person who shall maliciously or recklessly disturb, injure or destroy any property of any other person, shall be guilty of Malicious Mischief. Malicious Mischief is a Class B offense.

3-1-52 Receiving Stolen Property

Any person who shall receive or conceal, or aid in receiving or concealing any property, knowing it to be stolen, embezzled, or obtained by fraud or false pretense, robbery or burglary, or other unlawful means, shall be guilty of Receiving Stolen Property. Receiving Stolen Property is a Class B offense.

3-1-53 Removal of Landmarks

Any person who shall willfully remove, alter, or destroy any boundary marker or other landmark erected by the Tribes or the United States within the Reservation, shall be guilty of Removal of Landmarks. Removal of Landmarks is a Class C offense.

3-1-54 Robbery

Any person who shall, in the course of committing a theft, inflict serious bodily injury upon another, or threaten another with, or purposely put another in fear of immediate serious bodily injury, shall be guilty of Robbery. Robbery is a Class A offense with a mandatory minimum 30 day jail sentence.

(Amended 4/18/2024, Resolution 2024-315, Certified 4/29/2024)

3-1-55 Theft

Any person who shall take the property of another person with intent to steal shall be guilty of Theft. Theft is a Class B offense.

3-1-56 Theft of Services

Any person who shall obtain services which he knows are available only for compensation, by deception, threat, force or any other means designed to avoid due payment therefor, shall be guilty of Theft of Services. Theft of Services is a Class B offense.

3-1-57 Trespass-Buildings

Any person who shall enter or remain in any building or occupied structure or the premises of another person, knowing that he is not authorized to do so, whether by day or night, shall be guilty of Trespass-Buildings. Trespass-Buildings is a Class C offense.

3-1-58 Trespass-Lands

Any person who shall enter or remain upon any land as to which notice against trespass is given to him by actual communication, or by posting in a manner reasonably likely to come to the attention of intruders or by fencing or other means of enclosure manifestly designed to exclude intruders, or who shall willfully allow livestock to occupy or graze on the fenced lands of another shall be guilty of Trespass-Lands. Trespass-Lands is a Class C offense.

3-1-59 Unauthorized Use of Vehicle

Any person who shall operate another's automobile, airplane, motorcycle, motor boat or other motor propelled vehicle without the consent of the owner shall be guilty of Unauthorized Use of Vehicle. Unauthorized Use of Vehicle is a Class B offense.

3-1-60 Unlawful Disposition of Estate Property

Any person who shall, without proper authority, sell, trade, or otherwise dispose of any property of an estate before determination of the heirs, shall be guilty of Unlawful Disposition of Estate Property. Unlawful Disposition of Estate Property is a Class C offense.

3-1-61 Unlawful Fence Cutting

Any person who shall willfully cut the wire or any member of a fence belonging to another shall be guilty of Unlawful Fence Cutting. Unlawful Fence Cutting is a Class C offense.

3-1-62 Unlawful Green Timber Cutting

Any person who shall, without proper authority cut any standing green timber on the Reservation, shall be guilty of Unlawful Green Timber Cutting. Unlawful Green Timber Cutting is a Class C offense.

3-1-63 Unlawful Issuance of Bank Check

(a) A person commits unlawful issuance of bank check if the person shall, is with the intent to defraud, issue, or pass a check, draft or order for payment of money upon any bank or other depository for the purpose of obtaining money, property or any other thing of value, or paying for services, knowing at the time of such issuance or delivery that:

(1) He has insufficient funds in or credit with the bank or depository for payment in full; or

(2) Prior to the issuance or delivery of said check or order he has closed his account with the bank or depository; or

(3) He issues a stop-payment order directing the bank or depository on which the check is drawn not to honor said check and fails to make payment of money in the amount of the check or draft or otherwise arrange a settlement agreed upon by the holder of the check within thirty (30) days of issuing said check or draft.

(b) "Credit", as used in this section, means an arrangement or understanding with the bank or depository for the payment of a check or draft.

(c) Issuing or delivering a check or draft to another person without funds or credit to meet the same shall

be prima facie evidence of an intent to defraud.

(d) Unlawful issuance of bank check is a Class C offense.

(Amended 7/3/02, Resolution 2002-408)

(Certified 7/19/02)

(Amended 4/5/83, Resolution 1983-235)

3-1-64 Unlawful Entry into a Sealed Tool Box

It is unlawful for any person, other than those authorized by Fire management, to enter into a sealed fire toolbox. Unlawful Entry into a Sealed Fire Tool Box is a Class C offense.

(Adopted 4/15/04, Resolution 2004-261)

(Certified 4/28/04)

OFFENSES AGAINST THE FAMILY

3-1-90 Abuse of An Elder or Vulnerable Adult

(a) It shall be unlawful for any person:

(1) To willfully inflict physical or mental pain or injury on an elder or vulnerable adult or threaten to do the same;

(2) To willfully misuse the funds, property or resources of an elder or vulnerable adult for profit or advantage; or

(3) Who is responsible for the care of an elder or vulnerable adult, to willfully fail to provide food, clothing, shelter, medical care or other services reasonably necessary to sustain the life and health of an elder or vulnerable adult.

(b) A Tribal Police Officer shall arrest any person whom he has probable cause to believe has violated this section by inflicting physical pain or injury on an elder or vulnerable adult or threatened to do the same.

(c) In addition to any other penalty imposed for a violation of this section, the Tribal Court may grant any other civil or equitable remedy.

(d) Abuse of An Elder or Vulnerable Adults is a Class A offense with a mandatory minimum 30 day jail sentence.

(Typographical error corrected 1/9/06)

(Amended 4/18/2024, Resolution 2024-315, Certified 4/29/2024)

3-1-91 Bigamy

Any person who shall, knowing that he has a husband or wife, or knowing that the other person has a husband or wife, purport to marry another person, shall be guilty of Bigamy. Bigamy is a Class B offense.

3-1-92 Contributing to the Delinquency of a Child

Any person who shall, by act or omission, encourage, cause or contribute to the delinquency of a child shall be guilty of Contributing to the Delinquency of a Child. Contributing to the Delinquency of a Child is a Class B offense.

3-1-93 Criminal Non-Support

Any person who shall, without just cause, fail to provide for the support of his spouse, child or other dependent who is in needy circumstances, shall be guilty of Criminal Non-Support. Criminal Non-Support is a Class B offense.

3-1-94 Distributing Alcohol to a Person Under Twenty-One

Any person who shall sell, barter or give any alcoholic beverage to any person under the age of twenty-one years shall be guilty of Distributing Alcohol to a Person Under twenty-one. Distributing Alcohol to a

Person Under twenty-one is a Class B offense.

3-1-95 **Endangering the Welfare of a Child**

Any person who shall, being a parent, guardian, or supervisor of the welfare of a child, knowingly endanger the child's welfare by violating a duty of care, protection or support, or by intentionally leaving or abandoning the child without care, or by otherwise neglecting to care for the child in any manner which threatens serious harm to the physical, emotional or mental well-being of the child, shall be guilty of Endangering the Welfare of a Child. Endangering the Welfare of a Child is a Class B offense.

3-1-96 **Failure to Send a Child to School**

Any person who shall, without just cause, neglect or refuse to send any child under 16 years of age under his care or custody to school, shall be guilty of Failure to Send a Child to School. Failure to Send a Child to School is a Class C offense.

3-1-97 **Incest**

Any person who shall knowingly marry, cohabit or have sexual intercourse or sexual contact with a person he knows to be an ancestor or descendant, brother, sister, aunt, uncle, nephew, niece or first cousin, any of which are of the whole or half blood, shall be guilty of Incest. Incest is a Class B offense.

OFFENSES AGAINST THE ADMINISTRATION OF GOVERNMENT

3-1-120 **Bail Jumping**

Any person who shall, having been released on bail or on his own recognizance by court order or other lawful authority upon condition that he subsequently appear on a charge of an offense, fail without just cause to appear at the time and place lawfully designated for the appearance, shall be guilty of Bail Jumping. Bail Jumping is a Class C offense.

3-1-121 **Bribery**

Any person who shall promise, offer or give or cause to be promised, offered or given, any money, property, services or other thing of value to any officer, employee or representative of any tribal organization, with intent to influence his decision or action on any matter, which may be brought or is pending before him in his official capacity, and any person who, being such officer, employee or representative or person so acting, shall solicit or accept any such bribe, shall be guilty of Bribery. Bribery is a Class B offense.

3-1-122 **Conspiracy to Commit Offense**

Any two or more persons who shall conspire to commit an offense enumerated in this Code against the Tribe or any human being, one or more of whom shall do an act to effect the object of the conspiracy, shall each be guilty of Conspiracy to Commit an Offense. Conspiracy to Commit an Offense is a Class B offense.

3-1-123 **Disobedience of a Lawful Court Order**

Any person who shall willfully disobey any lawful order, subpoena, or warrant of the Tribal Court or any officer thereof, shall be guilty of Disobedience of a Lawful Court Order. Disobedience of a Lawful Court Order is a Class B offense.

3-1-124 **Doing Business Without a License**

Any person who shall, without a valid license from the Council, commence or carry on any business, trade, profession or calling on the Reservation, the transaction or carrying on of which is required by this Code to be licensed, shall be guilty of Doing Business Without a License. Doing Business Without a License is a Class C offense.

3-1-125 **Escape**

Any person who shall, being in lawful custody for any offense, escape or attempt to escape, or fail to

return to official detention following temporary leave granted by the Tribes for any purpose (excluding probation, parole, or release on bail) or who shall permit or assist or attempt to permit and assist another person to escape, shall be guilty of Escape. As used in this statute, "Official Detention" is the place of detention set by the jail board under section 2-1-179 and may include home, work or other location as set by the Jail Board. Escape is a Class B offense.

(Amended 11/13/97, Resolution 1997-714)
(Certified 3/9/01)

3-1-126 **False Alarm**

Any person who shall knowingly cause a false fire alarm or alarm of other emergency to be transmitted to or within any organization, official or volunteer for dealing with emergencies involving danger to life or property, shall be guilty of False Alarm. False Alarm is a Class C offense.

3-1-127 **False Arrest**

Any person who shall willfully and knowingly make, or cause to be made, the unlawful arrest, detention, or imprisonment of another person, shall be guilty of False Arrest. False Arrest is a Class B offense.

3-1-128 **Impersonating a Public Servant**

Any person who shall falsely pretend to hold a position of public office or employment with the purpose of inducing another to submit to such pretended official authority, shall be guilty of Impersonating a Public Servant. Impersonating a Public Servant is a Class B offense.

3-1-129 **Interfering with a 911 Call**

Any person who prevents or attempts to prevent another from calling 911 emergency communication system, or from obtaining medical assistance, or making any report to law enforcement. Interfering with a 911 Call is a Class B offense.

(Amended 4/11/13, Resolution 2013-299, Certified 4/22/13)

3-1-130 **Intimidation**

Any person who shall, directly or indirectly, use unjustified force or violence or threaten the use thereof or engage in any other unlawful act with intent to force or coerce any other person to do something against such person's will shall be guilty of Intimidation. Intimidation is a Class B offense.

(Amended 07/27/17, Number correction 3-1-130 to 3-1-139)

3-1-131 **Intimidation of a Public Officer**

Any person who shall, directly or indirectly, use unjustified force or violence, or threaten the use thereof, to a public officer with intent to influence or interfere with performance of an official function, shall be guilty of Intimidation of a Public Officer. Intimidation of a Public Officer is a Class B offense.

