

Washoe Tribe of Nevada and California

Law & Order Code

TITLE 5 – CRIMINAL OFFENSES

[Last Amended: 2/8/13. Effective Date: 2/25/13. Current Through: 3/1/13]

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[Last Amended: 2/8/13. Effective Date: 2/25/13. Current Through: 3/1/13]

5-10 PROVISIONS

5-10-010 Voluntary Act

1. A person is not guilty of an offense unless his guilt is based on conduct which includes a voluntary act, or the omission to perform an act of which he is physically capable.
2. A reflex or convulsion, a bodily movement during unconsciousness or sleep, conduct during hypnosis, or a bodily movement that is otherwise not the product of the effort or determination of the actor are not voluntary acts within the meaning of this Section.
3. Guilt may not be based on an omission to act unless a duty to perform the omitted act is specifically imposed by this Code.

[Enacted 6/28/96, Resolution No. 96-WTC-40.]

5-10-020 Required Mental States

1. A person is not guilty of an offense unless he acted intentionally, recklessly, or negligently, as the law may require, with respect to each element of the offense, or unless his acts constitute an offense involving strict liability.
2. If negligence is the mental state specified in the definition of an offense, someone may also be convicted if he acts intentionally or recklessly. If recklessness is the mental state specified in the definition of an offense, someone may also be convicted if he acts intentionally.

[Enacted 6/28/96, Resolution No. 96-WTC-40.]

5-10-030 Definitions of Required Mental States

1. A person acts intentionally if it is his conscious objective to act as he is acting, or if he is aware or practically certain that a particular result will be caused by his conduct.
2. A person acts recklessly when he consciously disregards a substantial and unjustifiable risk that a particular result will be caused by his conduct.
3. A person acts negligently when he should be aware of a substantial and unjustifiable risk that a particular result will be caused by his conduct.
4. Strict liability means that no particular mental state is required in the definition of the offense; commission of the act alone is sufficient.

[Enacted 6/28/96, Resolution No. 96-WTC-40.]

5-10-040 Prosecution for Multiple Offenses

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

1. One offense is included in the other;
2. One offense consists only of a conspiracy, solicitation or an attempt to commit the other;
3. Inconsistent findings of fact are required to establish the offenses; or
4. The offense is defined as a continuing course of conduct and the defendant's course of conduct was uninterrupted, unless it is provided that specific periods of such conduct constitute separate offenses.

[Enacted 6/28/96, Resolution No. 96-WTC-40.]

5-10-050 Ignorance or Mistake of Fact

Ignorance or mistake as to a matter of fact is a defense only if the ignorance or mistake negates a specific mental state required to establish the offense, or if it is specifically provided that ignorance or mistake is a defense.

[Enacted 6/28/96, Resolution No. 96-WTC-40.]

5-10-060 Ignorance or Mistake of the Law

A belief that conduct does not legally constitute an offense is a defense only when the law defining the offense has not been published or reasonably made available prior to the actor's conduct, or if the actor acted in reasonable reliance upon an official statement of law rendered by a tribal judge.

[Enacted 6/28/96, Resolution No. 96-WTC-40.]

5-10-070 Liability for Conduct of Another

A person is guilty of an offense if it is committed by the conduct of another person for whom he is legally responsible. A person is legally responsible for another if he causes an innocent or irresponsible person to engage in conduct, or if he is an accomplice of such other person in the commission of the offense. A parent shall be liable for civil damages for criminal acts of his child under 18 years of age.

[Enacted 6/28/96, Resolution No. 96-WTC-40.]

5-10-080 Accomplice Liability

1. A person is an accomplice of another person in the commission of an offense if, with the purpose of promoting or facilitating the offense, he:
 - (a) solicits the other person to commit it; or
 - (b) aids or agrees or attempts to aid the other person in planning or committing it.
2. A person who is legally incapable of committing a particular offense himself may be guilty as an accomplice unless such liability is inconsistent with the purpose of the law under which he is charged.
3. A person is not an accomplice in an offense if he terminates his participation prior to the commission of the offense and wholly deprives it of effectiveness, or gives timely warning to the police, or otherwise makes a proper effort to prevent the commission of the offense.
4. An accomplice may be convicted on proof of the commission of an offense and of his participation, even though the person who is claimed to have committed the offense has not been prosecuted for, or convicted of, the same or any other offense.

[Enacted 6/28/96, Resolution No. 96-WTC-40.]

5-10-090 Liability for Acts of Corporations or Unincorporated Associations

A person is legally responsible for any conduct he performs or causes to be performed in the name of a corporation or unincorporated association or on its behalf, to the same extent as if it were performed in his own name or behalf. If a duty to act is imposed by law upon a corporation or unincorporated association, any agent of the corporation or association having primary responsibility for the discharge of the duty is legally responsible for a negligent omission to perform the required act to the same extent as if the duty were imposed directly upon him.

[Enacted 6/28/96, Resolution No. 96-WTC-40.]

5-20 ATTEMPT, CONSPIRACY, AND SOLICITATION

5-20-010 Attempt

1. A person is guilty of an attempt to commit an offense if, acting with the kind of mental state otherwise required for the commission of the offense, he engages in conduct constituting a substantial step towards commission of the offense.
2. It is no defense to the offense of attempt that the consummation of the offense was impossible, as long as the offense could have been committed had the circumstances been as the actor believed them to be.
3. Attempt is a Class A offense if the attempted offense was a Class A offense; a Class B offense if the attempted offense was a Class B offense; a Class C offense if the attempted offense was a Class C offense; and is not an offense if the attempted offense was a Class D or Class E offense.

[Enacted 6/28/96, Resolution No. 96-WTC-40.]

5-20-020 Conspiracy

1. A person is guilty of conspiracy if he agrees with one or more other persons to engage in conduct constituting an offense and any one of them commits an overt act towards the commission of the agreed offense.
2. Conspiracy to commit a Class A offense is a Class A offense; conspiracy to commit a Class B offense is a Class B offense; conspiracy to commit a Class C offense is a Class C offense; and conspiracy to commit a Class D or Class E offense is not an offense.
3. It is a defense to a prosecution for conspiracy if the actor makes an effort to withdraw from the conspiracy by terminating his participation prior to the commission of the offense and wholly deprives it of effectiveness, or

gives timely warning to the police, or otherwise makes a proper effort to prevent the commission of the offense.

[Enacted 6/28/96, Resolution No. 96-WTC-40.]

5-20-030 Solicitation

1. A person is guilty of solicitation when he entices, advises, incites, orders, or otherwise encourages another person to commit an offense with the intention that the other person commit the offense.
2. Solicitation to commit a Class A offense is a Class A offense; solicitation to commit a Class B offense is a Class B offense; solicitation to commit a Class C offense is a Class C offense; solicitation to commit a Class D offense is a Class D offense; and solicitation to commit a Class E offense is a Class E offense.

[Enacted 6/28/96, Resolution No. 96-WTC-40.]

5-30 OFFENSES INVOLVING DANGER TO THE PERSON

5-30-010 Criminal Homicide

A person is guilty of criminal homicide if he intentionally, recklessly or negligently causes the death of another human being. Criminal homicide is a Class A offense. If the offense is found to have been committed intentionally the maximum punishment shall be imposed.

[Enacted 6/28/96, Resolution No. 96-WTC-40.]

5-30-020 Assault; Definition; Penalties

1. As used in this Section, “assault” means an unlawful attempt, coupled with a present ability, to commit a violent injury on the person of another.
2. Any person convicted of an assault not made with the use of a deadly weapon or the present ability to use a deadly weapon shall be punished for a Class A offense.
3. Any person convicted of an assault made with the use of a deadly weapon or the present ability to use a deadly weapon shall be punished by imprisonment for not less than 3 months and may be further punished by a fine of not more than \$5,000.

[Enacted 6/28/96, Resolution No. 96-WTC-40.]

5-30-021 Battery; Definition; Penalties

1. As used in this Section:
 - (a) “Battery” means any willful and unlawful use of force or violence upon the person of another.
 - (b) “Child” means a person less than 18 years of age.
 - (c) “Officer” means a tribal police officer as defined in Title 4; a person employed in a full-time salaried occupation of fire-fighting for the benefit or safety of the public; or a member of a volunteer fire department.
2. Any person convicted of a battery not committed with a deadly weapon and no substantial bodily harm to the victim results shall be punished for a Class B offense.
3. Any person convicted of a battery not committed with a deadly weapon and substantial bodily harm to the victim results shall be punished by imprisonment of not less than 3 months, and may be further punished by a fine of not more than \$5,000.
4. Any person convicted of a battery committed with the use of a deadly weapon shall be punished by imprisonment for not less than 6 months and may be further punished by a fine of not more than \$5,000.
5. Any person convicted of a battery committed upon an officer and:
 - (a) the officer was performing his duty;
 - (b) the officer does not suffer substantial bodily harm; and
 - (c) the person charged knew or should have known that the victim was an officer, shall be punished by imprisonment for not less than 6 months and a fine of not more than \$5,000.
6. Any person convicted of a battery committed upon an officer and:
 - (a) the officer was performing his duty;
 - (b) the officer suffers substantial bodily harm; and
 - (c) the person charged knew or should have known that the victim was an officer, shall be punished by imprisonment for not less than 1 year and by a fine of not more than \$5,000.

