

**CHAPTER 6  
CRIMINAL OFFENSES**

**GENERAL PROVISIONS**

**Sec. 6.1        Scope**

This Chapter shall apply to all criminal provisions of this Code.

**Sec. 6.2        Purpose and Construction**

The purpose of the criminal provisions of this Code is to:

- A.    Forbid and prevent the commission of offenses and give fair warning of conduct which is declared to be an offense;
- B.    Define adequately the conduct and mental state which constitute each offense and safeguard conduct which is without fault from condemnation;
- C.    Prescribe penalties which are proportionate to the seriousness of the offense; and
- D.    Prevent arbitrary and oppressive treatment of persons accused or convicted of offenses and promote the correction and rehabilitation of such persons.

**Sec. 6.3        Definitions**

- A.    “Adult household member” means spouses, former spouses, persons related by blood or marriage, persons who reside or who have resided together, and persons who have a child in common regardless of whether they have been married or have lived together at any time.
- B.    “Adulterated” means varying from the standard of composition or quality prescribed by any applicable law or commercial usage.
- C.    “Affirmative defense” means a new matter in the prosecution of an offense which assuming the complaint to be true constitutes a defense to it.
- D.    “To appropriate” when used as a verb means:
  - 1.    To exercise control over property, or to aid a third person to exercise control over it, permanently or for so extended a period or under such circumstances as to acquire the major portion of its economic value or benefit; or
  - 2.    To dispose of the property for the benefit of oneself or a third person.

- E. "Child" means a person under the age of 16 years and who has not been emancipated by order of a Court or competent jurisdiction.
- F. "Consent" means in prosecutions in which consent is at issue, positive cooperation in act or attitude, which is exercised by free will of the person who consents. The person shall act freely and voluntarily and have knowledge of the nature of the act involved. A child cannot give valid consent to any of the actions described in this Chapter.
- G. "Corruptly" means a wrongful plan or act to acquire or to cause some pecuniary or other advantage the object of which is a forbidden act or omission.
- H. "Course of conduct" means a pattern or a series of acts over a period of time, however short, showing a continuity of purpose. Constitutionally protected activity is not included within the meaning of this definition.
- I. "Court" or "Tribal Court", unless otherwise indicated, means the Tribal Court of the Hualapai Nation.
- J. "Dangerous device" means any device capable of causing serious bodily injury to human beings.
- K. "Dangerous weapon" means any item that in the manner of its use or intended use is capable of causing death or serious bodily injury. On the issue of whether an object not commonly known as a dangerous weapon is such a weapon, the character of the object the character of the wound produced, if any, and the manner in which the object was used shall be determinative.
- L. "Deadly Weapon" means an instrument or object designed to cause or inflict death or serious injury by its use.
- M. "Domestic household member" means spouses, former spouses, persons related by blood or marriage, persons who reside or who have resided together, and persons who have a child in common or are expecting a child together, regardless of whether they have been married or have lived together at any time. For the purpose of this Chapter, "reside" means a person's presence at some place of abode with no present intention of leaving and with the purpose to remain for an undetermined period of time, but not necessarily the intention to stay permanently.
- N. "Drug paraphernalia" means any equipment, product, or material of any kind which is primarily intended or designed for use in manufacturing, compounding, converting, concealing, producing, processing, preparing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance, possession of which is unlawful under this Code.