3-1-132 **Misuse of Public Funds**

Any person who shall, being a public servant or other person charged with receipt, safekeeping, transfer or disbursement of public funds, without lawful authority, appropriate funds to his own use or the use of another, or who shall otherwise handle public funds in a manner not authorized by law, shall be guilty of Misuse of Public Funds. Misuse of Public Funds is a Class B offense.

3-1-133 **Obstructing a Governmental Function**

Any person who shall, directly or indirectly, use unjustified force or violence, or threaten the use thereof or engages in any other unlawful act with intent to influence or interfere with performance of an official duty by a public officer shall be guilty of Obstructing a Governmental Function. Obstructing a Governmental Function is a Class B offense.

3-1-134 **Obstructing Justice**

(a) A person shall be guilty of Obstructing Justice when such person purposely hinders the apprehension, prosecution, conviction, or punishment of himself or another for the commission of an offense.

(b) Obstructing Justice is a Class B offense.

- 3-1-135** **Perjury**
Any person who shall willfully and knowingly in any judicial proceeding in the Tribal Court, falsely swear or interpret, or make a sworn statement or affidavit, or induce or procure another person to do so, shall be guilty of Perjury. Perjury is a Class A offense.
- 3-1-136** **Refusing to Aid an Officer**
Any person who shall neglect or refuse, when called upon by a police officer, to assist in the arrest of any person charged with or convicted of any offense or in securing such offender when apprehended, or in conveying such offender to the nearest place of confinement, shall be guilty of Refusing to Aid an Officer. Refusing to Aid an Officer is a Class B offense.
- 3-1-137** **Resisting Arrest or Process**
Any person who shall willfully and knowingly by force or violence resist or assist another person to resist a lawful arrest or the serving or execution of any legal process, shall be guilty of Resisting Arrest or Process. Resisting Arrest or Process is a Class B offense.
- 3-1-138** **Tampering with Evidence**
Any person who shall, without proper authority, willfully and knowingly alter, destroy, conceal or remove any record, document or thing belonging to or kept by the community for information or record, or which is being kept by appropriate authorities for evidentiary purposes in an official proceeding or investigation, shall be guilty of Tampering with Evidence. Tampering with Evidence is a Class B offense.
- 3-1-139** **Tampering with Witness or Juror**
Any person who shall, believing that an official proceeding or investigation is pending or about to be instituted, cause himself or another person to testify or inform falsely or to withhold, destroy or conceal any information, document or thing or its authenticity or availability, or to elude legal process summoning him to testify or supply evidence, or who shall attempt to influence by any means the vote or decision of a jury member shall be guilty of Tampering with Witness or Juror. Tampering with Witness or Juror is a Class B offense.

OFFENSES AGAINST PUBLIC MORALS, ORDER AND WELFARE

- 3-1-170** **Cruelty to an Animal**
Any person who shall willfully and knowingly torture or seriously overwork an animal, abandon, or fail to provide necessary food, care or shelter for an animal without legal privilege to do so, or cause one animal to fight with another, shall be guilty of Cruelty to an Animal. Cruelty to an Animal is a Class C offense.
- 3-1-171** **Curfew Violation**
Any person whose child shall violate any juvenile curfew established in this Code or by tribal resolution or Chapter shall be guilty of a Curfew Violation. A Curfew Violation is a Class C offense.
- 3-1-172** **Desecration**
Any person who shall willfully deface, damage, pollute or otherwise physically mistreat any public monument, building structure or place of worship or burial, or who for exhibition or display shall place or cause to be placed any mark, work, or design upon, or shall publicly mutilate, deface or defile, or use in connection with any advertisement of any nature, any official flag of the United States, the State of Washington, or the Colville Confederated Tribes, shall be guilty of Desecration. Desecration is a Class C offense.
- 3-1-173** **Disorderly Conduct**

Any person who shall engage in fighting in a public place, or who shall disturb or annoy any public or religious assembly, or who shall disturb other persons while in an intoxicated or disorderly condition, or who shall make unreasonable noise or offensively coarse utterances, gestures, shall be guilty of Disorderly Conduct. Disorderly Conduct is a Class C offense.

3-1-174 **Drug Abuse**

Any person, under the jurisdiction of this Law and Order Code, who violates any of the following subsections shall be guilty of committing the offense of drug abuse and upon conviction shall be sentenced according to the penalties herein described.

3-1-175 **Definitions**

As used in this section:

(a) “Administer” means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body.

(b) “Controlled substance” means a drug, substance, or immediate precursor in Schedules I and II.

(c) “Delivery” or “delivery” means the actual, constructive, or attempted transfer from one person to another of a controlled substance, whether or not there is an agency relationship.

(d) “Distribute” means to deliver other than by administering or dispensing a controlled substance.

(e) “Drug” means (1) substances recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or Official National Formulary, or any supplement of any of them; (2) substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals; (3) substances (other than food) intended to affect the structure of any function of the body of man or animals; (4) substances intended for use as a component of any article specified in clause (1), (2), or (3) of this subsection. It does not include devices or their components, parts, or accessories.

(f) “Hemp” or “Industrial Hemp” means the plant *Cannabis sativa* L. and any part of such plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.

(Amended 7/6/17, Resolution 2017-371, Certified 7/13/17)

(g) “Manufacture” means the production, preparation, propagation, compounding, conversion or processing of a controlled substance, either directly or indirectly by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a controlled substance by:

(1) A practitioner as an incident to his administering or dispensing of a controlled substance in the course of his professional practice, or

(2) A practitioner, or by his authorized agent under his supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale.

(h) “Marijuana” means all parts of the plant of the genus *Cannabis* L., whether growing or not, with a delta-9 tetrahydrocannabinol concentration of greater than 0.3 percent on a dry weight basis; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

(Amended 7/6/17, Resolution 2017-371, Certified 7/13/17)

(i) “Marijuana concentrates” means products consisting wholly or in part of the resin extracted from any part of the plant Cannabis and having a THC concentration greater than sixty percent.

(j) “Marijuana-infused products” means products that contain marijuana or marijuana extracts, are intended for human use, and have a THC concentration greater than 0.3 percent and no greater than sixty percent. The term “marijuana-infused products” does not include either useable marijuana or marijuana concentrates.

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

(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate.

(2) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in clause 1, but not including the isoquinoline alkaloids of opium.

(3) Opium poppy and poppy straw.

(4) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.

(l) “Production” includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance.

(Adopted 4/17/86, Resolution 1986-170)

3-1-176 Schedule I

(a) The controlled substances listed in this section, by whatever official name, common or unusual name, chemical name, or brand name, are included in Schedule I.

(b) Opiates: Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and esters, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:

(1) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide);

(2) Acethylmethadol;

(3) Allylprodine;

(4) Alphacethylmethadol;

(5) Alphameprodine;

(6) Alphamethadol;

(7) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl) ethyl-4-piperidyl] propionanilide); (1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine);

(8) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);

(9) Benzathidine;

(10) Betacethylmethadol;

(11) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-piperidinyl]-N-phenylpropanamide);

(12) Beta-hydroxy-3-methylfentanyl;

(13) Betameprodine;

(14) Betamethadol;

- (15) Betaprodine;
- (16) Clonitazene;
- (17) Dextromoramide;
- (18) Diampromide;
- (19) Diethylthiambutene;
- (20) Difenoxyin;
- (21) Dimenoxadol;
- (22) Dimepseptanol;
- (23) Dimethylthiambutene;
- (24) Dioxaphetyl butyrate;
- (25) Dipipanone;
- (26) Ethylmethylthiambutene;
- (27) Etonitazene;
- (28) Etoxadine;
- (29) Furethidine;
- (30) Hydroxypethidine;
- (31) Ketobemidone;
- (32) Levomoramide;
- (33) Levophenacymorphan;
- (34) 3-Methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylprop anamide);
- (35) 3-Methylthiofentanyl (N-[(3-methyl-1-(2-thienyl)ethyl-4-piperidiny)]-N-phenylpropanamide);
- (36) Morpheridine;
- (37) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);
- (38) Noracymethadol;
- (39) Norlevorphanol;
- (40) Normethadone;
- (41) Norpipanone;
- (42) Phenadoxone;
- (43) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidiny] propanamide);
- (44) PEPAP(1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine);
- (45) Phenampromide;
- (46) Phenomorphan;
- (47) Phenoperidine;
- (48) Piritramide;
- (49) Propheptazine;
- (50) Properidine;
- (51) Propiram;
- (52) Racemoramide;
- (53) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidiny]-propanamide);
- (54) Tilidine;
- (55) Trimeperidine.

(Amended 2/24/12, Certified 3/8/12, Resolution 2012-82)

(c) Opium derivative: Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, their salts, isomers, and salts of isomers, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation

- (1) Acetorphine;
- (2) Acetyldihydrocodeine
- (3) Benzylmorphine;
- (4) Codeine methylbromide;
- (5) Codeine-N-Oxide;
- (6) Cypermorphine;
- (7) Desomorphine;

- (8) 3,4-methylenedioxy-N-ethylamphetamine;
- (9) N-hydroxy-3,4-methylenedioxyamphetamine;
- (10) Dihydromorphine;
- (11) Drotebanol;
- (12) Etorphine (except hydrochloride salt);
- (13) Heroin;
- (14) Hydromorphanol;
- (15) Methyldesorphine;
- (16) Methyldihydromorphine;
- (17) Morphine methylbromide;
- (18) Morphine methylsulfonate;
- (19) Morphine-N-Oxide;
- (20) Myrophine;
- (21) Nicocodeine;
- (22) Nicormorphine;
- (23) Normorphine;
- (24) Phoclodine;
- (25) Thebacon.

(Amended 2/24/12, Certified 3/8/12, Resolution 2012-82)

(d) Hallucinogenic substances: Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, or which contains any of these salts, isomers, and salts of isomers, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation. (For purposes of paragraph (d) of this section, only the term “isomer” includes the optical, position, and geometric isomers):

- (1) 3,4-methylenedioxy amphetamine;
- (2) 5-methoxy-3,4-methylenedioxy amphetamine;
- (3) 3,4,5- trimethoxy amphetamine;
- (4) 4-bromo-2,5-dimethoxyamphetamine;
- (5) 2,5-dimethoxyamphetamine;
- (6) 4-methoxyamphetamine;
- (7) 3,4-methylenedioxymethamphetamine (MDMA);
- (8) 4-methyl-2,5-dimethoxyamphetamine;
- (9) Bufotenine;
- (10) Diethyltryptamine;
- (11) Dimethyltryptamine;
- (12) Ibogaine;
- (13) Lysergic acid diethylamide;
- (14) Marijuana;
- (15) Mescaline;
- (16) Parahexyl-7374: Some trade or other names: 3-Hexyl-1-hydroxy-7, 8, 9, 10-tetrahydro-6, 6, 9-trimethyl-6H-dibenzo[b,d]pyran; synhexyl;
- (17) Peyote: meaning all parts of the plant presently classified botanically as *Lophophora Williamsii* Lemaire whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture or preparation of such plant, its seeds, or extracts; except the use, possession, transportation, cultivation and/or delivery of peyote by an Indian for bona fide traditional ceremonial purposes in connection with the practice of a traditional Indian religion shall not be unlawful, so long as that use, possession, transportation, cultivation and/or delivery complies with Federal regulations as authorized in 42 U.S.C. 1996a.
(Amended 1/9/97, Resolution 1997-3)
- (18) N-ethyl-3-piperidyl benzilate;
- (19) N-methyl-3-piperidyl benzilate;
- (20) Psilocybin;

(21) Psilocyn;
(22) Tetrahydrocannabinols: synthetic equivalents of the substances contained in the plant, or in the resinous extractives of Cannabis, specifically, and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following:

(A) Delta 1-cis-or trans tetrahydrocannabinol, and their optical isomers;

(B) Delta 6-cis-or trans tetrahydrocannabinol, and their optical isomers;

(C) Delta 3,4-cis-or trans tetrahydrocannabinol, and its optical isomers; (Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered, are all included).