[Enacted 6/28/96, Resolution No. 96-WTC-40.]

5-30-023 Domestic Violence

1. Except as otherwise provided in Subsection 2, whether or not a warrant has been issued, a peace officer shall arrest a person when he has probable cause, supported by a statement of the victim or a witness to the crime or physical or other evidence, to believe that the person to be arrested has within the preceding twenty-four (24) hours, committed battery upon

his/her parent/step-parent, sibling/step-sibling, grandparent, grandchild, aunt, uncle, child/step-child, spouse, former spouse, a person to whom he/she is related by blood, a person with whom he/she is or was actually residing or with whom he/she has a child in common, his minor child, or a minor child of that person, or a person with whom he/she has had or is having a dating relationship. A person arrested pursuant to this Section shall receive a hearing regarding the terms of his release, or shall be released from custody on his own recognizance, within forty-eight (48) hours after the time of arrest. A person arrested pursuant to this Section must remain in custody twenty-four (24) hours before being allowed bail.

2. If the peace officer has probable cause to believe that a battery described in Subsection 1 was a mutual battery, he shall attempt to determine which person was the primary physical aggressor. If the peace officer determines that one of the persons allegedly committing a battery was the primary physical aggressor involved in the incident, the peace officer is not required to arrest any other person believed to have committed a battery during the incident. In determining whether a person is a primary physical aggressor for the purposes of this Subsection, the peace officer shall consider:
 - (a) prior domestic violence involving either person;
 - (b) the relative severity of the injuries inflicted upon the persons involved;
 - (c) the potential for future injury;
 - (d) whether one of the alleged batteries was committed in self-defense; and
 - (e) any other factor which helps the peace officer decide which person is the primary physical aggressor.
3. A peace officer shall not base his decision whether to arrest a person pursuant to this Section on his perception of the willingness of a victim or a witness to the incident to testify or otherwise participate in subsequent judicial proceedings.
4. When a peace officer investigates a battery pursuant to this Section, whether or not an arrest is made, he shall prepare and submit a written report of the alleged battery to his supervisor or other person designated by his employer to receive reports regarding such allegations. He shall include in his report, if applicable:
 - (a) the reasons for determining that one of the persons involved in a mutual battery was the primary physical aggressor; and
 - (b) any mitigating circumstances which prevented him from making an arrest pursuant to Subsection 1.
5. The tribal police shall compile statistics from reports submitted pursuant to this Section and shall be required to submit the statistics annually to the

Tribal Council, as well as to make the statistics available as a public record detailing the number of investigations and arrests made pursuant to this Section and the nature of any mitigating circumstances which prevented an arrest.

[Amended 2/8/13, Resolution No. 2013-WTC-22.]

5-30-027 Provoking Assault; Penalty

Every person who shall by word; sign, or gesture, willfully provoke, or attempt to provoke, another person to commit an assault shall be punished for a Class E offense.

[Enacted 6/28/96, Resolution No. 96-WTC-40.]

5-30-030 Unlawful Restraint; Kidnapping

1. A person is guilty of unlawful restraint if he intentionally:
 - (a) restrains another human being so as to interfere with his liberty; or
 - (b) without consent, removes another human being from his place of residence or business or a place where he would otherwise be found.
2. Unlawful restraint is a Class A offense if it is done:
 - (a) to hold another for ransom;
 - (b) to use another as a shield;
 - (c) to facilitate commission of any offense or flight thereafter;
 - (d) to interfere with the performance of any tribal government or political function; or
 - (e) if the restraint exposes the victim to a risk of serious bodily harm.
3. In all other cases, unlawful restraint is a Class C offense.

[Enacted 6/28/96, Resolution No. 96-WTC-40.]

5-30-040 Custodial Interference

1. A person, whether a parent or other person, is guilty of custodial interference if, without good cause, he takes, entices, conceals, or detains a child under the age of 16 years from his parent, guardian, or other lawful custodian, knowing that he has no legal right to do so, and with intent to hold the child for substantially longer than any visitation or custody period previously awarded by a court of competent jurisdiction.
2. A person is guilty of custodial interference if, having actual physical custody of a child under the age of 16 pursuant to a judicial award of a court of competent jurisdiction which has given another person visitation

or custody rights, he detains or conceals the child with intent to deprive the other person of his lawful visitation or custody rights, without good cause to do so.

3. A person is guilty of custodial interference if , without good cause, he takes, entices, or detains an incompetent or other person who has been committed by authority of law to the custody of another person or institution from the other person or institution, knowing he has no legal right to do so.
4. Custodial interference is a Class B offense.

[Enacted 6/28/96, Resolution No. 96-WTC-40.]

5-30-050 Sexual Offenses - Definitions and Terms

As used in this Sections 5-30-050 through 5-30-055, unless the context otherwise requires:

1. “Perpetrator” means a person who commits a sexual assault.
2. “Sexual Penetration” means cunnilingus, fellatio, or any intrusion, however slight, of an object manipulated or inserted by a person into the genital or anal openings or the body of another, including sexual intercourse in its ordinary meanings.
3. “Statutory Sexual Seduction” means, except when referring to conduct between married persons:
 - (a) ordinary sexual intercourse, anal intercourse, cunnilingus, or fellatio committed by a person 18 years of age or older with a person under the age of 16 years, or
 - (b) any other sexual penetration committed by a person 18 years of age or older with a person under the age of 16 years with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of either of the persons.
4. “Victim” means a person who is subjected to a sexual assault.

[Enacted 6/28/96, Resolution No. 96-WTC-40.]

5-30-051 Sexual Assault

1. A person who subjects another person to sexual penetration, or other non-consensual conduct, including the fondling or touching directly or indirectly of the genitals or female breasts, or who forces another person to make a sexual penetration or commit other sexual conduct on himself or another, against the victim's will or under conditions in which the

perpetrator knows or is legally presumed to know that the victim is mentally, physically or legally incapable of resisting, understanding, or consenting, is guilty of sexual assault.

2. Sexual assault shall be punished as a Class A offense, by imprisonment for not less than 1 year, if substantial bodily harm to the victim results from the actions of the defendant committed in connection with or as a part of the sexual assault.
3. Sexual assault shall be punished as a Class A offense, by imprisonment for not less than 6 months, if no substantial bodily harm to the victim results from the actions of the defendant committed in connection with or as a part of the sexual assault.

[Enacted 6/28/96, Resolution No. 96-WTC-40.]

5-30-052 Penalties for Certain Sex Offenses Involving Children

1. Sexual assault on a child under the age of 14 years shall be a Class A offense and shall be punishable with a mandatory 1 year imprisonment with no early release, a \$5,000 fine, banishment from the Reservation and registration with the Tribal Police.
2. Sexual assault on a child under the age of 18 shall be considered a Class A offense punishable with a mandatory 1 year imprisonment with no early release and a \$5,000 fine.

[Enacted 6/28/96, Resolution No. 96-WTC-40.]

5-30-053 Indecent or Obscene Exposure

Every person who makes any open and indecent or obscene exposure of his or her genitals, or of the person of another, is guilty of a Class C offense.

[Enacted 6/28/96, Resolution No. 96-WTC-40.]

5-30-054 Lewdness with a Child under 14 Years

Any person who willfully and lewdly commits any lewd or lascivious act, other than acts constituting the crime of sexual assault, upon or with the body, or any part or member thereof, of a child under the age of 14 years, with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of that person or of that child, shall be guilty of a Class A offense.

[Enacted 6/28/96, Resolution No. 96-WTC-40.]

5-30-055 Statutory Sexual Seduction

Statutory sexual seduction shall be punished as follows:

1. If the defendant is 21 years of age or older, as a Class A offense punishable with a mandatory six (6) months imprisonment.
2. If the defendant is under the age of 21 years, as a Class A offense.

[Enacted 6/28/96, Resolution No. 96-WTC-40.]

5-30-060 Stalking

1. A person who, without lawful authority, willfully or maliciously engages in a course of conduct that would cause a reasonable person to feel terrorized, frightened, intimidated or harassed, and that actually causes the victim to feel terrorized, frightened, intimidated or harassed, commits the crime of stalking. Except where the provisions of Subsection 2 are applicable, a person who commits the crime of stalking:
 - (a) for the first offense, is guilty of a Class C offense.
 - (b) for any subsequent offense, is guilty of a Class B offense.
2. A person who commits the crime of stalking and in conjunction therewith threatens the person with the intent to cause him to be placed in reasonable fear of death or substantial bodily harm commits the crime of aggravated stalking. A person who commits the crime of aggravated stalking is guilty of a Class A offense.
3. A criminal penalty provided for in this Section may be imposed in addition to any penalty that may be imposed for any other criminal offense arising from the same conduct or for any contempt of court arising from the same conduct.

[Enacted 6/28/96, Resolution No. 96-WTC-40.]