- O. "Element of the offense" means:
1. The conduct, circumstances or result of conduct included in the description of the forbidden act contained in the definition of the offense; and
  2. The establishment of the required mental state or culpability described in the offense, if any; but
  3. An "element of the offense" shall not relate exclusively to the statute of limitations, jurisdiction, venue or to any other matter similarly unconnected with the harm or evil, incident to the prohibited conduct, or the existence of justification or excuse for such conduct.
- P. "Enter" means an intrusion by any part of the body or an intrusion by any physical object under control of the actor.
- Q. "Fiduciary" means a person having a duty or obligation to act, as a result of the person's undertaking, for the benefit of another person or entity.
- R. "Firearm" means a gun, pistol, rifle, air rifle or air gun, b-b gun, arrow, crossbow, or any other instrument of any kind, character or description which throws or projects a bullet or missile or substance by means of elastic force, air, or explosive substance likely to cause bodily harm.
- S. "Foreign object" means any instrument or article which, when inserted in the mouth, vagina, urethra, penis or anus, is capable of causing any physical injury or is used to cause the sexual gratification of any person.
- T. "Harass" means a knowing and willful course of conduct directed at a specific person which alarms, annoys or intimidates the person, and which serves no legitimate purpose. The course of conduct must be such as would cause a reasonable person to suffer substantial emotional distress.
- U. "Intoxication" means a disturbance of mental or physical capacities resulting from the introduction of substances into the body.
- V. "Knowingly" means the knowledge that the facts exist which brings an act or omission within the provisions of this Chapter. A knowing mental state does not require any knowledge of the unlawfulness of such act or omission.
- W. "Malice aforethought" or "maliciously" means intent at the time of a killing to knowingly take the life of a human being, or intent to willfully act in callous and wanton disregard of the consequences of such act to human life.

- X. “Maliciously” or “malice” means a wish to vex, annoy, intimidate or injure another person, or intent to do a wrongful act, established either by proof or presumption of law.
- Y. “Minor or child” means a person who is less than 16 years old and has not been emancipated by order of a court of competent jurisdiction.
- Z. “Misabeled” means any variance from the standard of truth or disclosure in labeling prescribed by any applicable law or commercial usage or traditional usage.
- AA. “Negligently,” “neglect,” “negligence,” or “negligent” means a lack of such attention to the probable consequences of an act or omission as a prudent person ordinarily bestows in acting in his or her own concerns.
- BB. “Obtain” means:
  1. In relation to property, to bring about a transfer of interest or possession, whether to the offender or to another; and
  2. In relation to labor or services, to secure the performance thereof.
- CC. “Oral sexual conduct” means oral contact with penis, vulva or anus.
- DD. “Owner” means any person who has a right to possession of property superior to that of the taker, obtainer or withholder.
- EE. “Police or Tribal Police” means the Tribal Police of the Hualapai Tribe and/or those Peace Officers commissioned by the Hualapai Tribe.
- FF. “Possession” means an act in which the possessor knowingly obtained, controlled, held directly or through another, or received the thing possessed or was aware of his or her control thereof for a sufficient period to have been able to terminate his or her possession.
- GG. “Public monies” means all bonds and evidences of indebtedness, and all monies belonging to the Tribe, and all monies, bonds and evidences of indebtedness received or held by Tribal officials in their official capacity.
- HH. “Public place” means a place to which the general public has a right to resort; a place visited by many persons and usually accessible to the neighboring public. Any place so situated that what passes there can be seen by any considerable number of persons, if they happen to look. Also, a place exposed to the public, where the public gather together or pass through.
- II. “Self-induced intoxication” means intoxication caused by substances that a person which he or she knows or should know may cause intoxication knowingly introduces into his or her body.

- JJ. "Serious bodily injury" means bodily injury that involves substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.
- KK. "Sexual Act" means:
1. Contact between the penis and the vulva or the penis and the anus, and for purposes of this subparagraph contact involving the penis occurs upon penetration, however, slight;
  2. Contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus;
  3. The penetration, however slight, of the anal or genital opening of another by a hand or finger or by any object, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person; or
  4. The intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.
- LL. "Sexual contact" means 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 desire of any person.
- MM. "Sexually explicit conduct" means actual or simulated
1. sexual intercourse, including genital-genital, anal-genital, or oral-anal acts;
  2. bestiality;
  3. masturbation; or
  4. sadistic or masochistic abuse; or
  5. lewd or lascivious exhibition of the genitals, pubic area or anus of any person.