(23) Synthetic cannabinoids: synthetic equivalents of the substances contained in the plant, or any material, compound, mixture or preparation which contains any quantity of the following synthetic cannabinoids, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

(A) JWH-108: 1-pentyl-3-(1-naphthoyl)indole;

(B) JWH-073: 1-butyl-3-(1-naphthoyl)indole;

(C) JWH-200: [1[2-(4-morpholinyl)ethyl]-1H-indol-3-yl]-1-naphthalenyl-methanone;

(D) CP-47,497: 2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl)phenol and its side chain homologues;

(E) Cannabicyclohexanol.

(24) Ethylamine analog of phencyclidine;

(25) Pyrrolidine analog of phencyclidine;

(26) Thiopene analog of phencyclidine.

(Amended 2/24/12, Certified 3/8/12, Resolution 2012-82)

(e) Depressants: Unless specifically excepted or unless listed in another schedule, any material compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(A) Mecloqualone;

(B) Methaqualone.

(f) Stimulants. Unless specifically excepted or unless listed in another schedule, any material compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.

(A) Fenethylamine;

(B) (+)-cis-4-methylaminorex ((+)-cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine);

(C) N-ethylamphetamine;

(D) N,N-dimethylamphetamine: Some trade or other names: N,N-alpha-trimethylbenzeneethanamine; N,N-alpha-trimethylphenoethylene.

(Amended 2/24/12, Certified 3/8/12, Resolution 2012-82)

(Adopted 4/17/86, Resolution 1986-170)

3-1-177

Schedule II

(a) The drugs and other substances listed in this section, by whatever official name, common or usual name, chemical name, or brand name designated, are included in Schedule II.

(b) Substances- (Vegetable origin or chemical synthesis.) Unless specifically excepted, any of the following substances, except those listed in other schedules whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding apomorphine, dextrorphan, nalbuphine, naloxone, and naltrexone, and their respective salts, but including the following:

- (A) Raw opium;
- (B) Opium extracts;
- (C) Opium fluid extracts;
- (D) Powdered opium;
- (E) Granulated opium;
- (F) Tincture of opium;
- (G) Codeine;
- (H) Ethylmorphine;
- (I) Etorphine hydrochloride;
- (J) Hydrocodone;
- (K) Hydromorphone;
- (L) Metopon;
- (M) Morphine;
- (N) Oxycodone;
- (O) Oxymorphone; and
- (P) Thebaine.

(2) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (b) (1) of this section, but not including the isoquinoline alkaloids of opium.

(3) Opium poppy and poppy straw.

(4) Coca leaves and salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocanized coca leaves or extractions which do not contain cocaine or ecgonine.

(5) Methylbenzoylecgonine (cocaine — its salts, optical isomers, and salts of optical isomers).

(6) Concentrate of poppy straw. (The crude extract of poppy straw in either liquid, solid, or powder form which contains the phenanthrene alkaloids of the opium poppy.)

(Amended 2/24/12, Certified 3/8/12, Resolution 2012-82)

(c) Opiates: Unless specifically excepted or unless in another schedule, any of the following opiates,

including their isomers, esters, ethers, salts and salts of isomers, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation, dextrophan excepted:

- (1) Alfentanil;
- (2) Alphaprodine;
- (3) Anileridine;
- (4) Bezitramide;
- (5) Bulk dextropropoxyphene (nondosage forms);
- (6) Carfentanil;
- (7) Dihydrocodeine;
- (8) Diphenozylate;
- (9) Fentanyl;
- (10) Isomethadone;
- (11) Levomethorphan;
- (12) Levorphanol;
- (13) Metazocine;
- (14) Methadone;
- (15) Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenylbutane;
- (16) Moramide-intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane-carboxylic acid;
- (17) Pethidine (meperidene);
- (18) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine;
- (19) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate;
- (20) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;
- (21) Phenazocine;
- (22) Piminodine;
- (23) Racemethorphan;
- (24) Racemorphan.
- (25) Sufentanil.

(Amended 2/24/12, Certified 3/8/12, Resolution 2012-82)

(d) Stimulants: Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:

- (1) Amphetamine, its salts, optical isomers, and salts of its optical isomers;
- (2) Methamphetamine, its salts, isomers, and salts of its isomers;
- (3) Phenmetrazine and its salts;
- (4) Methylphenidate.

(e) Depressants: Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Amobarbital;
- (2) Glutethimide;
- (3) Methaqualone;
- (4) Pentobarbital;
- (5) Phencyclidine;
- (6) Phencyclidine immediate precursors;
 - (A) 1-phenylcyclohexylamine;
 - (B) 1-piperidinocyclohexanecarbonitrile (PPC);
- (7) Secobarbital.

(Amended 2/24/12, Certified 3/8/12, Resolution 2012-82)

(f) Hallucinogenic substances.

- (1) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a United States Food and Drug Administration approved drug product;
- (2) Nabilone.

(Amended 2/24/12, Certified 3/8/12, Resolution 2012-82)

(g) Immediate precursors. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances:

(1) Immediate precursor to amphetamine and methamphetamine:

(A) Phenylacetone.

(2) Immediate precursors to phencyclidine (PCP):

(A) 1-phenylcyclohexylamine;

(B) 1-piperidinocyclohexanecarbonitrile (PCC).

(Amended 2/24/12, Certified 3/8/12, Resolution 2012-82)
(Adopted 4/17/86, Resolution 1986-170)

3-1-178

Drug Paraphernalia: Definitions

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

(1) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing, or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;

(2) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances;

(3) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance;

(4) Testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness, or purity of controlled substances;

(5) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;

(6) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose, and lactose, used, intended for use, or designed for use in cutting controlled substances;

(7) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana;

(8) Blenders, bowls, containers, spoons, and mixing devices used, intended for use, or designed for use in compounding controlled substances;

(9) Capsules, balloons, envelopes, and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances;

(10) Containers and other objects used, intended for use, or designed for use in storing and concealing controlled substances;

(11) Hypodermic syringes, needles, and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body;

(12) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish oil into the human body, such as:

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

(B) Water pipes;

(C) Carburetion tubes and devices;

(D) Smoking and carburetion masks;

(E) Roach clips-meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;

(F) Miniature cocaine spoons, and cocaine vials;

(G) Chamber pipes;

(H) Carburetor pipes;

(I) Electric pipes;

(J) Air-driven pipes;

(K) Chillums;

(L) Bongs; and

(M) Ice pipes, or chillers.

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

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

(2) Prior convictions, if any, of an owner, or of anyone in control of the object, under any state, federal or tribal law relating to any controlled substance;

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

(4) The proximity of the object to controlled substances;

(5) The existence of any residue of controlled substances on the object;

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

(Adopted 4/17/86, Resolution 1986-170)

3-1-179 Prohibited Acts (Manufacture, Cultivate, Deliver):Penalties

Except as authorized by this section, it is unlawful for any person to manufacture, cultivate, deliver, or possess with intent to manufacture or deliver, a controlled substance. Any person who violates this subsection is guilty of a Class A crime with a mandatory minimum 180 day jail sentence for a first offense and a mandatory 360 day jail sentence for a second or subsequent offense.

Any person convicted under this subsection may also be ordered to obtain a substance abuse evaluation and to comply with any recommended treatment as a condition of probation. Any conviction of this offense constitutes a basis for exclusion and removal in accordance with Chapter 3-2 of Colville Tribal Code.

(Amended 4/18/2024, Resolution 2024-315, Certified 4/29/2024)

3-1-180 Prohibited Acts (Possession): Penalties

(a) Except as authorized by this section, it is unlawful for any person to possess a controlled substance. Any person who violates this subsection with respect to:

- (1) Possession-More than Forty Grams: possession of a controlled substance of more than forty grams is guilty of a Class A crime with a mandatory minimum 30 day jail sentence.
- (2) Possession-Less than Forty Grams: possession of a controlled substance of less than forty grams is guilty of a Class A crime with a mandatory minimum 15 day jail sentence.
- (3) Possession of a controlled substance in any amount constitutes a basis for exclusion and removal in accordance with Chapter 3-2 of the Tribal Code. Any person who is convicted of possession of a controlled substance in any amount may also be ordered to obtain a substance abuse evaluation and to comply with any recommended treatment as a condition of probation.

(b) The possession by a person twenty-one years of age or older, of useable marijuana or marijuana-infused products, shall not constitute a violation of this code, if the person possesses less than:

- (1) One ounce of useable marijuana;
- (2) Sixteen ounces of marijuana-infused product in solid form;
- (3) Seventy-two ounces of marijuana-infused product in liquid form; or
- (4) Seven grams of marijuana concentrate.

(c) The possession by a person twenty-one years of age or older, of marijuana plants for their personal medical use, shall not constitute a violation of this code if:

- (1) The individual is a qualifying patient pursuant to RCW 69.51A; and
- (2) possesses no more marijuana than is noted on their medical marijuana authorization form or recognition card.

(Amended 01/10/19, Resolution 2019-17, Certified 01/11/19)
(Amended 4/18/2024, Resolution 2024-315, Certified 4/29/2024)

3-1-181 Prohibited Acts (Drug Paraphernalia): Penalties

Except as authorized by this section, it is unlawful for any person to possess any drug paraphernalia. Any person who violates this subsection is guilty of a Class A crime.

3-1-182 Defenses

Any person lawfully involved in the possession, distribution, manufacture or delivery of any controlled substance listed in Schedule I and II (sections 3-1-176 and 3-1-177) shall not be in violation of this section.

(Adopted 4/17/86, Resolution 1986-170)

3-1-183 Failure to Disperse

Any person who shall refuse to knowingly fail to obey an order given by a law enforcement officer or other public servant to leave the immediate vicinity in which he is performing a law enforcement function at the scene of a riot, fire, public disorder, accident, offense or other situation involving public alarm, shall be guilty of Failure to Disperse. Failure to Disperse is a Class C offense.

3-1-184 Failure to Have Sewer Connection

Any person who shall fail to have his home connected to the Colville sewer system, under the Colville Sewer Chapter, shall be guilty of Failure to Have a Sewer Connection. Failure to Have a Sewer Connection is a Class B offense.

3-1-185 Gambling

Any person who shall violate any ordinance, rule or regulation adopted by the Colville Business Council for the control or regulation of gambling on the Colville Reservation shall be guilty of Gambling. Gambling is a Class B offense.

3-1-186 Indecent Exposure

Any person who shall, for the purpose of arousing or gratifying sexual desire of himself or of any other human other than his spouse, exposes his sexual parts under circumstances in which he knows his conduct is likely to cause affront or alarm, shall be guilty of Indecent Exposure. Indecent Exposure is a Class C offense.