5-30-070 Intimidation or Retaliation in Connection with Criminal Activity

1. A person is guilty of intimidation in connection with criminal activity if:
 - (a) that person
 - (i) makes any statement threatening to cause injury upon the person of another;
 - (ii) exhibits conduct which a reasonable person would believe constitutes a threat of personal injury; or
 - (iii) makes any statement threatening to cause damage to, or theft of, the property of another;
 - (b) with the intent to

- (i) convince, persuade, or pressure another person to limit, withhold, or prevent disclosure of information regarding a crime or alleged crime, or to affect the investigation of a crime; or
 - (ii) discourage a person's participation in a neighborhood watch program.
- 2. A person is guilty of retaliation in connection with criminal activity if:
 - (a) that person
 - (i) causes injury on the person of another; or
 - (ii) caused damage to or steals the property of another;
 - (b) in response to, or in retribution for:
 - (i) disclosing information regarding a crime or alleged crime, or to affect the investigation of a crime; or
 - (ii) participation in a neighborhood watch group.
- 3. Conviction of intimidation or retaliation shall be punished as a Class A offense.
- 4. A person shall not be convicted of intimidation or retaliation under this Subsection if the person's acts are punishable under Sections 5-60-070 or 5-60-080.

[Enacted 5/12/06, Resolution No. 2006-WTC-39.]

5-40 OFFENSES AGAINST PROPERTY

5-40-010 Arson and Reckless Burning

- 1. A person is guilty of arson if he starts a fire or causes an explosion with the purpose of destroying a building or occupied structure of another. The term "occupied structure" includes but is not limited to a ship, trailer, sleeping car, airplane, vehicle, building, structure, or place adopted for overnight accommodation of persons or for carrying on business, whether or not a person is actually present.
- 2. A person is guilty of arson if he starts a fire or causes an explosion with the purpose of destroying or damaging his own property or the property of another to collect the insurance for such loss.
- 3. Arson is a Class A offense.
- 4. A person is guilty of reckless burning if he recklessly starts a fire or causes an explosion that endangers human life or damages the property of another; or having started a fire, whether recklessly or not, and knowing that it is spreading and may endanger the life or property of another fails to take reasonable measures to put out the fire or give a prompt alarm.

5. Reckless burning is a Class A offense.

[Enacted 6/28/96, Resolution No. 96-WTC-40.]

5-40-020 Criminal Mischief

1. A person is guilty of criminal mischief if he:
 - (a) damages or destroys his property with the intention of defrauding an insurer in circumstances not amounting to arson; or
 - (b) intentionally or recklessly damages, defaces, or destroys the property of another person; or
 - (c) intentionally or recklessly shoots or propels any object against a vehicle, airplane, boat, or train, whether moving or standing with the intent to cause damage.
2. Criminal mischief is a Class A offense, unless the actor's conduct causes a loss of less than \$100.00, in which case it is a Class C offense.

[Enacted 6/28/96, Resolution No. 96-WTC-40.]

5-40-030 Burglary

1. A person is guilty of burglary if he, either by day or night, enters or remains in any house, room, apartment, tenement, shop, warehouse, store, mill, barn, stable, outhouse, or other building, tent, vessel, vehicle, vehicle trailer, semi-trailer, house-trailer, or railroad car, with the intent to commit a Class A offense, or an offense defined in Section 5-40-060, unless the premises are at the time open to the public, or the actor has a legal right to enter.
2. A person who, in the commission of a burglary, commits any other crime, shall be punished for that crime as well as for the burglary, and may be prosecuted for each crime separately.
3. A person who shall unlawfully break and enter or unlawfully enter any house, room, apartment, tenement, shop, warehouse, store, mill, barn, stable, outhouse, or other building, tent, vessel, vehicle, vehicle trailer, semi-trailer, house-trailer, or railroad car shall be deemed to have broken and entered or entered the same with intent to commit a Class A offense, or offense defined in Section 5-40-060, therein, unless such unlawful breaking and entering or unlawful entry shall be explained by testimony satisfactory to the trier of fact to have been made without criminal intent.
4. Burglary is a Class A offense.

[Enacted 6/28/96, Resolution No. 96-WTC-40.]

5-40-040 Trespass

1. A person is guilty of trespass if he knowingly or recklessly enters or remains on property, or knowingly allows his livestock to do so, when notice against entry is given by personal communication, by fencing or other enclosures, or by the posting of signs. Trespass is a Class D offense.
2. A person is guilty of aggravated trespass if he knowingly or recklessly enters or remains on the property of another and accomplishes such entry by an act of force or violence, or if he intends to cause or causes annoyance or injury to any person thereon, or if he intends to commit or commits another offense thereon. Aggravated trespass is a Class C offense.

[Enacted 6/28/96, Resolution No. 96-WTC-40.]

5-40-050 Robbery

1. A person is guilty of robbery if he intentionally takes the property of another by means of force, violence or threat of injury. The threat of injury may be immediate or future, and may be directed towards the victim of the robbery, his property, or any other person in the victim's company at the time of the robbery. The victim must be present during the taking. The force, violence, or threat of injury must be used to obtain or retain possession of the property, or to prevent or overcome resistance to the taking. The degree of force is immaterial. If force is used merely as means of escape, it does not constitute robbery.
2. Robbery is a Class A offense.

[Enacted 6/28/96, Resolution No. 96-WTC-40.]

5-40-060 Theft

1. A person is guilty of theft if he obtains or exercises unauthorized control over the property of another with the purpose of depriving him thereof. Theft may be accomplished in any of several ways, including, but not limited to:
 - (a) physical taking of the property;
 - (b) deception;
 - (c) extortion;
 - (d) misuse of property lost, mislaid, or delivered by mistake;
 - (e) failure to make required disposition of funds or property received;
 - (f) using a check, knowing or believing that it will not be honored by the bank;

- (g) using a credit card with knowledge that the card has been revoked, canceled, or stolen; or
- (h) receiving, retaining, or disposing of the property of another knowing that it has been stolen or believing that it has probably been stolen.

2. As used in this Section:

- (a) “Deception” means intentionally or recklessly creating or re-enforcing a false impression, preventing another from acquiring information which would affect his judgment of a transaction, or failing to disclose a lien, adverse claim, or other legal impediment to the enjoyment of property.
- (b) “Extortion” means threatening to inflict any harm on another person which would substantially hurt that person with respect to his health, safety, business, calling, career, financial condition, reputation, or personal relationship.
- (c) “Property” means anything of value, including real estate, tangible or intangible personal property, contract rights, interest in or claims to wealth, admission or transportation tickets, captured or domestic animals, food and drink, commodities of a public utility such as water, gas, or electricity, trade or business secrets which the owner thereof intends to be available only to persons selected by him, or any other right, object, labor, or services valuable to the owner or provider.
- (d) “Purpose to Deprive” means to have a conscious objective to withhold property permanently, or for so extended a period that a substantial portion of its value is lost; or to restore the property only upon payment of a reward or other compensation; or to dispose of the property under circumstances that make it unlikely that the owner will recover it unharmed.

3. Theft shall be punishable as follows:

- (a) If the value of the property involved is \$500 or more, the offense shall be a Class A offense
- (b) If the value of the property involved is \$100 or more, but less than \$500, the offense shall be a Class B offense.
- (c) If the value of the property involved is less than \$100, the offense shall be a Class C offense.
- (d) If no evidence as to the value of the property is presented, the offense shall be a Class C offense.

[Enacted 6/28/96, Resolution No. 96-WTC-40.]

5-40-070 Forgery

1. A person is guilty of forgery if, with the purpose of defrauding or injuring anyone, or with the knowledge that he is helping to defraud or injure anyone, he:
 - (a) alters any writing of another without his authority; or
 - (b) signs any writing.
2. Forgery shall be punishable as follows:
 - (a) If the writing is in an amount of \$500 or more, or the amount of damage caused by the fraud is \$500 or more, the offense shall be a Class A offense.
 - (b) If the writing is in an amount less than \$500 but more than \$100, or the amount of damage caused by the fraud is less than \$500 but more than \$100, the offense shall be a Class B offense.
 - (c) If the writing is in an amount less than \$100, or the amount of damage caused by the fraud is less than \$100, or if no evidence as to the value is presented, the offense shall be a Class C offense.

[Enacted 6/28/96, Resolution No. 96-WTC-40.]

5-40-080 Criminal Simulation

1. A person is guilty of criminal simulation if, with the intent of defrauding or injuring anyone, or with the knowledge that he is helping to defraud or injure anyone, he makes, alters, attempts to circulate or sell as genuine, or circulates or sells as genuine, any object so that it appears to have value because of antiquity, rarity, source, or authorship which it does not possess.
2. Criminal simulation is a Class C offense.

[Enacted 6/28/96, Resolution No. 96-WTC-40.]

5-40-090 Tampering with Records or Other Documents

1. A person is guilty of tampering with records or other documents if he falsifies, destroys, removes, or conceals any official record, will, deed, mortgage, security agreement, or similar document.
2. A person is guilty of tampering with records or other documents if he knowingly records a false or forged document, with the purpose of deceiving or injuring anyone or to conceal a wrongdoing.
3. Tampering with records or documents is a Class A offense.

[Enacted 6/28/96, Resolution No. 96-WTC-40.]