- NN. "Social game" means a game, other than a lottery, between players in a private home or private business, where no house player, house bank or house odds exist and there is no house income from the operation of the social game.
- OO. "Sodomy" means sexual conduct consisting of contact between the penis of one person and the anus of another person.
- PP. "Spouse" means a person who is legally married.
- QQ. "Strict liability" means an element of an offense that exists only when the definition of the offense does not include or involve a culpable mental state.
- RR. "Substantial bodily injury" means bodily injury which involves:
1. a temporary but substantial disfigurement; or
  2. a temporary but substantial loss or impairment of the function of any bodily member, organ, or mental faculty.
- SS. "Visual depiction" includes developed or undeveloped film and videotape, data stored on computer disc or by any electronic means which is capable of conversion into a visual image.
- TT. "Vulnerable adult" means a person 18 years of age or older who is unable to protect himself or herself from abuse, neglect or exploitation due to a physical or mental impairment which affects the person's judgment or behavior to the extent that the person lacks sufficient understanding or capacity to make, communicate or implement decisions regarding his or her person.
- UU. "Willfully" means a purpose or conduct showing any intent to commit a forbidden act or to make a forbidden omission. A willful mental state does not require any intent to violate law, or to injure another or to acquire any advantage.
- VV. "Writing" includes printing or any other method of recording information, money, coins, tokens, stamps, seals, credit cards, badges, trademarks and other symbols of value, right, privilege, or identification.

#### **Sec. 6.4 Civil Remedies Preserved**

This code shall not affect any civil remedy available under the Hualapai Law and Order Code, which may arise from any act, or omission, which is punishable under this Chapter. The fact that conduct is found to be an affirmative defense under this Chapter does not abolish or impair any remedy for such conduct available in any civil action.

**Sec. 6.5 Double Jeopardy**

If a criminal defendant has been prosecuted in the Hualapai Tribal Court for one or more offenses, a subsequent prosecution in the Hualapai Tribal Court for the same conduct or for a different offense arising out of the same conduct as the former prosecution is barred. The former prosecution shall have been established in any proceeding in which the jury has been impaneled and sworn, or, if the matter was to be tried without a jury, once the first witness is sworn.

**Sec. 6.6 Burden of Proof**

No person may be convicted of an offense unless the prosecution proves each element of such offense is proven beyond a reasonable doubt. In the absence of such proof the defendant shall be acquitted.

**Sec. 6.7 Negating Defenses**

The prosecution need not negate any defense either in the complaint or by proof unless the defense is an affirmative defense, the defendant has presented evidence of it, and the prosecution rebuts said defense beyond a reasonable doubt.

**Sec. 6.8 – 6.60 Reserved**

**OFFENSES AGAINST PUBLIC ADMINISTRATION**

**Sec. 6.61 Aiding or Abetting**

A person who counsels, assists, commands or induces another in the commission of a crime under this Chapter and upon conviction thereof, shall be sentenced to a fine or imprisonment or both not to exceed sentence of the person charged and convicted of a crime under this Chapter.

**Sec. 6.62 False Arrest**

Any person who shall willfully or knowingly make or cause to be made the unlawful arrest, detention or imprisonment of another person shall be deemed guilty of an offense.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed six months, or a fine not to exceed \$4,000, or both.

**Sec. 6.63 Maintaining a Public Nuisance**

Any person who maintains or keeps a place which is injurious to health, which is indecent or offensive to the senses or which is an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property by another person or persons or which unlawfully obstructs the free passage or use in the customary manner, of any lake, river, canal or tribal property shall be deemed guilty of an offense.

Any person guilty of this offense may be sentenced to a fine not to exceed \$500.

**Sec. 6.64      Disorderly Conduct**

Any person who in a public or private place disrupts the peace and quiet of a neighborhood, family or person, by engaging in fighting, violent or seriously disruptive behavior, or who uses or employs abusive, profane language or gestures, or makes unreasonable noise, which a reasonable person would find disruptive, shall be deemed guilty of disorderly conduct.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed 45 days, or a fine not to exceed \$1,000, or both.