- 3-1-187** **Intoxication**
Any person who shall, under circumstances not amounting to disorderly conduct, be under the influence of an intoxicating beverage, drug or other controlled substance, or a substance dangerous to himself or another, in a public place, shall be guilty of Intoxication. Intoxication is a Class C offense.
- 3-1-188** **Littering**
Any person who shall dispose of any garbage or other litter anywhere within the Reservation except in public waste disposal grounds designated by the Council, or who, without lawful permission, shall store or allow to accumulate any wrecked, junked or unserviceable vehicles, appliances or implements anywhere on the Reservation shall be guilty of Littering. Littering is a Class C offense.
- 3-1-189** **Obscenity**
Any person who shall sell, delivery, or provide any obscene writing, picture, record or other representation that is obscene, or presents an obscene place, dance, performance or exhibition, shall be guilty of Obscenity. The definition of "obscene" shall be the same as that of the laws of the State of Washington. Obscenity is a Class B offense.
- 3-1-190** **Possession of an Alcoholic Beverage by a Person Under 21**
Any person who, being under the age of 21 years old, shall possess, purchase, consume, obtain, or sell any beer, wine, ale, whiskey or other alcoholic beverage or misrepresent his age for the purpose of buying or otherwise obtaining an alcoholic beverage shall be guilty of Possession of an Alcoholic Beverage by a Person Under 21. Possession of an Alcoholic Beverage by a Person Under 21 is a Class C offense.
- 3-1-191** **Use or Possession of Alcoholic Beverages Prohibited—Community Centers**
The use or possession of alcoholic beverages on the premises of the four district community centers is prohibited. Any person who shall use or possess alcoholic beverages on the premises of any of the District Community Centers shall be guilty of Use or Possession of Alcoholic Beverages and/or drugs at Community Center. Violation of this section is a Class C offense.
(Adopted 8/20/79, Resolution 1979-605)
- 3-1-192** **Prostitution**
Any person who shall loiter in or within view of a public place for the purpose of being hired to engage in, or who shall engage in, or offer or agree to engage in, any sexual activity with another person for a fee, or who shall pay or offer or agree to pay another person a fee for the purpose of engaging in an act of sexual activity, or who shall own, control, manage, supervise or keep a house of prostitution or a prostitution business, or who shall procure or attempt to procure a prostitute for another, or who shall encourage, induce or purposely cause another to become or remain a prostitute, shall be guilty of Prostitution. Prostitution is a Class B offense.
- 3-1-193** **Rigging Games or Exhibitions**
Any person who shall, with the purpose of preventing a publicly exhibited contest or game from being conducted in accordance with the rules and usage purporting to govern it, confer or offer or agree to confer, any benefit upon or solicit or accept from, any benefit upon, or threaten any injury to, a participant, official or other person associated with the contest or game or who shall tamper with any person, animal or thing, associated with the contest or game, shall be guilty of Rigging a Game or Exhibition. Rigging a Game or Exhibition is a Class B offense.
- 3-1-194** **Public Nuisance**
Any person who shall, without proper authority, do any act or fail to perform any duty, which act or omission unreasonably annoys, injures or endangers the comfort, repose, health, property or safety of any person, or which offends public decency, shall be guilty of Public Nuisance. Public Nuisance is a Class C offense.

3-1-195

Riot

Any person who shall simultaneously with two or more other person engage in violent conduct and thereby knowingly or recklessly create a substantial risk of causing public alarm, shall be guilty of Riot. Riot is a Class A offense.

3-1-196

Spreading Venereal Disease

Any person who shall, knowing or having reason to believe that he has a venereal disease, infect another person with venereal disease, shall be guilty of Spreading Venereal Disease. Spreading Venereal Disease is a Class C offense.

3-1-197

Sworn Falsification

Any person who shall with intent to mislead a public officer in the performance of an official function, make a false written statement which he does not believe to be true or submits or invites reliance on any writing which he knows to be forged, altered or otherwise lacking in authenticity, shall be guilty of a Sworn Falsification. A Sworn Falsification is a Class C offense.

3-1-198

Unlawful Possession of Fireworks

Any person who shall perform any activity which would be violative of the fireworks laws of the Colville Confederated Tribes shall be guilty of Unlawful Possession of Fireworks. Unlawful Possession of Fireworks is a Class C offense.

(Amended 6/5/86, Resolution 1986-288)

3-1-199

Unlawful Discharge or Display of Fireworks

(a) A person commits unlawful discharge or display of fireworks if the person shall willfully discharge any fireworks without a permit issued by the Chief of Tribal Police on or within the following areas:

- (1) Parks;
- (2) Forest lands;
- (3) Range lands;
- (4) Celebration grounds;
- (5) Recreational areas; or
- (6) Any other lands not owned by the person discharging or displaying the fireworks.

(b) Unlawful discharge of displaying of fireworks is a Class C offense.

(Amended 5/16/02, Resolution 2002-313)

(Certified 7/19/02)

(Transcription error corrected 11/8/00)

(Adopted 6/6/83, Resolution 1983-410)

3-1-200

Carrying or Displaying a Weapon

Any person who shall (1) carry concealed on his person, or (2) carry, exhibit, display or draw any pistol, firearm, dagger, sword, knife, or other cutting or stabbing instrument, club, or any other weapon, apparently capable of producing bodily harm in a manner, under circumstance, and at any time in tribal or BIA buildings on the Reservation, that either manifests in intent to intimidate other or that warrants alarm for the safety of other persons shall be guilty of carrying or displaying a weapon. The provision of this section shall not apply to any person who by virtue of his office or public employment is vested by law with a duty to preserve public safety, maintain public order, or to make arrests for offenses, while in the performance of such duty or to any person engaged in military activities sponsored by federal or state governments. Carrying or Displaying a Weapon is a Class A offense.

(Adopted 5/22/80, Resolution 1980-382)

3-1-201

Reckless Burning

(a) A person is guilty of reckless burning if he or she recklessly:

(1) Damages a building or other structure or any vehicle, railway car, aircraft or watercraft or any hay, grain, crop, or timber whether cut or standing, by knowingly causing a fire or explosion; or

(2) Causes a fire or explosion and thereby places forest lands in danger of destruction or damage; or

(3) Smokes during a closed season in a closed area, unless in a vehicle with an ashtray.

(b) Reckless burning is a Class C offense.

(Adopted 4/15/04, Resolution 2004-261)

(Certified 4/28/04)

3-1-202

Violation of Quarantine or Isolation Plan

Any person who violates a Tribal Health Officer Order or Tribal Court Order issued to the Tribes'

Isolation and Quarantine Plan shall be guilty of a Class A offense.

(Adopted 04/08/20, Resolution 2020-169, Certified 04/14/20)

SEIZURE AND FORFEITURE

The following are subject to seizure and forfeiture and no property right exists in them:

3-1-203

- (1) All controlled substances which have been manufactured, distributed, dispensed, acquired or possessed in violation of this Chapter;
- (2) All raw materials, products and equipment of any kind, including hazardous chemicals, which are used or intended for use in manufacturing, compounding, processing, delivering, importing or exporting any controlled substance in violation of this Chapter;
- (3) All property which is used or intended for use as a container for property described in (1) or (2) of this section;
- (4) All conveyances, including aircraft, vessels or vehicles which are used or intended for use in any manner to facilitate the sale, delivery, or receipt of property described in (1) or (2) of this section, except:
 - (a) for reason of any act or omission established by the owner thereof to have been committed or omitted without the owner's knowledge or consent;
 - (b) a forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if the secured party neither had knowledge of, nor consented to, the act or omission; and
 - (c) when the owner of the conveyance has been arrested, the conveyance in which the person is arrested may not be subject to forfeiture unless it is seized or process is issued for its seizure within ten days of the owner's arrest;
- (5) All books, records and research products and materials which are used or intended for use in violation of this Chapter;
- (6) All drug paraphernalia as defined in this Chapter other than paraphernalia possessed, sold or used solely to facilitate marijuana-related activities that are not violations of this Chapter;
- (7) All moneys, negotiable instruments, securities or other tangible or intangible property of value furnished or intended to be furnished by any person in exchange for a controlled substance in violation of this Chapter, and all tangible or intangible personal property, proceeds or assets acquired in whole or in part with proceeds traceable to an exchange or series of exchanges in violation of this Chapter, and all moneys, negotiable instruments, securities or other tangible or intangible property used or intended to be used to facilitate any violation of this Chapter, except:
 - (a) any forfeiture of money, negotiable instruments, securities or other tangible or intangible property encumbered by a bona fide security interest is subject to the interest of the secured party if, at the

time the security interest was created, the secured party neither had knowledge of, nor consented to, the act or omission, and

- (b) no personal property may be forfeited under this section to the extent the owner can establish that the violation of this Chapter was committed or omitted without the owner's knowledge or consent;
- (8) All real property, including any right, title and interest in the whole of any lot or tract of land, and any appurtenances or improvements, which are being used with the knowledge of the owner for the manufacturing, compounding, processing, delivery, importing or exporting of any controlled substance as defined in this Chapter, or which has been acquired in whole or in part with proceeds traceable to an exchange or series of exchanges in violation of this Chapter and a substantial nexus exists between the commercial production or sale of the controlled substance and the real property, except:
 - (a) No real property may be forfeited pursuant to this section to the extent of the interest of an owner by reason of any act or omission committed or omitted without the owner's knowledge or consent, and
 - (b) No one shall be deprived of vested property rights, such as allotments or inherited interests, and
 - (c) The possession of marijuana shall not result in the forfeiture of real property unless the marijuana is possessed for commercial purposes that are unlawful under the law of the Colville Tribes, the amount possessed is five or more plants or one pound or more of marijuana, and a substantial nexus exists between the possession of marijuana and the real property, and
 - (d) The unlawful sale of marijuana or a legend drug shall not result in the forfeiture of real property unless the sale was forty grams or more in the case of marijuana or one hundred dollars or more in the case of a legend drug and a substantial nexus exists between the unlawful sale and the real property, and
 - (e) A forfeiture of real property encumbered by a bona fide security interest is subject to the interest of the secured party if the secured party, at the time the security interest was created, neither had knowledge of, nor consented to, the act or omission.

3-1-204 Real or personal property subject to forfeiture under this Chapter may be seized by any law enforcement officer of the Confederated Tribes of the Colville Reservation upon process issued by the Colville Tribal Court which has jurisdiction over the property. Real property seized under this Chapter shall not be transferred or otherwise conveyed until ninety days after seizure, or until a judgment of forfeiture is entered, whichever is later.

3-1-205 Seizure of personal property without process may be made if:

- (1) The seizure is incident to an arrest or a search under a search warrant;
- (2) The property subject to seizure has been the subject of a prior judgment in favor of the Tribes in a criminal injunction or forfeiture proceeding based upon this Chapter;
- (3) A Colville Tribes law enforcement officer has probable cause to believe that the property is directly or indirectly dangerous to health or safety, or;
- (4) A Colville Tribes law enforcement officer has probable cause to believe that the property was used or intended to be used in violation of this Chapter.

3-1-206 The Colville Tribal Police Department shall cause notice to be served within fifteen days following any seizure on the owner of the property seized and on the person in charge thereof and any person having any known right or interest therein, including any community property interest, of the seizure and intended forfeiture of the seized property. Service of notice of seizure of real property shall be made according to the Colville Tribes' rules of civil procedure, except that a default judgment may not be obtained against a party who is served by substituted service absent an affidavit stating that a good faith effort has been made to ascertain if the party to be defaulted is incarcerated and that there is no present basis to believe the party is incarcerated within the bounds of the State of Washington. Notice of seizure in the case of property subject to a security interest shall be made by service upon the secured party or the secured party's assignee at the address shown on the financing statement or the certificate of title. The notice of seizure in other cases may be served by any method authorized by Colville Tribal Code including but not limited to service by certified mail with return receipt requested.