5-40-100 Deceptive Business Practices

1. A person is guilty of deceptive business practices if he:
 - (a) Uses or possesses a false weight or measure;
 - (b) Sells or offers for sale less than the represented quality or quantity of any commodity or service;
 - (c) Takes or attempts to take more than the represented quantity of any commodity or service when, as a buyer, he furnishes the weight or measure;
 - (d) Sells or offers to sell an altered product; or
 - (e) As a seller or buyer, does any other act with the intention of defrauding someone.
2. Deceptive business practices is a Class B offense.

[Enacted 6/28/96, Resolution No. 96-WTC-40.]

5-40-110 Rigging a Contest

1. A person is guilty of rigging a contest if he intentionally engages in conduct that will prevent a publicly exhibited contest from being conducted in accordance with the rules and usage purported to govern it.
2. Rigging a contest is a Class C offense.

[Enacted 6/28/96, Resolution No. 96-WTC-40.]

5-40-120 Defrauding Creditors

1. A person is guilty of defrauding creditors if he:
 - (a) destroys, removes, conceals, encumbers, or otherwise transfers property with the intention of hindering enforcement of a security interest;
 - (b) intentionally falsifies any writing or record relating to the property; or
 - (c) intentionally misrepresents or refuses to disclose the amount or location of the property to a person entitled to the property.
2. Defrauding creditors is a Class C offense.

[Enacted 6/28/96, Resolution No. 96-WTC-40.]

5-50 OFFENSES AGAINST THE FAMILY AND CHILDREN

5-50-010 Definitions and Terms

When used in this Section, unless the contexts otherwise requires:

1. “Abuse or Neglect” means physical or mental injury of a non-accidental nature, sexual abuse, sexual exploitation, negligent treatment, or maltreatment of a child under the age of 18 years under circumstances which indicate that the child's health or welfare is harmed or threatened with harm.
2. “Allow” means to do nothing to prevent or stop the abuse or neglect of a child in circumstances where the person knows or has reason to know that the child is abused or neglected.
3. “Substantial Mental Harm” means an injury to the intellectual or psychological capacity or the emotional condition of a child as evidenced by an observable and substantial impairment of his ability to function within his normal range of performance or behavior.
4. “Permit” means permission that a reasonable person would not grant with responsibility attending the care, custody and control of a minor child.
5. “Sexual Conduct with a Child” means acts of masturbation, cunnilingus, fellatio, homosexuality, sexual or anal intercourse or penetration, or any physical contact with a child's genitals, pubic area or breasts, directly or indirectly, or any such acts performed by a child on the perpetrator or on another at the behest of the perpetrator.

[Enacted 6/28/96, Resolution No. 96-WTC-40.]

5-50-020 Child Abuse, Neglect, or Endangerment

Any person who:

1. Willfully causes a child who is less than 18 years of age to suffer unjustifiable physical pain or mental suffering as a result of abuse or neglect or to be placed in a situation where the child may suffer physical pain or mental suffering as a result of abuse or neglect; or
2. Is responsible for the safety or welfare of a child and who permits or allows that child to suffer unjustifiable physical pain or mental suffering as a result of abuse or neglect or to be placed in a situation where the child may suffer physical pain or mental suffering as the result of abuse or neglect, is guilty of a Class A offense.

[Enacted 6/28/96, Resolution No. 96-WTC-40.]

5-50-030 Promotion of Sexual Performance of a Minor

Any person who knowingly promotes a performance of a minor where he engages in or simulates, or assists others to engage in or simulate, sexual conduct is guilty of a Class A offense.

[Enacted 6/28/96, Resolution No. 96-WTC-40.]

5-50-040 Duty to Report Child Abuse, Neglect and Abandonment

1. Any person who has a reasonable cause to suspect that a child has been abused, neglected or abandoned shall immediately report the abuse, neglect, or abandonment to the tribal social services department or tribal law enforcement department.
2. Those persons who are mandated to report suspected abuse or neglect include any physician, nurse, dentist, optometrist, or any other medical or mental health professional; school principal, school teacher, or other school official; social worker; child day care center worker or other child care staff including foster parents, residential care or institutional personnel; counselor; peace officer or other law enforcement official; judge, attorney, court counselor, clerk of tribal court, or other judicial system official.
3. All persons or agencies reporting, in good faith, known or suspected instances of abuse or neglect shall be immune from civil liability and or criminal prosecution. A person who knowingly reports a false claim of sexual abuse, neglect, or abandonment with the intent to harm the credibility of another is not protected under this Section.
4. Those persons mandated to report a case of known or suspected abuse or neglect who knowingly fail to do so or willfully prevent someone else from doing so shall be subject to a civil cause of action proceeding in tribal court.

[Enacted 6/28/96, Resolution No. 96-WTC-40.]

5-50-050 Criminal Nonsupport

1. A person is guilty of criminal nonsupport if he intentionally fails to provide for the support of his spouse, children under age eighteen (18) or age nineteen (19) if still in school, or other dependents when they are in need of such support, and the person has a legal obligation to provide said support.
2. Criminal nonsupport is a Class B offense.

3. It is a defense to a prosecution under this Section that the actor lacks the financial resources to support his dependents due to unemployment, ill health, or other similar verifiable reasons.

[Enacted 6/28/96, Resolution No. 96-WTC-40.]

5-60 OFFENSES AGAINST THE ADMINISTRATION OF GOVERNMENT

5-60-010 Bribery

1. A person is guilty of bribery if he offers, gives, or agrees to give another, or solicits, accepts, or agrees to compensation for the recipient's decision, opinion, vote, or other exercise of discretion.
2. Bribery is a Class B offense.

[Enacted 6/28/96, Resolution No. 96-WTC-40.]

5-60-020 Improper Influence in Official Matters

1. A person is guilty of improper influence in official matters if
 - (a) that person
 - (i) threatens or causes harm to any public servant, including but not limited to, tribal officials, judges and employees, or to the relatives, friends or associates of public servants; or
 - (ii) threatens to, or does, damage or steal the property of any public servant; or of the relatives, friends, or associates of public servants;
 - (b) either
 - (i) with the purpose of influencing a decision, opinion, recommendation, or other exercise of discretion by the public servant; or
 - (ii) in retaliation for a decision, opinion, recommendation, or other exercise of discretion previously made or expressed by the public servant.

2. Improper influence is a Class A offense.

[Enacted 6/28/96, Resolution No. 96-WTC-40; Amended 5/12/06, Resolution No. 2006-WTC-39.]

5-60-030 Official Misconduct

1. A person is guilty of official misconduct if, as a tribal official or employee, he intentionally commits an unauthorized act which purports to be an act of his office or intentionally refrains from performing a

nondiscretionary duty imposed on him by law, for the purpose of benefiting himself or others.

2. A person is guilty of official misconduct if, being a tribal official or employee charged with the receipt, safekeeping, transfer, or disbursement of public money, he appropriates the money or any portion thereof to his own use or the use of another or otherwise handles public money in a manner not authorized by law or the duties of his employment.
3. Official misconduct is a Class A offense.

[Enacted 6/28/96, Resolution No. 96-WTC-40.]

5-60-040 Unofficial Misconduct

1. A person is guilty of unofficial misconduct if he exercises or attempts to exercise any of the functions of a public official when he has not been elected or appointed to the office, has not filed a required bond, has not filed the required oath, continues to act as an official after his term of office has expired, or intentionally withholds or retains from his successor, or intentionally destroys, any records, papers, or documents pertaining to his office.
2. It is a defense to a charge of unofficial misconduct that the person charged reasonably believed he was authorized to act as a public official.
3. Unofficial misconduct is a Class A offense.

[Enacted 6/28/96, Resolution No. 96-WTC-40.]

5-60-050 Perjury

1. A person is guilty of perjury if, in any official proceeding, he makes a false statement under oath or equivalent affirmation, or swears or affirms the truth of a statement previously made, when the statement could affect the outcome of the proceeding, and does not believe it to be true.
2. Perjury is a Class A offense.
3. No person shall be convicted of an offense under this Section where proof of falsity rests solely upon contradiction by the testimony of a single person other than the defendant.

[Enacted 6/28/96, Resolution No. 96-WTC-40.]

5-60-060 Making False Reports

1. A person is guilty of making false reports if he intentionally:
 - (a) gives false information to a law enforcement officer with the intention of misleading such officer in the performance of his official function;
 - (b) makes a false statement not under oath, or swears, or affirms the truth of such a statement previously made, when the falsification was intended to mislead a public official, or occurred in an official proceeding; or
 - (c) causes a false fire alarm or other emergency alarm to be transmitted to or within any organization for dealing with emergencies involving danger to life or property.
2. Making false reports is a Class B offense.

[Enacted 6/28/96, Resolution No. 96-WTC-40.]