**Sec. 6.65      Gambling**

Any person who participates in any game for a chance to win money or other valuable consideration or any person who operates a place or device where a risk is taken on a chance of winning money or other valuable consideration shall be deemed guilty of an offense.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed 45 days, or a fine not to exceed \$1,000, or both.

**Sec. 6.66      Criminal Street Gangs**

- A. Definitions. "Criminal street gang" means any group of three or more persons, which engages in or has its purpose to engage in offenses, which are proscribed by Chapter 6 of this Code.
- B. Participating in or assisting a criminal street gang. A person commits participating in a criminal street gang by:
  - 1. Intentionally organizing, managing, directing or supervising a criminal street gang with the intent to promote or further the criminal objectives of the criminal street gang; or
  - 2. Knowingly enticing or inducing others to engage in violence or intimidation to promote or further the criminal objectives of a criminal street gang; or
  - 3. Furnishing advice or direction in the conduct, financing or management of a criminal street gang's affairs with the intent to promote or further the criminal objectives of a criminal street gang; or
  - 4. Hiring, engaging or using a minor for any conduct preparatory to or in completion of any offense in this Section; or



5. Committing any offense under Chapter 6 with the intent to promote or further the objectives of a criminal street gang.

C. Evidence of gang membership. Evidence concerning indicia of gang membership includes but is not limited to possessing gang-related paraphernalia, donning tattoos, proclaiming membership, and wearing clothing or colors associated with gang membership. Evidence of gang membership may be admitted in any case brought under this Section with proper foundation as determined by the Court.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed six months, or a fine not to exceed \$4,000, or both.

**Sec. 6.67 Environmental and Natural Resources Violations**

Any person who commits an act prohibited by the Hualapai Environmental Review Code or any of its Subtitles (collectively, "HERC") shall be deemed guilty of an offense.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed one year, or a fine not to exceed \$5,000, or both.

**Sec. 6.68 Removal or Destruction of Cultural Resources**

Any person who, without proper authority, removes, excavates, injures, or destroys any historic or prehistoric ruin or monument or any object or antiquity, or otherwise violates any provision of the Hualapai Cultural Resources Ordinance, shall be deemed guilty of an offense.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed one year, or a fine not to exceed \$5,000, or both.

Mandatory sentencing. Any person convicted of an offense defined in this Section shall be sentenced to imprisonment and shall not be eligible for suspension of sentence, probation, parole, or any other release from custody until the sentence imposed by the Court is served.

**Sec. 6.69 – 6.70 Reserved**

**Sec. 6.71 Resisting Lawful Arrest**

Any person who willfully or knowingly, by force or violence, resists or assists another person in resisting a lawful arrest shall be deemed guilty of an offense. If injuries are sustained by the officer as a result of making the arrest, the sentence shall not be suspended.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed six months, or a fine not to exceed \$4,000, or both.

**Sec. 6.72 Duty to Assist Peace Officer**

Any person who shall refuse to assist a duly appointed peace officer in the arrest of any person or in transporting such person to the nearest place of confinement shall be deemed guilty of an offense.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed 45 days, or a fine not to exceed \$1,000, or both.

**Sec. 6.73 Impersonation of Peace Officer or Tribal Officer**

A person who falsely impersonates a peace officer or any other appointed or elected officer of the Hualapai Tribe in either the officer's private or official capacity, and in such assumed character receives money or property, knowing that it is intended to be delivered to the individual so impersonated, with intent to convert the money or property to the individual's own use or that of another person, or to deprive the true owner thereof, or who in such assumed character does any other act whereby any benefit might accrue to the party impersonating or to any other person, shall be guilty of an offense.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed six months, or a fine not to exceed \$4,000, or both.

**Sec. 6.74 Duty to Report Suspicious Deaths**

It shall be the duty of any person having direct knowledge of a death by foul play or under suspicious circumstances, to report such death to the police without delay. Any person who has direct knowledge of and fails to report such death shall be deemed guilty of an offense.