- 3-1-207** If no person notifies the Colville Tribal Police Department in writing of the person's claim of ownership or right to possession of items specified in this Chapter within forty-five days of the service of notice from the Colville Tribal Police Department in the case of personal property and ninety days in the case of real property, the item seized shall be deemed forfeited. The community property interest in real property of a person whose spouse or domestic partner committed a violation which gave rise to the seizure of the real property may not be forfeited if the person did not participate in the violation.
- 3-1-208** If any person notifies the Colville Tribal Police Department in writing of their claim to ownership or right to possession of seized property as specified in this Chapter, the person or persons shall be afforded a reasonable opportunity to be heard as to the claim or right. The notice of claim may be served by any method authorized by law or court rule including, but not limited to, service by first class U.S. mail. The hearing shall be before the Chief of the Colville Tribal Police Department except that any person asserting a claim or right may remove the matter to Colville Tribal Court. The person seeking removal of the claim to Colville Tribal Court must so state in the written claim they file with the Colville Tribal Police Department. In any hearing on the claim or right, the burden of proof is upon the Colville Tribal Police Department to establish by a preponderance of the evidence that the property is subject to forfeiture under this Chapter. If a determination is made that the claimant is the present lawful owner and is lawfully entitled to possession of the seized items, then the Colville Tribal Police Department shall promptly return the seized property to the claimant.
- 3-1-209** When property is forfeited under this Chapter, the Colville Tribal Police Department may maintain the property for official use or sell that which is not harmful to the public or required to be destroyed by law. The Colville Tribal Police Department shall keep a record indicating the identity of the owner of any forfeited property and, if known, a description of the property, the disposition of the property, the value of the property at the time of seizure and the amount of proceeds realized by the disposition of the property for at least seven years.
- 3-1-210** No liability is imposed by this Chapter upon any Colville Tribal law enforcement officer or employee engaged in the lawful performance of their duty. The Confederated Tribes of the Colville Reservation fully retains its sovereign immunity for any actions taken in regard to the seizure and forfeiture of property under this Chapter.

HUNTING AND FISHING OFFENSES

- 3-1-211** Any person who kills, takes or catches any species of bird, animal or fish in excess of the number fixed as the bag or possession limit is guilty of a Class A offense for each bird, animal or fish killed, taken or caught in excess of the limit. This offense carries a mandatory minimum thirty (30) day jail sentence which must run consecutively with any other violations of this offense committed within the same twenty-four hour period.
- 3-1-212** **Unlawful taking.**
Any person who hunts or traps for any birds or animals within the boundaries of any closed area, or fishes within any closed waters, is guilty of a Class A offense.
- 3-1-213** **Unlawful possession.**
Any person who has in his or her possession or under their control any unprocessed bird, animal or fish during the closed season or in excess of the bag limit, or without the required permit or tag, is guilty of a Class A offense which carries a mandatory minimum fifteen (15) day jail sentence.
- 3-1-214** **Hunting while intoxicated.**
Any person who hunts with firearms or bow and arrow, or who fishes, while under the influence of intoxicating liquor and/or drugs, is guilty of a Class A offense.

3-1-215 Waste.

Any person who permits the edible portion of any game animal, game bird or food fish to go to waste after taking possession of the same is guilty of a Class A offense.

3-1-216 Resisting or obstructing.

Any person who resists or obstructs any conservation officer or other duly authorized tribal law enforcement officer in the discharge of their duty while they are enforcing the provisions of this Chapter or other tribal regulations pertaining to hunting and fishing is guilty of a Class A offense.

3-1-217 Defacing.

Any person who destroys, tears down, shoots at, defaces or erases any printed matter or signs placed or posted by an authority or program of the Confederated Tribes of the Colville Reservation to assist in the enforcement of tribal hunting and fishing regulations is guilty of a Class B offense.

3-1-218 Shooting livestock.

Any person who shoots domestic livestock is guilty of a Class B offense.

3-1-219 Spotlighting.

Any person who hunts with an artificial light of any kind unless use of such light is approved by regulation for a specific hunt, or who hunts with an artificial light which is greater than 10,000 candle power in magnitude under any circumstances, is guilty of a Class A offense which carries a mandatory minimum sentence of fifteen (15) days in jail.

3-1-220 Protected wildlife.

No person may kill, take, catch, possess, buy, barter or exchange any protected animal, bird, fish or parts thereof in violation of any tribal or federal law. A violation of this section is a Class A offense which carries a mandatory minimum thirty (30) day jail sentence. This section is not violated when there is an immediate danger of serious injury or death to any person, or when the actor is an enrolled member of a federally recognized tribe who is acting in furtherance of traditional, religious or ceremonial purposes as permitted by the Colville Business Council unless such action is expressly prohibited by federal law.

3-1-221 Use of dogs.

Any person who takes a game animal with the aid of a dog or dogs, except as authorized by regulation, is guilty of a Class B offense.

3-1-222 Hunting from airplanes.

Any person who uses aircraft to hunt, spot, locate or report the location of wildlife for the purpose of hunting, or who hunts any game animal on the same day they were airborne (except for a regularly scheduled commercial flight) is guilty of a Class A offense which carries a mandatory minimum fifteen (15) day jail sentence.

3-1-223 Hunting from public highway

It shall be unlawful for any person to shoot a firearm or a bow and arrow from, across, or along the maintained portion of any public highway.

3-1-224 Entering game reserve.

Any person who enters upon a game reserve or other area closed to hunting and takes or drives, or attempts to take or drive, wildlife from said area, except as may be authorized by the Colville tribal government in writing, is guilty of a Class B offense.

3-1-225 Harassment of wildlife.

Any person who harasses wildlife except as provided by regulation is guilty of a Class C offense.

3-1-226 Planting fish.

Any person who introduces any fish, fish fry or spawn in any waters within the boundaries of the Colville Reservation unless otherwise authorized by law or regulation is guilty of a Class B offense.

(Amended 4/18/2024, Resolution 2024-315, Certified 4/29/2024)

OTHER OFFENSES

3-1-230 Violation of Tribal Ordinance

Any person who shall violate any Tribal Ordinance or any other Council enactment designed to preserve the peace, health, safety, welfare and morals of the Reservation, for which violation a punishment is not prescribed under any other provision of this Code or the Ordinance or enactment itself, shall be guilty of Violation of Tribal Ordinance. Violation of Tribal Ordinance is a Class B offense.

3-1-231 Violation of Federal or State Law

Any person who shall commit any act which would be violative of federal criminal law or Washington criminal law, unless authorized by Tribal law, shall be guilty of Violation of Federal or State law under this Section. Violation of Federal or State Law is a Class A offense.

(Code Reviser note: The Court of Appeals in CCT v. Vincent, 12 CCAR 7 (2015) held §3-1-231 invalid.)

3-1-232 Aiding or Abetting

Any person who shall counsel, encourage, solicit, request, aid, procure or abet another to commit an offense under this Chapter or under any ordinance or regulation of the Colville Business Council shall be guilty of aiding or abetting. Aiding or Abetting an offense is an offense of the same classification as the offense aided or abetted.

3-1-233 Attempt

Any person who shall, acting with the specific intent otherwise required for commission of any offense under this Code, engage in conduct constituting a substantial step toward commission of the offense, shall be guilty of Attempt to commit the offense. Attempt to commit an offense is an offense of the same classification as the offense attempted.

PENALTIES

3-1-260 Class A Offense

A person convicted of a Class A offense shall be sentenced to imprisonment for a period not to exceed 360 days, or a fine not to exceed \$5000.00, or both imprisonment and a fine.

(Amended 2/13/87, Resolution 1987-81)

3-1-261 Class B Offense

A person convicted of a Class B offense shall be sentenced to imprisonment for a period not to exceed 180 days, or a fine not to exceed \$2500.00, or both imprisonment and a fine.

(Amended 2/13/87, Resolution 1987-81)

3-1-262 Class C Offense

A person convicted of a Class C offense shall be sentenced to imprisonment for a period not to exceed 90 days, or a fine not to exceed \$1000.00, or both imprisonment and a fine.

(Amended 2/13/87, Resolution 1987-81)

3-1-263 Probation

Except as otherwise provided in this Code, the court shall have the authority to suspend the imposition of sentence on a person who has been convicted of an offense and to place him on probation. The court may attach to the order of probation such reasonable conditions as it deems necessary. At any time before the end of the probationary period, if the court is satisfied that the defendant has inexcusably failed to comply with a substantial requirement imposed as a condition of the probation order, or if the defendant has been convicted of another crime, the court may revoke the probation and sentence or re-sentence the defendant

as provided in this Code.

A mandatory minimum sentence provides an amount of incarceration that must be imposed by the Tribal Court at sentencing and which must be actually served by the defendant. A mandatory minimum sentence may not be varied, suspended or modified. Tribal Court may impose a sentence of incarceration higher than the mandatory minimum, up to the maximum amount allowed by the class of the offense, and may suspend the higher amount or may order the defendant to serve the higher amount in whole or in part, but at least the mandatory minimum portion of the sentence must be actually served. Time served by a defendant prior to sentencing in the same criminal case counts toward service of the mandatory minimum sentence.

(Amended 4/18/2024, Resolution 2024-315, Certified 4/29/2024)

3-1-264 **Disposition of Fines**

All fines and fees collected by the court under the provisions of this Code shall be held in a special account of the Tribes to be used for maintenance of the Court and Law and Order Program.

3-1-265 **Registration of Sex Offenders**

(a) For purposes of this Section the following definitions apply:

(1) 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:

(A) Prosecuted and found guilty as an adult for a sex offense; or

(B) 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.

(2) Foreign Convictions. A foreign conviction is one obtained outside of the United States.

(3) 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.

(4) Immediate. “Immediate” and “immediately” mean within 3 business days.

(5) 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”.

(6) 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).

- (7) Minor. The term “minor” means an individual who has not attained the age of 18 years.
- (8) 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.
- (9) 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/Title or any other registerable offense under tribal law. 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.
- (10) Sex Offender. A person convicted of a sex offense is a “sex offender”.
- (11) Sexual Act. The term “sexual act” means:
- (A) 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;
 - (B) contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus;
 - (C) 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
 - (D) the intentional touching, not through the clothing, of the genitalia of another person that has not attained the age of 18 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.
- (12) 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.
- (13) 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.
- (14) 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. §16911 *et. seq.*, as amended.
- (15) Sex Offender Registry. The term “sex offender registry” means the registry of sex offenders, and a notification program, maintained by the Colville Tribal Police Department.
- (16) National Sex Offender Registry (NSOR). The national database maintained by the Federal Bureau of Investigation pursuant to 42 U.S.C. §16919.
- (17) 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.
- (18) 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.

(b) Creation of Registries:

(1) Sex Offender Registry. There is hereby established a sex offender registry program, the Colville Tribal Sex Offender Registry, which the Colville Tribal Police Department shall maintain and operate pursuant to the provisions of this code.

(2) Public Sex Offender Registry Website. There is hereby established a public sex offender registry website, the Colville Tribal Public Sex Offender Registry Website, which the Colville Tribal Police Department shall maintain and operate pursuant to the provisions of this code, as amended.

(c) Any adult or juvenile who has been convicted of, or pled guilty to, any sex offense, who resides, works, attends school, or visits within the external boundaries of the Colville Indian Reservation and has not received an exemption from the requirement to register as such from a Tribal, State or Federal Court.