5-60-070 Interfering with the Judicial Process or Law Enforcement

1. A person is guilty of interfering with the judicial process if he attempts to induce or otherwise cause another person to testify falsely or to withhold information, testimony, documents or things from the court.
2. A person is guilty of interfering with the judicial process if that person harms or threatens harm to any law enforcement officer, officer of the court, court employee, witness, or informant, or to any relative, friend, or associate of the same; or causes or threatens to cause damage to, or steals or threatens to steal, the property of any law enforcement officer, officer of the court, court employee, witness, or informant, or to any relative, friend, or associate of the same:
 - (a) with the intention of limiting or preventing disclosure of information necessary for the investigation or prosecution of a crime or alleged crime; or
 - (b) in retaliation for anything done by the law enforcement officer, officer of the court, court employee, witness, or informant in such capacity.
3. A person is guilty of interfering with the judicial process if he solicits, accepts or agrees to accept any benefit in consideration for his doing any of the things specified in this section.
4. A person is guilty of interfering with the judicial process if he alters, destroys, or conceals any record, document or thing with the purpose of

impairing its availability as evidence, or presents any record, document, or thing knowing it to be false with the intent of misleading the court.

5. Interfering with the judicial process is a Class A offense.

[Enacted 6/28/96, Resolution No. 96-WTC-40; Amended 5/12/06, Resolution No. 2006-WTC-39.]

5-60-080 Interfering with the Governmental Process

1. A person is guilty of interfering with the governmental process if he intentionally:
 - (a) makes a false entry in, or false alteration of, any record, document or book kept by the Tribe;
 - (b) makes, presents, or uses any false record, document or thing with the purpose that it be taken as genuine by a public servant, as defined in 5-60-020; or
 - (c) destroys, conceals, or removes any record, document, or thing belonging to the Tribe without proper authorization to do so.
2. A person is guilty of interfering with the governmental process if he uses or threatens to use force, violence, or intimidation with the intent to interfere with a public servant performing an official function.
3. Interfering with the governmental process is a Class A offense.

[Enacted 6/28/96, Resolution No. 96-WTC-40; Amended 5/12/06, Resolution No. 2006-WTC-39.]

5-60-090 Interfering with Law Enforcement Procedures

1. A person is guilty of interfering with law enforcement procedures if he:
 - (a) resists arrest by any means that create a risk of bodily harm to anyone;
 - (b) intentionally interferes with the apprehension or prosecution of another by harboring or concealing the other, or by providing weapons or transportation or other means of escape; or
 - (c) intentionally obstructs a law enforcement officer in the performance of his official duties through threats, violence, or force.
2. A person is guilty of interfering with law enforcement procedures if he removes himself from official detention.
3. Interfering with law enforcement procedures is a Class A offense.

[Enacted 6/28/96, Resolution No. 96-WTC-40.]

5-60-100 Doing Business without a License

1. A person is guilty of doing business without a license if he commences or carries on any business, trade, profession, or calling which is required by tribal law to be licensed, without having an appropriate license.
2. Doing business without a license is a Class D offense.

[Enacted 6/28/96, Resolution No. 96-WTC-40.]

5-60-110 Tampering with or Destroying Public Property

1. A person is guilty of tampering with or destroying public property if he intentionally injures or destroys any book, record, document, building, marker, or any other tangible property, real or personal, which belongs to the Tribe.
2. Tampering with or destroying public property is a Class A offense.

[Enacted 6/28/96, Resolution No. 96-WTC-40.]

5-60-120 Failure to obey a Lawful Order of the Court; contempt

1. A person is guilty of failure to obey a lawful order of the Court if he intentionally, and without a good reason, fails to obey an order, subpoena, warrant, or command duly made, issued, or given by the Tribal Court or any officer thereof, or otherwise issued according to law.
2. This does not apply to a failure to appear as a party in a civil action where default or similar remedy is available to the other party.
3. Failure to obey a lawful order of the Court is a Class B offense.

[Enacted 6/28/96, Resolution No. 96-WTC-40.]

5-60-130 Neglect of Duty

1. All tribal police officers shall be vigilant in carrying out the provisions of this Title 5 into full force and effect. Any police officer who shall neglect his duty by failing to arrest a person who commits an offense in his presence, shall be guilty of a Class A offense.
2. If it is unclear whether an offense has been committed, the officer shall have a reasonable time to conduct an investigation before making an arrest.

[Enacted 6/28/96, Resolution No. 96-WTC-40.]

5-70 OFFENSES AGAINST PUBLIC ORDER AND DECENCY

5-70-005 Liquor Offenses

1. Any person who:
 - (a) sells alcoholic beverages by the bottle, can, or package, except on the premises of a business operated and licensed by the Washoe Tribe; or
 - (b) uses or consumes any alcoholic beverages in a motor vehicle while that vehicle is being driven; or
 - (c) possesses any open bottle, can, package, or container of an alcoholic beverage in the passenger compartment of a motor vehicle when such vehicle is being driven; or
 - (d) furnishes any alcoholic beverage to any person under the age of twenty-one (21) years or leaves or deposits any alcoholic beverage with the intent that the alcoholic beverages shall be procured by any person under the age of twenty-one (21) years; or
 - (e) introduces, possesses, uses, or consumes an alcoholic beverage while under the age of twenty-one (21) years, shall be guilty of a Class B offense.
2. Any person under the age of eighteen (18) years proceeded against under this Section shall be treated as a juvenile offender pursuant to Title 10 of this Code.

[Enacted 6/28/96, Resolution No. 96-WTC-40.]

5-70-010 Disorderly Conduct

1. Every person who shall maliciously and willfully disturb the peace or quiet of any neighborhood or person or family by loud or unusual noises, or by tumultuous and offensive conduct, threatening, traducing, quarreling, challenging to fight, or fighting, shall be guilty of a Class C offense.
2. A person is guilty of disorderly conduct if he refuses or knowingly fails to obey an order to disperse or leave the immediate vicinity, given by a law enforcement officer or other public servant performing a law enforcement function at the scene of an accident or fire, or given in the course of executing or enforcing a law, or given in the course of a criminal investigation.

[Enacted 6/28/96, Resolution No. 96-WTC-40.]

5-70-015 Public Intoxication

Any person appearing in a public or private place other than their own home or place of business, apparently under the influence of intoxicating liquor in such a condition that he is unable to exercise care for his own safety or the safety of others, shall be deemed guilty of public intoxication and punished as follows:

1. Upon conviction of a first offense shall be guilty of a Class E offense.
2. Upon conviction of a second offense shall be guilty of a Class D offense.
3. Upon a conviction of a third offense shall be guilty of a Class C offense.
4. For conviction of any subsequent offenses shall be guilty of a Class B offense.

[Enacted 6/28/96, Resolution No. 96-WTC-40.]

5-70-020 Misuse of Telephones

1. A person is guilty of misuse of telephones if:
 - (a) he uses the telephone with the intent of harassing another and without purpose of legitimate communication;
 - (b) he intentionally refuses to yield or surrender the use of a party line or public pay telephone upon being informed that the telephone is needed to report a fire or summon an emergency vehicle, unless the actor is already using the telephone to report an emergency; or
 - (c) he asks for the use of a party line or public pay telephone under pretext that an emergency exists knowing no emergency exists.
2. Misuse of telephones is a Class C offense.

[Enacted 6/28/96, Resolution No. 96-WTC-40.]

5-70-030 Desecration

1. A person is guilty of desecration if he purposely desecrates any public monument, structure, place of worship, or cemetery.
2. Desecrate means defacing, damaging, polluting, or otherwise physically mistreating one of the above things in a way that the actor knows or believes will outrage the sensibilities of the persons likely to observe or discover his action.
3. Desecration is a Class A offense.

[Enacted 6/28/96, Resolution No. 96-WTC-40.]

5-70-040 Violation of Privacy

1. A person is guilty of violation of privacy if, except as authorized by law, he:
 - (a) trespasses on property with intent to subject anyone to eavesdropping or other surveillance in a private place;
 - (b) installs any device to observe, photograph, record, or eavesdrop in or outside of any private place, without the consent of the person or persons who have a reasonable expectation of privacy there; or
 - (c) intercepts a message by telephone, telegraph, letter, or other communication without the consent of the sender or the receiver.
2. Violation of privacy is a Class C offense.

[Enacted 6/28/96, Resolution No. 96-WTC-40.]

5-70-050 Weapons Offenses, Explosives and Incendiary Devices

1. “Firearm” means any weapon with a caliber of .177 inches or greater from which a projectile may be propelled by means of explosive, spring, gas, air, or other force.
2. Every person who sets a so-called trap, spring pistol, rifle, or other deadly weapon shall be punished as follows:
 - (a) if no injury results therefrom to any human being, for a Class C offense.
 - (b) if injuries not fatal result therefrom to any human being, for a Class B offense.
 - (c) if the death of a human being results therefrom, under circumstances not rendering the act murder, for a Class A offense.
3. This Section does not prevent the use of any loaded spring gun, set gun, or other device for the destruction of gophers, moles, coyotes, or other burrowing rodents or predatory animals set at a distance greater than one mile from any residence by agents or employees of governmental agencies engaged in cooperative predatory animal and rodent control work on property from which permission has been obtained from the owner, lessee, or administrator thereof.
4. Any person who unlawfully possesses, manufactures, or disposes of any explosive or incendiary device with intent to destroy life or property shall be punished for a Class A offense.
 - (a) “Dispose of” means give, give away, loan, offer, offer for sale, sell, or transfer.