Any person guilty of this offense may be sentenced to a fine not to exceed \$500.

**Sec. 6.75 Violence or Assault on a Tribally Commissioned Peace Officer or Judge**

Any person who willfully or knowingly, by force or violence, renders physical abuse or places a tribal peace officer or judge or other officer of the Hualapai Tribal Court in fear of imminent physical injury shall be deemed guilty of an offense.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed one year, or a fine not to exceed \$5,000, or both.

Mandatory sentencing. Any person convicted of an offense defined in this Section shall be sentenced to imprisonment and shall not be eligible for suspension of sentence, probation, parole, or any other release from custody until the sentence imposed by the Court is served.

**Sec. 6.76 Obstructing Criminal Investigation or Prosecution**

Any person who knowingly by means of bribery, misrepresentation, intimidation or

force, or threats of force, attempts to obstruct, delay or prevent the communication of information or testimony to a violation of any criminal statute to a peace officer or prosecutor, or who knowingly injures another's person or property because such person gave or caused any other person to give any such information or testimony to a peace officer or prosecutor shall be deemed guilty of an offense.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed one year, or a fine not to exceed \$5,000, or both.

**Mandatory sentencing.** Any person convicted of an offense defined in this Section shall be sentenced to imprisonment and shall not be eligible for suspension of sentence, probation, parole, or any other release from custody until the sentence imposed by the Court is served.

**Sec. 6.77 False Reporting to Law Enforcement; Interfering with Peace Officer**

- A. Any person who knowingly makes to a law enforcement agency having any criminal jurisdiction of the Hualapai Tribe, a false, fraudulent, or unfounded report or statement or who knowingly misrepresents a fact for the purpose of interfering with the orderly operation of a law enforcement agency or misleading a police or other duly authorized peace officer, shall be deemed guilty of an offense.
- B. Any person who knowingly engages in conduct whose purpose is to impair, obstruct, hinder, or prevent a police or other duly authorized peace officer from discharging the peace officer's official duties, shall be deemed guilty of an offense.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed six months, or a fine not to exceed \$4,000, or both.

**Sec. 6.78 Concealment of Fugitives and Escapees; Accessory after the Fact**

- A. Any person who conceals a person for whom an arrest warrant or process has been issued under the provisions of any law of the Hualapai Tribe so as to prevent the person's discovery and arrest, after notice or knowledge of the fact that a warrant or process has been issued for apprehension of such person, shall be deemed guilty of an offense.
- B. Any person, knowing that a criminal offense against the Hualapai Tribe has been committed who receives, relieves, comforts, or assists the offender in order to hinder or prevent his or her apprehension, trial, or punishment is an accessory after the fact, shall be deemed guilty of an offense.
- C. Any person who willfully harbors or conceals a prisoner after escape from lawful custody, after notice or knowledge of the fact of said prisoner's escape, shall be deemed guilty of an offense.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed six months, or a fine not to exceed \$4,000, or both.

**Sec. 6.79 Contempt of Court**

Any person guilty of contempt of Court of any of the following kinds is also guilty of an offense:

- A. Disorderly, contemptuous or insolent behavior committed during the sitting of a Court of justice in immediate view and presence of the Court, and directly tending to interrupt its proceedings or to impair respect due to authority.
- B. Behavior of like character committed in the presence of a court appointed mediator, arbitrator or referee while actually engaged in a trial or hearing, pursuant to the order of a Court, or in the presence of a jury, while actually sitting during a trial of a cause or upon an inquest or other proceeding authorized by law.
- C. Any breach of the peace, noise or other disturbance directly tending to interrupt the proceedings of a Court.
- D. Willful disobedience of process or an order lawfully issued by a Court.
- E. Resistance willfully offered to the lawful order or process of a Court.
- F. The unlawful refusal to be sworn as a witness, or when so sworn, refusal to answer a material question.
- G. The publication of a false or grossly inaccurate report of proceedings of a Court.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed 45 days, or a fine not to exceed \$1,000, or both.