(d) For purposes of this Section a “sex offense” means any offense defined as a:

(1) Tribal offenses. A conviction for any sex offense, or attempt or conspiracy to commit a sex offense, including any of the following, and any other Tribal offense hereafter included in the definition of sex offense:

(A) 3-1-1 Abduction (non-parental, when the victim is under 18)

(B) 3-1-9 Indecent Liberties;

(C) 3-1-10 Rape;

(D) 3-1-16 Sexual Exploitation of a Minor;

(E) 3-1-19 Repeat and habitual sex offenders;

(F) 3-1-97 Incest;

(G) 3-1-192 Prostitution

(2) Federal Offenses. A conviction a sex offense, or attempt or conspiracy to commit a sex offense, including any of the following, and any other Federal offense hereafter included in the definition of sex offense in 42 U.S.C. §16911(5):

(A) 18 U.S.C. §1591 (sex trafficking of children);

(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. §2243 (sexual abuse of a minor or ward);

(F) 18 U.S.C. §2244 (abusive sexual contact);

(G) 18 U.S.C. §2245 (offenses resulting in death);

(H) 18 U.S.C. §2251 (sexual exploitation of children);

- (I) 18 U.S.C. §2251A (selling or buying of children);
- (J) 18 U.S.C. §2252 (material involving the sexual exploitation of a minor);
- (K) 18 U.S.C. §2252A (material containing child pornography);
- (L) 18 U.S.C. §2252B (misleading domain names on the internet);
- (M) 18 U.S.C. §2252C (misleading words or digital images on the internet);
- (N) 18 U.S.C. §2260 (production of sexually explicit depictions of a minor for import into the U.S.);
- (O) 18 U.S.C. §2421 (transportation of a minor for illegal sexual activity);
- (P) 18 U.S.C. §2422 (coercion and enticement of a minor for illegal sexual activity);
- (Q) 18 U.S.C. §2423 (Mann Act);
- (R) 18 U.S.C. §2424 (failure to file factual statement about an alien individual);
- (S) 18 U.S.C. §2425 (transmitting information about a minor to further criminal sexual conduct).

(3) Foreign Offenses. Any conviction for a sex offense, or attempt or conspiracy to commit 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.

(4) Military Offenses. Any military sex offense, or attempt or conspiracy to commit a sex offense, which is 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).

(5) 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) or (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.

(6) Jurisdiction Offenses. Any sex offense, or attempt or conspiracy to commit a sex offense, committed in any jurisdiction, including this tribe, that involves:

- (A) Any type or degree of genital, oral, or anal penetration;
- (B) Any sexual touching of or sexual contact with a person's body, either directly or through the clothing;
- (C) Kidnapping of a minor;
- (D) False imprisonment of a minor;

(E) 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;

(F) Use of a minor in a sexual performance;

(G) Solicitation of a minor to practice prostitution;

(H) Possession, production, or distribution of child pornography;

(I) 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;

(J) Any conduct that by its nature is a sex offense against a minor; or

(K) Any offense similar to those outlined in:

(i) 18 U.S.C. §1591 (sex trafficking by force, fraud, or coercion),

(ii) 18 U.S.C. §1801 (video voyeurism of a minor),

(iii) 18 U.S.C. §2241 (aggravated sexual abuse),

(iv) 18 U.S.C. §2242 (sexual abuse),

(v) 18 U.S.C. §2244 (abusive sexual contact),

(vi) 18 U.S.C. §2422(b)(coercing a minor to engage in prostitution), or

(vii) 18 U.S.C. §2423(a) (transporting a minor to engage in illicit conduct).

(e) Tiering. All offenses shall be classified as either “Tier I”, “Tier II”, or “Tier III”. The Tier of the Offense shall govern how frequently an offender is required to register (§3-1-265(h)(5)), and shall govern the provisions regarding exemption from registration (§3-1-265(h)(7)).

(1) Tier I Offenses

(A) A “Tier I” offenses include any sex offenses, for which a person has been convicted, or an attempt or conspiracy to commit such an offense that is not a “Tier II” or “Tier III” offense. (B) Offenses Involving Minors. A “Tier I” offense also includes any offense for which a person has been convicted by any jurisdiction, local government, or qualifying foreign country pursuant to §3-1-265(d)(3) that involves the false imprisonment of a minor, video voyeurism of a minor, or possession or receipt of child pornography.

(C) Certain Federal Offenses. Conviction for any of the following federal offenses or an attempt or conspiracy to commit such an offense shall be considered a conviction for a “Tier I” offense:

(i) 18 U.S.C. §1801 (video voyeurism of a minor),

(ii) 18 U.S.C. §2252 (receipt or possession of child pornography),

(ii) 18 U.S.C. §2252A (receipt or possession of child pornography),

- (iv) 18 U.S.C. §2252B (misleading domain names on the internet),
- (v) 18 U.S.C. §2252C (misleading words or digital images on the internet),
- (vi) 18 U.S.C. §2422(a) (coercion to engage in prostitution),
- (vii) 18 U.S.C. §2423(b) (travel with the intent to engage in illicit conduct),
- (viii) 18 U.S.C. §2423(c) (engaging in illicit conduct in foreign places),
- (ix) 18 U.S.C. §2423(d) (arranging, inducing procuring or facilitating the travel in interstate commerce of an adult for the purpose of engaging in illicit conduct for financial gain),
- (x) 18 U.S.C. §2424 (failure to file factual statement about an alien individual),
Or
- (xi) 18 U.S.C. §2425 (transmitting information about a minor to further criminal Sexual conduct).

(D) Certain 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) that is similar to those offenses outlined in § 3-1-265(e)(1)(a), (b), or (c) shall be considered a “Tier I” offense.

(E) Colville Offenses. Conviction for any of the following offenses of the Code of the Confederated Tribes of the Colville Reservation, or an attempt or conspiracy to commit such an offense, shall be considered a conviction for a “Tier I” Offense:

- (i) 3-1-9 Indecent Liberties (when the victim is 18 or older);
- (ii) 2-1-97 Incest (when the victim is 18 or older and the offense involves sexual intercourse).

(2) Tier II Offenses.

(A) Recidivism and Felonies. Unless otherwise covered by §3-1-265(e)(3), any sex offense that is not the first sex offense for which a person has been convicted or an attempt or conspiracy to commit such an offense and that is punishable by more than one year in jail is considered a “Tier II” offense.

(B) Offenses Involving Minors. A “Tier II” offense includes any sex offense against a minor for which a person has been convicted, or an attempt or conspiracy to commit such an offense that involves:

- (i) The use of minors in prostitution, including solicitations,
- (ii) Enticing a minor to engage in criminal sexual activity,
- (iii) A non-forcible Sexual Act with a minor 16 or 17 years old,
- (iv) Sexual contact with a minor 13 years of age or older, whether directly or indirectly through the clothing, that involves the intimate parts of the body,

(v) The use of a minor in a sexual performance, or

(vi) The production or distribution of child pornography.

(C) Certain Federal Offenses. Conviction for any of the following federal offenses or an attempt or conspiracy to commit such an offense shall be considered a conviction for a “Tier II” offense:

(i) 18 U.S.C. §1591 (sex trafficking by force, fraud, or coercion),

(ii) 18 U.S.C. §2244 (Abusive sexual contact, where the victim is 13 years of age or older),

(iii) 18 U.S.C. §2251 (sexual exploitation of children),

(iv) 18 U.S.C. §2251A (selling or buying of children),

(v) 18 U.S.C. §2252 (material involving the sexual exploitation of a minor),

(vi) 18 U.S.C. §2252A (production or distribution of material containing child pornography),

(vii) 18 U.S.C. §2260 (production of sexually explicit depictions of a minor for import into the United States),

(viii) 18 U.S.C. §2421 (transportation of a minor for illegal sexual activity),

(ix) 18 U.S.C. §2422(b) (coercing a minor to engage in prostitution),

(x) 18 U.S.C. §2423(a) (transporting a minor to engage in illicit conduct)

(xi) 18 U.S.C. §2423(d) (arranging, inducing procuring or facilitating the travel in interstate commerce of a minor for the purpose of engaging in illicit conduct for financial gain),

(D) Certain 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) that is similar to those offenses outlined in § 3-1-265(e)(2)(a), (b), or (c) shall be considered a “Tier II” offense.

(E) Colville Offenses. Conviction for any of the following offenses of the Code of the Confederated Tribes of the Colville Reservation, or an attempt or conspiracy to commit such an offense, shall be considered a conviction for a “Tier II” Offense:

(i) 3-1-9 Indecent Liberties (when the victim is under 18);

(ii) 3-1-16 Sexual Exploitation of a Minor;

(iii) 3-1-97 Incest (when the victim is between 13 and 17 and the offense involves sexual intercourse);

(iv) 3-1-192 Prostitution (when the victim is under 18).

(3) Tier III Offenses.

(A) Recidivism and Felonies. Any sex offense that is punishable by more than one year in jail where the offender has at least one prior conviction or an attempt or conspiracy to commit such an offense for a Tier II sex offense, or has previously become a Tier II sex offender, is a “Tier III” offense.

(B) General Offenses. A “Tier III” offense includes any sex offense, for which a person has been convicted, or an attempt or conspiracy to commit such an offense that involves:

(i) Non-parental kidnapping of a minor,

(ii) A sexual act with another by force or threat,

(iii) A sexual act with another who has been rendered unconscious or involuntarily drugged, or who is otherwise incapable of appraising the nature of the conduct or declining to participate, or

(iv) Sexual contact with a minor 12 years of age or younger, including offenses that cover sexual touching of or contact with the intimate parts of the body, either directly or through the clothing.

(C) Certain Federal Offenses. Conviction for any of the following federal offenses shall be considered conviction for a “Tier III” offense:

(i) 18 U.S.C. §2241 (aggravated sexual abuse),

(ii) 18 U.S.C. §2242 (sexual abuse),

(iii) 18 U.S.C. §2243 (sexual abuse of a minor or ward),

(iv) Where the victim is 12 years of age or younger, 18 U.S.C. §2244 (abusive sexual contact).

(D) Certain 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) that is similar to those offenses outlined in § 3-1-265(e)(3)(a), (b), or (c) shall be considered a “Tier III” offense.

(E) Colville Offenses. Conviction for any of the following offenses of the Code of the Confederated Tribes of the Colville Reservation, or an attempt or conspiracy to commit such an offense, shall be considered a conviction for a “Tier III” Offense:

(i) 3-1-1 Abduction (non-parental, when the victim is under 18);

(ii) 3-1-10 Rape;

(iii) 3-1-97 Incest (when the victim is under 13 and the offense involves sexual intercourse);

(f) Individuals who resides within the exterior boundaries of the reservation or otherwise reside on property owned by the tribe in fee or trust regardless of location, or who

attend schools within the exterior boundaries of the Reservation or on property owned by the tribe in fee or trust regardless of location, that have been convicted of any of the following offenses, or convicted or an attempt or conspiracy to commit any of the following offenses, are subject to the requirements of this code.

(g) Any sex offender who is convicted within this jurisdiction or, who resides, works, attends school, or visits within the external boundaries of the Colville Indian Reservation shall provide the Colville Tribal Police Chief, or his designee, with the following when registering under this section:

(1) The sex offender shall provide, the following information related to the sex offender's name:

(A) The sex offender's full primary given name;

(B) Any and all nicknames, aliases, and pseudonyms regardless of the context in which it is used; and

(C) 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.

(2) The sex offender shall provide, the following information related to the sex offender's date and place of birth:

(A) The sex offender's actual date of birth,

(B) The place the sex offender was born; and

(C) Any other date of birth used by the sex offender.

(3) The sex offender shall provide, the following information related to the sex offender's physical description, updating as necessary:

(A) A physical description of gender, height, weight, eye color, hair color;

(B) A general description of the sex offender's physical appearance or characteristics; and

(C) Any identifying marks, such as, but not limited to, scars, marks, moles, birthmarks, or tattoos.

(4) The sex offender shall submit to photography for the purpose of acquiring a current picture. Unless the appearance of a sex offender has not changed significantly, a digitized photograph shall be collected;

(A) Upon initial registration;

(B) Every 90 days for level 3 sex offenders;

(C) Every 180 days for level 2 sex offenders; and

(D) Every year for level 1 sex offenders.