- (b) “Explosive or incendiary device” means any explosive or incendiary material or substance that has been constructed, altered, packaged, or arranged in such a manner that its intended use would cause destruction or injury to life or property.
 - (c) This Section does not prohibit the manufacture, use, possession or disposal of any material, substance, or device by those persons engaged in mining or any other lawful activity or who are authorized by governmental agencies with lawful control over such matters, to use such items in the performance of their duties.
- 5. Every person who destroys, conspires to destroy, or attempts to destroy, with dynamite, nitroglycerine, gunpowder, or other high explosive, any dwelling house or other building, knowing or having reason to believe that a human being is therein at the time, shall be punished for a Class A offense.
- 6. Any person who unlawfully possesses, manufactures, or disposes of any short-barreled rifle or short-barreled shotgun shall be punished for a Class A offense.
 - (a) “Short-barreled rifle” means:
 - (1) A rifle having one or more barrels less than 16 inches in length; or
 - (2) Any weapon made from a rifle, whether by alteration, modification or other means, with an overall length of less than 26 inches.
 - (b) “Short-barreled shotgun” means:
 - (1) A shotgun having one or more barrels less than 18 inches in length; or
 - (2) Any weapon made from a shotgun, whether by alteration, modification, or other means, with an overall length of less than 26 inches.
 - (c) This Section does not prohibit:
 - (1) The possession or use of any short-barreled rifle or short-barreled shotgun by any peace officer when authorized to do so in the performance of official duties; or
 - (2) The possession of any short-barreled rifle or short-barreled shotgun by any person who is licensed as a firearms importer, manufacturer, or dealer by the United States Department of Treasury.
- 7.
 - (a) It is unlawful for any person to change, alter, remove, or obliterate the serial number upon any firearm.
 - (b) Possession of any firearm upon which the serial number has been changed, altered, removed, or obliterated is prima facie evidence that the possessor has changed, altered, removed, or obliterated the serial number.

- (c) Any person who violates the provisions of this Subsection is guilty of a Class B offense.
- 8. Any person, whether under the influence of liquor or otherwise, who shall maliciously, wantonly, or negligently discharge or cause to be discharged any pistol, gun, or any other kind of firearm, in or upon any public street or thoroughfare, or in any theater, hall, store, hotel, saloon, or any other place of public resort, or throw any deadly missile in a public place, or in any place where any person might be endangered thereby, although no injury results, shall be guilty of a Class B offense.
- 9.
 - (a) Any person who willfully and maliciously discharges a firearm at or into any house, room, apartment, tenement, shop, warehouse, store, mill, barn, stable, outhouse, or other building, tent, vessel, aircraft, vehicle, vehicle trailer, semi-trailer or house-trailer, railroad locomotive, car, or tender, shall be guilty of unlawful discharge of a firearm.
 - (b) If the structure, vessel, or vehicle is unoccupied, a person convicted under this Subsection shall be deemed guilty of a Class C offense.
 - (c) If the structure, vessel, or vehicle is occupied, a person convicted under this Subsection shall be deemed guilty of a Class A offense.
- 10. Every person who shall aim any gun, pistol, revolver, or other firearm, whether loaded or not, at or toward any human being, or who shall willfully discharge any firearm, air gun, or other weapon, or throw any deadly missile, into a public place, or in any place where any person might be endangered thereby, although no injury results, shall be guilty of a Class A offense.
- 11. Any person who aids or knowingly permits a minor under the age of 12 years to handle or have in his possession or under his control, except while accompanied by or under the immediate charge of an adult person, any firearm of any kind shall be guilty of a Class C offense.
- 12. Any person within the jurisdiction of the Washoe Tribe who sells or barter to another under the age of 18 years any weapon herein described shall be guilty of a Class C offense.
- 13. Any person having, carrying, or procuring from another person any dirk, dirk-knife, sword, sword-cane, pistol, gun, or other deadly weapon, who shall, in the presence of two or more persons, draw or exhibit any of such deadly weapons in a rude, angry, or threatening manner not in necessary self-defense, or who shall in any manner unlawfully use the same in any fight or quarrel, shall be guilty of a Class C offense.

14. Any weapon or device used in the commission of any violation of this Section shall be confiscated by the tribal police and shall remain in the possession of the tribal police. When the person charged with an offense involving the confiscated weapon or device is adjudicated not guilty, or when the charges involving the weapon or device are dismissed or no charges result from the arrest or confiscation, and the weapon or device is not such that to possess it is a violation of this Code, the weapon or device shall be returned to the person reasonably believed by the tribal police to be the lawful owner of the device or weapon. When the person charged is adjudicated guilty and the weapon or device is no longer needed for evidence in any proceedings against the accused person, the weapon or device shall be disposed of pursuant to the following Subsections. All illegal weapons shall be destroyed.
15. Unless a confiscated weapon or device is otherwise disposed of pursuant to Subsection 15, at least yearly the tribal police shall petition the Tribal Council for instructions to:
 - (a) retain any confiscated weapon or device for use by the tribal police;
 - (b) sell any confiscated weapon or device to another law enforcement agency at a price not less than its prevailing market value; or
 - (c) sell any confiscated weapon or device at a public auction to be held at least once in each year, after reasonable notice of such public auction.
16. All proceeds of the sales of confiscated weapons or devices shall be deposited with the tribal treasurer and the tribal treasurer shall credit such proceeds to the general fund of the Tribe.
17. Any confiscated weapon or device which, in the opinion of the tribal police captain, is dangerous to the safety of the public, shall be destroyed as soon as is practicable with the prior approval of the Tribal Council.
18. It is unlawful for any person to manufacture or cause to be manufactured, or import into the Tribe's territory, or keep, offer or expose for sale, or give, lend, or possess any instrument or weapon of the kind commonly known as a switchblade knife, blackjack, billy club, sand-club, sand-bag, or metal knuckles.
19. It is unlawful for any person to carry concealed upon his person:
 - (a) any explosive substance, other than fixed ammunition;
 - (b) any dirk, dagger, or dangerous knife; or
 - (c) any pistol, revolver, or other firearm, or dangerous or deadly weapon.
20. Any person who violates any of the provisions of Subsections 18 and 19 is guilty as follows:

- (a) for the first offense, of a Class C offense.
 - (b) for any subsequent offense, of a Class B offense.
21. The provisions of Subsection 19 do not apply to:
- (a) active tribal police officers, sheriffs, constables, marshals, peace officers, special police officers, policemen, other duly appointed police officers or persons having permission from the tribal police captain as provided herein.
 - (b) any person summoned by any peace officer to assist in making arrests or preserving the peace while the person so summoned is actually engaged in assisting such officer.
 - (c) members of the Armed Forces of the United States when on duty.
22. (a) Upon written application to the Tribal Council and tribal police captain by a resident within the Tribe's jurisdiction showing the reason or the purpose for which a concealed weapon is to be carried, permission may be granted authorizing the resident to carry, in the Tribe's jurisdiction, the concealed weapon described in the permit. No permit may be granted to any person to carry a switchblade knife.
23. For purposes of this Section, "switchblade knife" is defined as any knife having the appearance of a pocket knife, any blade of which is 2 or more inches long and which can be released automatically by a flick of a button, pressure on the handle, or other mechanical device, or is released by any type of mechanism.
24. No un-naturalized foreign-born person, and no person who has been convicted of a felony in the state of Nevada or in one of the states of the United States of America, or in any political subdivision thereof, or of a felony in violation of the laws of the United States of America, shall own or have in his possession or under his custody or control any pistol, revolver, or other firearm. Any person who violates the provisions of this Subsection shall be punished for a Class A offense. Nothing in this Subsection applies to or affects:
- (a) active tribal police officers, sheriffs, constables, marshals, peace officers, special police officers, policemen, other duly appointed police officers, or persons having permission from the tribal police captain as provided herein;
 - (b) any person summoned by any such officers to assist in making arrests or preserving the peace while the person so summoned is actually engaged in assisting such officer; or
 - (c) members of the Armed Forces of the United States when on duty.

[Enacted 6/28/96, Resolution No. 96-WTC-40.]

5-70-060 Criminal Nuisance

1. A person is guilty of criminal nuisance if:
 - (a) he recklessly interferes with or alters the flow of water in a stream, river, ditch, canal, or lateral;
 - (b) he recklessly breaks, injures, alters, or destroys any bridge, dam, canal, flume, or other structure for the control of water without lawful authority to do so;
 - (c) he negligently causes or allows any substance harmful or potentially harmful to persons, animals, or plants to enter into a source of water used for drinking or other domestic or farm purposes; or
 - (d) he recklessly obstructs or tends to obstruct any lake, stream, canal, road, public park, or highway.
2. A person is guilty of criminal nuisance if he keeps wrecked or junked cars, appliances, or implements, or unreasonable quantities of trash or garbage on his property, in public view, and fails to remove them when requested to do so by the Tribal Council.
3. A person is guilty of criminal nuisance if he knowingly or intentionally visits a building, structure, vehicle, or other place for the purpose of obtaining or using a controlled substance as described in Section 5-70-100 or committing child abuse as described in Section 5-50-020.
4. A person is guilty of criminal nuisance if he maintains a building, structure, vehicle, or other place and knowingly or intentionally allows it to be used one (1) or more times:
 - (a) by persons to unlawfully use controlled substances, as described in Section 5-70-100;
 - (b) for unlawfully manufacturing, keeping, offering for sale, selling, delivering, or financing the delivery of controlled substances, as described in Section 5-70-100;
 - (c) by persons to engage in activities that contribute to the delinquency of a minor as described in Section 5-70-070;
 - (d) by persons to commit child abuse, neglect, or endangerment, as described in Section 5-50-020.
5. Criminal nuisance is a Class C offense.

[Enacted 6/28/96, Resolution No. 96-WTC-40; Amended 9/9/05, Resolution No. 91-WTC-2005; Amended 7/14/06, Resolution No. 2006-WTC-63.]

5-70-070 Contributing to the Delinquency of a Minor

1. A person 18 years of age or over is guilty of contributing to the delinquency of a minor if he intentionally or recklessly sells, gives, or

otherwise makes available to a person under the age of 18 years a controlled substance, as specified in this Code, without a prescription from a doctor or other person licensed to prescribe medicine; or if he intentionally or recklessly, by act or omission, encourages, causes or contributes to the commission of any offense by a person under 18 years of age.

2. Contributing to the delinquency of a minor is a Class A offense.

[Enacted 6/28/96, Resolution No. 96-WTC-40.]

5-70-080 Fireworks Offenses

1. A person is guilty of a fireworks offense if he sells, distributes, transports, activates, ignites, or detonates any fire-cracker or other firework-type device which is capable of or intended to explode, ignite, become self-propelled, give off any projectile, spark, or other ignited or fused object or manifestation, or in any way give off sound or light by virtue of its burning or exploding.
2. It shall not be an offense under this Section to use or ignite hand-held sparkler-type devices in such a manner that they burn openly and singly or to use toy caps in cap-guns singly.
3. It shall not be an offense to use or ignite fireworks at a patriotic, religious, or tribal ceremony, gathering, or celebration in a safe manner, provided that a permit to do so has been obtained from the Tribal Council prior to the importation and use of such fireworks.
4. A fireworks offense is a Class D offense.

[Enacted 6/28/96, Resolution No. 96-WTC-40.]

5-70-090 Littering

1. A person is guilty of littering if he throws, dumps, places, or deposits upon the land of another, upon any tribal or public property, upon any highway, street, road, or upon any other area not his own, without the consent of the owner or other lawful permission, any garbage, debris, junk, carcasses, trash, refuse, or other substance of any nature whatsoever which would mar the appearance or detract from the cleanliness of the area.
2. Littering is a Class D offense, except when a person is convicted of littering more than once in a 12 month period, the second and any subsequent convictions shall be charged as a Class C offense.

[Enacted 6/28/96, Resolution No. 96-WTC-40.]

5-70-100 Possession and Use of Controlled or Hypnotic Substances

1. Any person found in possession or apparently under the influence of either controlled substances or hypnotic substances as listed in 21 U.S.C. §812, as amended, shall be deemed guilty and upon conviction shall be sentenced to imprisonment of not more than six (6) months or shall be fined not more than \$500, or both. In the alternative for a first offense, the Court may order said person to attend a rehabilitation program.
2. Upon conviction for a second offense, a person shall be sentenced to a minimum of fifteen (15) days imprisonment with a maximum of six (6) months and may be further punished by a fine of \$50 up to a maximum of \$500.
3. Upon conviction for a third offense, said person shall be sentenced to a minimum of thirty (30) days up to a maximum of six (6) months imprisonment and may be further punished by a fine of \$100 up to a maximum of \$500.
4. Upon conviction for a fourth offense, said person shall be sentenced to a minimum of six (6) months imprisonment and may be further punished by a fine of \$500.
5. The criminal sanctions provided in this Section do not apply to that plant of the Genus Laphophora commonly known as "Peyote" when such drug is used as a sacrament in the religious rights of any bonafide religious organization.
(NRS 453.541).

[Amended 2/8/13, Resolution No. 2013-WTC-22.]

5-70-120 Abandoned Iceboxes and Other Containers

Any person who shall have on his premises any abandoned chest, icebox, or other container not in active use, the attached door to which has a latch or lock which automatically fastens upon the door being closed and which cannot be readily opened from the inside, shall be guilty of a Class C offense.

[Enacted 6/28/96, Resolution No. 96-WTC-40.]

5-70-130 Driving Under the Influence of Intoxicants

1. It is unlawful for any person who
 - (a) is under the influence of intoxicating liquor;
 - (b) has 0.08 percent or more by weight of alcohol in his blood; or

- (c) is found by measurement within 2 hours after driving or being in actual physical control of a vehicle to have 0.08 percent or more by weight of alcohol in his blood, to drive or be in actual physical control of a vehicle on a highway or on premises to which the public has access.
- 2. It is unlawful for any person who is an habitual user of or under the influence of any controlled substance, or is under the combined influence of intoxicating liquor and a controlled substance, or any person who inhales, ingests, applies or otherwise uses any chemical, poison, or organic solvent, or any compound or combination of any of these, to a degree which renders him incapable of safely driving or exercising actual physical control of a vehicle, to drive or be in actual physical control of a vehicle on a highway or on premises to which the public has access. The fact that any person charged with a violation of this Subsection is or has been entitled to use that drug lawfully is not a defense against any charge of violating this Subsection.
- 3. If consumption is proven by a preponderance of the evidence, it is an affirmative defense under paragraph (c) of Subsection 1 that the defendant consumed a sufficient quantity of alcohol after driving or being in actual physical control of the vehicle, and before his blood was tested, to cause the alcohol in his blood to equal or exceed 0.08 percent. A defendant who intends to offer this defense at a trial must, not less than 14 days before the trial or hearing or at such other time as the court may direct, file and serve on the prosecuting attorney a written notice of that intent.
- 4. Any person convicted of driving under the influence of intoxicants shall be sentenced as follows:
 - (a) The first conviction of a person for such offense shall be classified as a Class D offense with mandatory attendance at an alcohol treatment center.
 - (b) The second conviction of a person for such offense shall be classified as a Class C offense.
 - (c) The third conviction of a person for such offense shall be classified as a Class B offense.
 - (d) The fourth such conviction, and any subsequent convictions for driving under the influence of intoxicants, shall be classified as a Class A offense.
- 5. If the defendant was transporting a person who is less than 15 years of age in the motor vehicle at the time of the violation, the court shall consider that fact as an aggravating factor in determining the sentence of the defendant.
- 6. If the defendant is under the age of 21 at the time of the violation, the court shall consider that fact as an aggravating factor in determining the

sentence of the defendant and shall revoke the defendant's privilege to drive within Tribal Lands for at least 90 days.

7. In addition to any other penalties provided for in this Section for driving under the influence of intoxicants, a person convicted of such an offense may be liable pursuant to Section 4-60-040 for costs necessary for the prosecution of such person for such offense.

[Enacted 6/28/96, Resolution No. 96-WTC-40; Amended 9/18/06, Resolution No. 06-WTC-90.]

5-70-140 Leaving the Scene of an Accident

1. The driver of any vehicle involved in an accident on a highway or on premises to which the public has access resulting in bodily injury to or the death of any person shall immediately stop his vehicle at the scene of the accident or as close thereto as possible, and shall forthwith return to and in every event shall remain at the scene of the accident until he has fulfilled the requirements of Subsections 5 and 6 below.
2. The driver of any vehicle involved in an accident resulting only in damage to a vehicle or other property which is driven or attended by any person shall immediately stop at the scene of the accident or as close thereto as possible, and shall remain at the scene of the accident until he has fulfilled the requirements of Subsections 5 and 6 below.
3. Every stop required under this Section shall be made without obstructing traffic more than is necessary.
4. A violation of Subsection 1 shall be punishable as a Class A offense. A violation of Subsection 2 shall be punishable as a Class B offense.
5. The driver of any vehicle involved in an accident resulting in injury to or the death of any person or damage to any vehicle or other property shall:
 - (a) give his name, address and the registration number of the vehicle he is driving, and shall upon request and if available exhibit his license to operate a motor vehicle, to any person injured in the accident or to the driver or occupant or person attending any vehicle or other property damaged in the accident;
 - (b) give such information and upon request surrender such license to any police officer at the scene of the accident or who is investigating the accident; and
 - (c) render to any person injured in the accident reasonable assistance, including the carrying, or the making of arrangements for the carrying, of such person to a physician, surgeon, or hospital for medical or surgical treatment if it is apparent that such treatment is necessary, or if such carrying is requested by the injured person.

6. If no police officer is present, the driver of any vehicle involved in an accident after fulfilling all other requirements of this Section, insofar as possible on his part, shall immediately report the accident to the tribal police and submit the information specified in Subsection 5.

[Enacted 6/28/96, Resolution No. 96-WTC-40.]

5-70-150 Reckless Driving

1. It is unlawful for any person to:
 - (a) drive a vehicle in willful or wanton disregard of the safety of persons or property; or
 - (b) drive a vehicle in an unauthorized speed contest on a public roadway.
2. A violation of Subsection 1 is punishable as a Class B offense.
3. It is unlawful for any person to:
 - (a) do any act or neglect any duty imposed by law;
 - (b) while driving or in actual physical control of any vehicle;
 - (c) in willful or wanton disregard of the safety of persons or property;
 - (d) which act or neglect of duty proximately causes the death of or substantial bodily harm to any person other than himself.
4. A violation of Subsection 3 is punishable as a Class A offense.