(5) The sex offender shall provide, the following information related to the sex offender's residence:

(A) The address of each residence at which the sex offender resides or will reside; and

(B) 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.

(6) The sex offender shall provide, 10 days prior to travel, the following information related to the sex offender's temporary lodging when the sex offender will be absent from his residence for 7 days or more:

(A) The address of each location at which the sex offender lodges while traveling within the United States; or

(B) If the offender intends to travel outside the United States, the offender shall provide, 21 days prior to travel, the following information related to the sex offender's intended international travel for any length of time:

(i) Purpose and Means of Travel;

(ii) Date and location of departure and return;

(iii) Destination Country;

(iv) Intended lodging address in destination country;

(v) Travel Itinerary, Visa information, or other information about the offender's travel plans requested by the Colville Tribal Police Chief, or his designee.

(C) The Colville Tribal Police Chief, or his designee, shall immediately notify any jurisdiction within the United States of an offender's intended temporary lodging in that jurisdiction. The Colville Tribal Police Chief, or his designee, shall immediately submit any information regarding an offender's intended international travel to the United States Marshals Service's National Sex Offender Targeting Center.

(7) The sex offender shall provide, the following information related to the sex offender's employment information, if employed or will be employed within the external boundaries of the Colville Indian Reservation:

(A) The name of the sex offender's employer;

(B) The address of the sex offender's employer; and

(C) Similar information related to any transient or day labor employment.

(8) The sex offender shall provide, the following information related to the sex offender's school information, if attending or will be attending any school, trade program or certification program within the external boundaries of the Colville Indian Reservation:

(A) The name of the sex offender's school; and

(B) The address of the sex offender's school;

(9) The sex offender shall provide, the following information related to the sex offender's telephone contact number:

(A) Any and all land line telephone numbers, and

(B) Any and all cellular telephone numbers.

(10) The sex offender shall provide, as applicable, photocopies of the following documents related to the sex offender's personal identification:

(A) The sex offender's valid driver's licenses issued by any jurisdiction;

- (B) The sex offender's any identification card including the sex offender's tribal enrollment card issued by any jurisdiction;
 - (C) The sex offender's passport(s);
 - (D) The sex offender's immigration documents;
 - (E) A valid social security number for the sex offender, and
 - (F) Any social security number the sex offender has used in the past, valid or otherwise.
- (11) The sex offender shall provide both finger prints and palm prints of the sex offender in a digitized format, unless these have already been captured in the State or FBI finger print database.
- (12) The sex offender shall provide a DNA sample, unless it has already been contained in the Combined DNA Index System (CODIS). Any DNA sample obtained from a sex offender shall be submitted to an appropriate lab for analysis and entry of the resulting DNA profile in to CODIS.
- (13) The sex offender shall provide, as applicable, the following information related to the sex offender's internet related activity:
- (A) The sex offender's valid email addresses;
 - (B) The sex offender's Instant Messenger (IM) addresses and identities;
 - (C) The sex offender's other designations or monikers used for self-identification in internet communications or postings, and
 - (D) The sex offender's designations used by the sex offender for the purpose of routing or self-identification in internet communications or postings.
- (14) The sex offender shall provide, as applicable, all licensing of the sex offender that authorizes the sex offender to engage in an occupation or carry out a trade or business.
- (15) The 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:
- (A) License plate numbers,
 - (B) Registration numbers or identifiers,
 - (C) General description of the vehicle to include color, make, model, and year, and
 - (D) Any permanent or frequent location where any covered vehicle is kept.
- (16) The sex offender shall assist with the following information related to the sex offender's Offense and Criminal History:
- (A) The date and location of all arrests;
 - (B) The date and location of all convictions;
 - (C) The sex offender's status of parole, probation, or supervised release;
 - (D) The sex offender's registration status;
 - (E) Any outstanding arrest warrants; and
 - (F) Age and sex of victims.
- (17) The sex offender shall provide a photocopy of each applicable identification document:

- (A) The sex offender's valid driver's licenses issued by any jurisdiction;
- (B) The sex offender's any identification card including the sex offender's tribal enrollment card issued by any jurisdiction;
- (C) The sex offender's passport(s);
- (D) The sex offender's immigration documents;
- (E) A valid social security number for the sex offender, and
- (F) Any social security number the sex offender has used in the past, valid or otherwise.

(18) A sex offender visiting the Colville Indian Reservation shall immediately provide:

- (A) The address or description of each residence or location at which the sex offender has temporary housing Identifying information of the temporary lodging locations including addresses and names of hosts, including houses, campsites, motels, recreational vehicles or any other domicile, and
- (B) The dates which the sex offender will be visiting.

(19) 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 Colville Tribal Police Department and that the sex offender understands the registration requirement. The form shall be signed and dated by the Colville Tribal Police Department personnel registering the sex offender. The Colville Tribal Police Department shall immediately upload the acknowledgement form into Colville Tribal sex offender registry.

(20) All information obtained under this code shall be, at a minimum, maintained by the Colville Tribal Police Department in a digitized format.

(h) A person required to register under this section shall do so:

- (1) Prior to being released, if the sex offender is in custody in the Tribal Corrections Facility; or
- (2) Immediately upon completion of being sentenced in Tribal Court, if the offender is not sentenced to serve a term of confinement; or
- (3) Within twenty-four (24) hours of establishing or re-establishing residence on the Colville Reservation; or
- (4) Immediately, if they are currently residing on the Colville Reservation and are not covered by (h), (1), (2), or (3).
- (5) A sex offender who is required to register shall, at a minimum, appear in person at the Colville Tribal Police Department for purposes of verification and keeping their registration current in accordance with the following time frames:
 - (A) For "Tier I" offenders, once every year;
 - (B) For "Tier II" offenders, once every 180 days;
 - (C) For "Tier III" offenders, once every 90.

(6) Except as otherwise specifically provided in this code's exemptions from registration, any person to whom this Code applies shall continue to comply with the requirements of this Code for life.

(7) Exemption from Registration may be granted to a registered Sex Offender who successfully petitions the Colville Tribal Court for a show cause hearing to determine if an exemption from the registration requirements is appropriate, only if they are:

(A) A Tier 1 sex offender after a period of fifteen (15) years from the date of release from incarceration, or date of sentencing if not incarcerated, and has maintained a clean record for fifteen (15) consecutive years; or

(B) A Tier 2 sex offender after a period of twenty five (25) years from the date of release from incarceration, or date of sentencing if not incarcerated, and has no other convictions of any offenses of Federal, State or Tribal codes.

(C) A Tier 3 sex offender shall not be eligible for an exemption from registration requirements.

(8) Retroactive Registration. The Colville Tribal Police Department 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:

(A) Sex offenders incarcerated or under the supervision of the tribe, whether for a covered sex offense or other crime,

(B) Sex offenders already registered or subject to a pre-existing sex offender registration requirement, and

(C) Sex offenders reentering the justice system due to conviction for any crime.

(9) Timing of Recapture. The Colville Tribal Police Department shall ensure recapture of the sex offenders mentioned in §3-1-265(h)(8) within the following timeframe to be calculated from the date of passage of this code:

(A) For Tier I sex offenders, 1 year,

(B) For Tier II sex offenders, 180 days, and

(C) For Tier III sex offenders, 90 days.

(i) Requirements for In Person Appearances.

(1) Photographs. At each in person verification, the sex offender shall permit the Colville Tribal Police Department to take a photograph of the offender.

(2) Review of Information. At each in person verification the sex offender shall review existing information for accuracy.

(3) Notification. If any new information or change in information is obtained at an in person verification, the Colville Tribal Police Department shall immediately notify all other jurisdictions in which the sex offender is required to register of the information or change in information. If any new information or change in information is obtained at an in person verification, the Colville

Tribal Police Department shall immediately update the public website, if applicable, and update information in NCIC/NSOR.

(j) All sex offenders required to register under this code are also required to keep their registration current:

(1) Jurisdiction of Residency. All sex offenders required to register in this jurisdiction shall immediately appear in person to the Colville Tribal Police Chief, or his designee, 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 Colville Tribal Police Chief, or his designee, of any changes to their temporary lodging information, vehicle information, internet identifiers, or telephone numbers. In the event of a change in temporary lodging, the sex offender and the Colville Tribal Police Chief, or his designee, shall immediately notify the jurisdiction in which the sex offender will be temporarily staying.

(2) Jurisdiction of School Attendance. Any sex offender who is a student in any capacity within the external boundaries of the Colville Indian Reservation regardless of location that change their school, or otherwise terminate their schooling, shall immediately appear in person to the Colville Tribal Police Chief, or his designee, to update that information. The Colville Tribal Police Chief, or his 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.

(3) Jurisdiction of Employment. Any sex offender who is employed by the tribe in any capacity or otherwise is employed within the external boundaries of the Colville Indian Reservation regardless of location that change their employment, or otherwise terminate their employment, shall immediately appear in person to the Colville Tribal Police Chief, or his designee, to update that information. The Colville Tribal Police Chief, or his 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.

(k) In the event a sex offender fails to register with the tribe as required by this code, the Colville Tribal 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

(l) Absconded Sex Offenders. If the or designee receives information that a sex offender has absconded the Colville Tribal Police Department shall make an effort to determine if the sex offender has actually absconded.

(1) In the event no determination can be made, the Colville Tribal Police Department or designee shall ensure 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 tribal police 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.

(m) 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 Colville Tribal Police Department shall take all appropriate follow-up measures including those outlined in § 3-1-265(I). The Colville Tribal Police Department shall first make an effort to determine if the sex offender is actually resides, is employed or attending school in lands subject to the tribe's jurisdiction.

(n) Website. The Colville Tribal Police Department shall use and maintain a public sex offender registry website.

(1) Links. The Colville Tribal Public Sex Offender Registry Website shall include links to sex offender safety and education resources.

(2) Instructions. The Colville Tribal Public Sex Offender Registry Website shall include instructions on how a person can seek correction of information that the individual contends is erroneous.

(3) Warnings. The Colville Tribal Public 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.

(4) Search Capabilities. The Colville Tribal Public 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.

(5) Dru Sjodin National Sex Offender Public Website. The tribe 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.

(6) Required Information. The following information shall be made available to the public on the sex offender registry website:

(A) Notice that an offender is in violation of their registration requirements or cannot be located if the sex offender has absconded,

(B) All sex offenses for which the sex offender has been convicted,

(C) The sex offense(s) for which the offender is currently registered,

(D) The address of the sex offender's employer(s),

(E) The name of the sex offender including all aliases,

(F) A current photograph of the sex offender,

(G) A physical description of the sex offender,

(H) The residential address and, if relevant, a description of a habitual residence of the sex offender,

(I) All addresses of schools attended by the sex offender, and

(J) The sex offender's vehicle license plate number along with a description of the vehicle.

(7) The following information shall not be available to the public on the sex offender registry website:

- (A) Any arrest that did not result in conviction,
- (B) The sex offender's social security number,
- (C) Any travel and immigration documents,
- (D) The identity of the victim, and
- (E) Internet identifiers (as defined in 42 U.S.C. §16911).

(o) Law Enforcement Notification. Whenever a sex offender registers or updates his or her information with the tribe, the Colville Tribal Police Department 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; and

(6) Enter or update information posted on the public website.

(p) Community Notification. The Colville Tribal Police Department 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 tribe, the tribe's public sex offender registry website is immediately updated,

(2) The tribe's public sex offender registry 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.