[Enacted 6/28/96, Resolution No. 96-WTC-40.]

5-70-160 Failure to Yield to Police Vehicle

1. Any driver of a motor vehicle who willfully fails or refuses to bring his vehicle to a stop, or who otherwise flees or attempts to elude a peace officer in a readily identifiable vehicle of any police department or regulatory agency, when signaled to stop by the flashing of red lights and an activated siren, is guilty of failure to yield to a police vehicle.
2. Failure to yield to a police vehicle is punishable as a Class C offense, except where a violation of this Section is the proximate cause of the death of or substantial bodily harm to any person other than the defendant, in which case the violation is punishable as a Class A offense.

[Enacted 6/28/96, Resolution No. 96-WTC-40.]

5-70-170 Gang Activity

1. Any person who is convicted of an offense committed knowingly for the benefit of, at the direction of, or in affiliation with, a criminal gang, with the specific intent to promote, further, or assist the activities of a criminal gang, shall be punished by imprisonment for a term equal to and in addition to the term of imprisonment prescribed for the primary offense. The sentence prescribed by this Section must run consecutively with the sentence imposed for the primary offense.
2. As used in this Section, “criminal gang” means any combination of persons organized formally or informally, so constructed that the organization will continue its operation even if individual members enter or leave the organization, which:
 - (a) has a common name or identifying symbol;
 - (b) has particular conduct, status, and customs indicative of it; and
 - (c) has as one of its common activities engaging in criminal activity punishable as an offense under this Code, other than the conduct which constitutes the primary offense.

[Enacted 6/28/96, Resolution No. 96-WTC-40.]

5-70-180 Registration of Certain Offenders

1. Any person convicted in any tribal, state, or federal court for
 - (a) any offense which is punishable by imprisonment for one (1) year or more; or
 - (b) who has been convicted of sexual assault, statutory sexual seduction, using a minor in the production of pornography, promotion of the sexual performance of a minor, incest, open or gross lewdness, indecent or obscene exposure, or lewdness with a child under the age of fourteen (14) years, or any attempt to commit any such offenses shall register with the tribal police within forty-eight (48) hours of arriving in the tribal colony in which he resides or is temporarily present for forty-eight (48) hours or more.
2. The registration required by this Section shall consist of the photograph and fingerprints of the convicted person and a statement signed by him containing the following information:
 - (a) his name and all aliases which he has used or under which he has been known;
 - (b) the offenses for which he has been convicted, where he committed such offenses, where he was convicted, and the name under which he was convicted;

- (c) the name and location of each hospital or penal institution to which he was committed for each offense; and
 - (d) where he resides, how long he has resided there, how long he expects to reside there, and how long he expects to remain in the tribal colony.
- 3. Except as is necessary for the investigation and prosecution of a violation of this Section, no person other than a regularly employed peace officer or other law enforcement officer may inspect the statements, photographs, or fingerprints required by this Section.
- 4. The tribal police captain shall notify the council of the community in which the registered offender resides within thirty (30) days of registration.
- 5. Any person required to register under the provisions of this Section who violates the provisions of this Section is guilty of a Class B offense.

[Enacted 6/28/96, Resolution No. 96-WTC-40.]

5-80 DEFENSES

5-80-010 Intoxication

- 1. Intoxication is not a defense unless it negates the mental state required for the offense.
- 2. When recklessness is an element of the offense, if the actor, due to self-induced intoxication, is unaware of a risk of which he should have been aware had he been sober, such unawareness is not a defense.
- 3. Intoxication which is not self-induced is a defense.

[Enacted 6/28/96, Resolution No. 96-WTC-40.]

5-80-020 Duress

- 1. It is a defense that the actor engaged in conduct charged to constitute an offense because he was coerced to do so by the use of, or threat to use, unlawful force against his person or the person of another, which a law abiding person of reasonable firmness would have been unable to resist.
- 2. It is no defense that a woman acted on a command of her husband, or a man on command of his wife, unless the circumstances amount to duress as defined above.

3. The defense of duress is unavailable where the conduct constituting the offense causes or threatens to cause death or serious bodily harm to some person other than the actor.

[Enacted 6/28/96, Resolution No. 96-WTC-40.]

5-80-030 Consent

1. The consent of the victim to conduct charged to constitute an offense or to the result thereof is a defense if such consent negates an element of the offense.
2. Consent is not a defense if the bodily harm consented to or threatened by the offense is serious.
3. Consent that is given by a person who, by reason of youth, mental disease or defect, or intoxication, is unable to make reasonable judgment is not valid.

[Enacted 6/28/96, Resolution No. 96-WTC-40.]

5-80-040 Entrapment

1. A law enforcement officer perpetrates an entrapment if he induces or encourages another person to engage in conduct constituting an offense by knowingly making false representations designed to induce the belief that such conduct is not prohibited, or if he employs methods of persuasion which create a substantial risk that an offense will be committed by a person who would not otherwise be ready to commit it.
2. This defense is not available when the offense involves bodily injury or the threat of bodily injury to a person other than the officer perpetrating the entrapment.

[Enacted 6/28/96, Resolution No. 96-WTC-40.]

5-80-050 Justification

Justification is a defense when the actor's conduct is reasonable, and in fulfillment of his duties as a tribal officer or employee, or is reasonable discipline of a minor by a parent, guardian, teacher, or other person in the position of a parent.

5-80-060 Force in Defense of Persons

1. A person is justified in threatening or using force against another person when and to the extent that he reasonably believes such force is necessary to defend himself or a third person against such other person's immediate

use of unlawful force. However, a person is justified in using force which is intended or likely to cause death or serious bodily injury only if he reasonably believes that such force is necessary to prevent death or serious bodily injury to himself or a third person.

2. A person is not justified in using force under this Section if he was the aggressor or was engaged in combat by consent, unless he has withdrawn from the encounter and effectively communicated his withdrawal to the other person.
3. A person is not justified in using force under this Section if he initially provoked the use of force upon himself with the intent to use such force as an excuse to inflict harm upon another, or if he is attempting to commit, committing, or fleeing after the commission of an offense.

[Enacted 6/28/96, Resolution No. 96-WTC-40.]

5-80-070 Force in Arrest

Any person is justified in using force, except force likely to cause death or serious bodily injury, to affect an arrest. A law enforcement officer may use force likely to cause death or serious bodily injury only if such force is necessary, and the person to be arrested is attempting to escape by use of a deadly weapon.

[Enacted 6/28/96, Resolution No. 96-WTC-40.]

5-80-080 Force in Defense of One's Dwelling

1. Any person is justified in using force against another person when and to the extent necessary to prevent or terminate the other person's entry into or attack upon his dwelling.
2. He may use force likely to cause death or serious bodily injury only if the entry is made or attempted in a violent manner, and it reasonably appears that there may be violence to any person in the dwelling or if he reasonably believes that the entry is made or attempted for the purpose of committing a Class A offense or other offense involving bodily injury.

[Enacted 6/28/96, Resolution No. 96-WTC-40.]

5-80-090 Force in Defense of Property

A person is justified in using force, other than deadly force, to the extent he reasonably believes such force is necessary to prevent or terminate criminal interference with real or personal property lawfully in his possession or in the possession of his immediate family, or belonging to a person whose property he has a legal duty to protect.

[Enacted 6/28/96, Resolution No. 96-WTC-40.]

5-80-100 Defense of Insanity

1. An act done by a person in a state of insanity cannot be punished as a public offense, nor can a person be tried, adjudged to punishment, or punished for a public offense while he is insane.
2. The procedure to determine insanity is as follows:
 - (a) The Court shall appoint two physicians, at least one of whom is a psychiatrist or otherwise especially qualified, to examine the defendant.
 - (b) At a hearing in open court, the judge shall receive the report of the examining physicians and shall permit counsel for both sides to examine them. The prosecution and the defendant may introduce other evidence and cross-examine one another's witnesses.
 - (c) The Court shall then make and enter its findings of sanity or insanity.
3. If the Court finds that the defendant is sane the trial shall proceed, or judgment may be pronounced, as the case may be.
4. If the Court finds the defendant insane, the judge shall order the law enforcement officer to convey him forthwith, together with a copy of the complaint, the commitment and the physicians' certificate, if any, into the custody of a suitable treatment program. Proceedings against the defendant must be suspended until the psychiatrist in charge finds him capable of standing trial. The commitment of the defendant shall exonerate any bail he may have given, or shall entitle any person authorized to receive the property of the defendant or a return of any money he may have deposited instead of bail.

[Enacted 6/28/96, Resolution No. 96-WTC-40.]

5-90 PROTECTIVE CUSTODY

5-90-010 Civil Protective Custody

- (a) A Tribal peace officer may place a person under civil protective custody if that person is found in a public place under the influence of alcohol in such a condition that he is unable to care for his own safety or the safety of others.
- (b) If an intoxicated person is in such a condition to require emergency medical care, he shall be placed in protective civil custody for no longer than twenty-four (24) hours in a jail or detention facility.

[Enacted on 04/11/97, by Resolution No. 97-WTC-25]