(Amended 10/6/11, Resolution 2011-734)
(Certified 10/19/11)

3-1-266 Sexual Offender—Residence/Activities

(a) Any sexual offender who is convicted within the jurisdiction or, who resides, works, attends school, or visits within the external boundaries of the Colville Indian Reservation, shall submit a Risk Assessment by the Colville Tribal Police Chief, or his designee to determine the sex offender's potential risk to the community.:

(b) Sex Offender Risk-Assessment Levels shall be determined by regulation promulgated by the Chief of Police or designee pursuant to Chapter 2-4 and shall be based on the latest Static 99R psychological assessment. Sex offender levels shall be:

(1) Level 1: least likely to reoffend;

(2) Level 2: likely to reoffend;

(3) Level 3: most likely to reoffend.

(c) Any sexual offender who is required to register under section 3-1-265 of this chapter who has been assessed and assigned as a level 2 or level 3 sex offender shall be guilty of a Class A offense with a mandatory minimum 30 day jail sentence if they:

(1) Reside or maintain an address for residential purposes at any location which is within one thousand feet of a playground, school, Tribal Community Center or other location which is established or designated specifically for the use by and/or enjoyment of children and such location is commonly used by children;

(2) Offenders may not enter onto, or walk by, or park a vehicle within sight of a school or playground while children are present.

(3) Notwithstanding any other provision of law, offenders under 21 years of age, who have not graduated from high school, may attend school functions located on the Colville Indian Reservation, upon written reasonable conditions as agreed upon by the Colville Tribal Police Services, the School District involved, and parent, guardian or custodian of said offender.

(Amended 10/6/11, Resolution 2011-734)
(Certified 10/19/11)

(Amended 6/3/99, Resolution 1999-309)
(Certified 10/17/2000)

(Adopted 7/25/96, Resolution 1996-314)

(4) Notwithstanding any other provision of law, offenders under 21 years of age, who have not graduated from high school, may attend school functions located on the Colville Indian Reservation, upon written reasonable conditions as agreed upon by the Colville Tribal Police Services, the School District involved, and parent, guardian or custodian of said offender.

(Amended 11/3/97, Resolution 1997-683)
(Certified 3/21/01)

(Amended 4/18/2024, Resolution 2024-315, Certified 4/29/2024)

3-1-267 Crimes Involving Domestic Violence

Sentences for crimes involving domestic violence shall be enhanced in accordance with Chapter 5-5, Domestic and Family Violence.

(Approved 6/3/04, Resolution 2004-385)

PROPERTY SEIZED AS EVIDENCE

3-1-290 Property Seized as Evidence

When any officer in the execution of a valid search shall seize any evidence material to the investigation or prosecution of any offense, the evidence shall be safely kept so long as necessary for the purpose of being produced in evidence at any trial. After the trial, the evidence shall be restored to its owner if it is lawful for the owner to possess it. Otherwise, the property shall be disposed of pursuant to the forfeiture provisions of this Code.

GAMING OFFENSES

3-1-300 Definitions

(a) "Cheat" means to alter the selection of criteria, which determine:

- (1) The results of a game; or
- (2) The amount or frequency of payment in a game.

(b) "Authorities" means the agent of the Commission, Tribal Police, Federal Law Enforcement Officers, and employees and agents of the Gaming Facility Operator.

(c) "Person" means a member of the Tribes or any non-member Indian within the Reservation or Tribal lands, or any non-Indian acting within the jurisdiction of the Colville Tribes.

3-1-310 Fraudulent Acts

It is unlawful for any person:

(a) To alter or misrepresent the outcome of a game or other event on which wagers have been made after the outcome is made sure but before it is revealed to the players;

(b) To place, increase or decrease a bet or to determine the course of play after acquiring knowledge, not available to all players, of the outcome of the game or any event that affects the outcome of the game or which is the subject of the bet or to aid anyone in acquiring such knowledge for the purpose of placing, increasing or decreasing a bet or determining the course of play contingent upon that event or outcome;

(c) To claim, collect or take, or attempt to claim, collect or take, money or anything of value in or from a gambling game, with intent to defraud without having made a wager contingent thereon, or to claim, collect or take an amount greater than the amount won;

(d) Knowingly to entice or induce another to go to any place where a gambling game is being conducted or operated in violation of the provisions of this section, with the intent that the other person play or participate in that gambling game;

(e) To place or increase a bet after acquiring knowledge of the outcome of the game or other event, which is the subject of the bet, including past-posting and pressing bets;

(f) To reduce the amount wagered or cancels the bet after acquiring knowledge of the outcome of the game or other event, which is the subject of the bet, including pinching bets;

(g) To manipulate, with the intent to cheat, any component of a gaming device in a manner contrary to the designed and normal operational purpose for the component, including, but not limited to, varying the pull of the handle of a slot machine, with knowledge that the manipulation affects the outcome of the game or

with knowledge of any event that affects the outcome of the game.

3-1-320 Use of Device for Calculating Probabilities

It is unlawful for any person at the Gaming Facility to use, or possess with the intent to use, any device to assist:

- (a) In projecting the outcome of the game;
- (b) In keeping track of the cards played;
- (c) In analyzing the probability of the occurrence of an event relating to the game; or
- (d) In analyzing the strategy for playing or betting to be used in the game.

3-1-330 Use of Counterfeit or Unapproved Chips or Tokens or Unlawful Coins or Devices; Possession of certain Devices, Equipment, Products or Materials

(a) It is unlawful for any licensed person, enterprise, employee or other person to use counterfeit chips in a gambling game.

(b) It is unlawful for any person, in playing or using any gambling game designed to be played with, receive or be operated by chips or tokens approved by the Commission or by lawful coin of the United States of America knowingly to use other than chips or tokens approved by the Commission or lawful coin, legal tender of the United States of America or to use coin not of the same denomination as the coin intended to be used in that gambling game.

(c) It is unlawful for any person, not a duly authorized employee of the Gaming Facility Operator acting in furtherance of his employment within the Gaming Facility, to have on his person or in his possession on or off the premises of the Gaming Facility any key or device known to have been designed for the purpose of and suitable for opening, entering or affecting the operation of any gambling game, drop box or any electronic or mechanical device connected thereto, for removing money or other contents therefrom.

(d) It is unlawful for any person to have on his person or in his possession any paraphernalia for manufacturing slugs. As used in this subsection, "paraphernalia" for manufacturing "slugs" means the equipment, products and materials that are intended for use or designed for use in manufacturing, producing, fabricating, preparing, testing, analyzing, packaging, storing or concealing a counterfeit facsimile of the chips or tokens approved by the Commission or a lawful coin of the United States, the use of which is unlawful pursuant to this Chapter. The term includes, but is not limited to:

- (1) Lead or lead alloys;
- (2) Molds, forms, or similar equipment capable of producing a likeness of a gaming token or United States coin;
- (3) Melting pots or other receptacles;
- (4) Torches; and
- (5) Tongs, trimming tools or other similar equipment.

(e) Possession of more than one of the devices, equipment, products, or materials described in this section creates a rebuttable presumption that the possessor intended to use them for cheating.

3-1-340 Cheating

It is unlawful for any person, whether he is a principal or employee of the Gaming Facility Operator, or a

player in the Gaming Facility, to cheat at any gambling game.

3-1-350 Unlawful manufacture, sale, distribution, marking, altering or modification of equipment and devices associated with gaming; Unlawful instruction

(a) It is unlawful to manufacture, sell or distribute any cards, chips, dice, game or device which is intended to be used to violate any provision of the Colville Tribal Code or this section.

(b) It is unlawful to mark, alter, or otherwise modify any gaming equipment or gaming device, as defined in the Colville Tribal Code in a manner that:

(1) Affects the result of a wager by determining win or loss; or

(2) Alters the normal criteria of random selection, which affects the operation of a game or which determines the outcome of a game.

(c) It is unlawful for any person to instruct another in cheating or in the use of any device for that purpose, with the knowledge or intent that the information or use so conveyed may be employed to violate any provision of the Colville Tribal Code.

3-1-360 Penalties

(a) Any Indian person who violates any provision of this Chapter shall be guilty of a criminal offense punishable by a fine of not more than five thousand dollars (\$5,000.00) or by imprisonment for not more than one (1) year, or both.

(b) Any person who violates any provision of this Chapter or any rule or regulation authorized hereunder, shall be assessed a civil penalty not to exceed five thousand dollars (\$5,000.00), plus court costs, for each violation.

(c) The Tribal Courts shall have jurisdiction over all violations of this Chapter and may, in addition to the penalties prescribed in this Chapter, grant such other relief as is necessary and proper for the enforcement of this Chapter, including but not limited to injunctive relief against acts in violation hereof, subject to arbitration procedures, if any, applicable to any management contract. Nothing, however, in this Chapter shall be construed to authorize or require the criminal trial and punishment of non-Indians except to the extent allowed by any applicable present or future Act of Congress or any applicable Federal Court decision.

3-1-370 Detention and questioning of a person suspected of violating Chapter; Limitations on liability; Posting of notice

The Authorities may question any person in the Gaming Facility suspected of violating any applicable State, Federal or Tribal gaming law. None of the Authorities is criminally or civilly liable:

(a) On account of any such questioning; or

(b) Reporting to the Commission director or its agents, tribal, federal or state regulatory authorities, or law enforcement authorities the identity of the person suspected of the violation.

3-1-380 Disposition of evidence seized by Agent of the Tribal Gaming Commission

(a) After the final adjudication of a complaint involving a violation of this Chapter, or of any other complaint involving the seizure of evidence by agents of the Commission, the Tribal Court may enter an appropriate order disposing of all physical evidence pertaining to the complaint, whether or not the evidence was introduced as an exhibit.

(b) Except as otherwise provided in the previous subsection, evidence seized by an agent of the Commission which does not result in a complaint charging a violation of the law and evidence for which an order of disposition is not entered pursuant to the previous subsection, must be disposed of as follows:

(1) The Commission shall notify by certified mail each potential claimant of the evidence that he has thirty (30) days after receipt of the notice within which to file a written claim with the Commission for return of the evidence.

(2) If more than one person files a claim for the evidence:

(A) The claimants may agree among themselves as to how they wish to divide the evidence, subject to the approval of the Commission.

(B) The claimants may agree to submit the matter to binding arbitration or any claimant may institute legal proceedings before the Tribal Court to determine the proper disposition of the evidence. The Commission shall return the evidence to the claimants in accordance with any agreement approved by the Commission, final judgment or award made pursuant to the provisions of this section.

(3) A person who receives property from the Commission pursuant to this section shall execute such documents as are required by the Commission to defend, hold harmless, indemnify and release the Commission from any liability arising from the delivery of the property to the claimant.

(4) If no claim is submitted, the Commission shall deposit all money with the Tribe and may use all other property for any lawful purpose. The Commission may dispose of any property, which cannot be used for any lawful purpose in any reasonable manner.

(c) Evidence which constitutes a device for cheating, may not be returned to a claimant and must be retained by the Commission. The Commission shall periodically destroy such devices in any reasonable manner.

3-1-390

Unauthorized Gaming

Any member of the Tribe or any non-member Indian who commits any act of unauthorized gaming on the Reservation or on any Tribal lands shall be guilty of a crime and prosecuted in Tribal Court. Prosecution for such a crime in Tribal Court shall not be exclusive and a finding of guilt or innocence shall not deprive the Federal Government from criminal jurisdiction. However, it is hereby declared that Class I, Class II and Class III Gaming, when conducted on the Reservation or Tribal lands in full compliance with the Colville Tribal Code shall be deemed lawful and not subject to the imposition of any criminal penalties.

(CTC §§ 3-1-300, 3-1-390 Enacted 3/29/01, Resolution 2001-174)

(Certified 4/13/01)