**Sec. 6.80 Destroying Evidence**

Any person who willfully or knowingly destroys any evidence that could be used in the trial of a case with the intent to prevent same from being used is guilty of an offense.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed six months, or a fine not to exceed \$4,000, or both.

**Sec. 6.81 – 6.85 Reserved**

## OFFENSES AGAINST THE PERSON

### Assault and Related Offenses

#### Sec. 6.86 Simple Assault

It shall be unlawful for any person:

- A. With apparent ability, to attempt unlawful contact with another; or
- B. To intentionally threaten unlawful contact upon another, coupled with an apparent ability to do so, and does some act which creates a well-founded fear in such other person that such contact is imminent. "Well-founded fear" means fear that a reasonable person would have as a result of the person's conduct.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed 45 days, or a fine not to exceed \$1,000, or both.

#### Sec. 6.87 Battery

It shall be unlawful for any person to:

- A. Willfully and unlawfully use force or violence to another;
- B. Actually, intentionally and unlawfully touch or strike another person against the person's will; or
- C. Unlawfully and intentionally cause bodily harm to another person.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed 90 days, or a fine not to exceed \$2,000, or both.

#### Sec. 6.88 Aggravated Assault

The act of assault is aggravated if while committing assault a person uses:

- A. A deadly weapon or instrument;
- B. Any means or force likely to produce serious bodily harm or any bodily harm if the intended victim is a child under the age of 16 years; or
- C. Any corrosive acid or a caustic chemical of any kind;
- D. Any poison or other noxious or destructive substance or liquid.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed one year, or a fine not to exceed \$5,000, or both.

**Mandatory sentencing.** Any person convicted of an offense defined in this Section shall be sentenced to imprisonment and shall not be eligible for suspension of sentence, probation, parole, or any other release from custody until the sentence imposed by the Court is served.

#### **Sec. 6.89 Aggravated Battery**

The act of battery is aggravated if while committing battery a person:

- A. Causes serious bodily harm, permanent disability or permanent disfigurement to any person or any bodily harm if the victim is a child under the age of 16 years;
- B. Uses a deadly weapon or instrument;
- C. Uses any corrosive acid, or a caustic chemical of any nature; or
- D. Uses any poison or other noxious or destructive substance or liquid.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed one year, or a fine not to exceed \$5,000, or both.

**Mandatory sentencing.** Any person convicted of an offense defined in this Section shall be sentenced to imprisonment and shall not be eligible for suspension of sentence, probation, parole, or any other release from custody until the sentence imposed by the Court is served.

#### **Sec. 6.90 Stalking**

It shall be unlawful for any person to willfully, knowingly and repeatedly follow or harass or intimidate another person or member of that person's immediate family or household, whether current or former.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed six months, or a fine not to exceed \$4,000, or both.

#### **Sec. 6.91 Aggravated Stalking**

It shall be unlawful for any person to violate the provisions of 6.90 when there is a temporary restraining order or an injunction, or both, in effect prohibiting the behavior described in 6.90 against the same party.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed one year, or a fine not to exceed \$5,000, or both.

**Mandatory sentencing.** Any person convicted of an offense defined in this Section shall be sentenced to imprisonment and shall not be eligible for suspension of sentence, probation, parole, or any other release from custody until the sentence imposed by the Court is served.

**Sec. 6.92      Endangerment**

A person commits endangerment by recklessly engaging in any conduct which places another person at substantial risk of imminent death or bodily.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed 90 days, or a fine not to exceed \$2,000, or both.

**Sec. 6.93      Threatening or Intimidating**

- A. A person commits threatening if such person, with the intent to terrify or in reckless disregard of the risk of terrifying, threatens by word or conduct to cause bodily injury to another person or serious damage to property of another where the ability to immediately cause such injury or damage reasonably exists.
- B. A person commits intimidating if such person threatens by word or conduct to cause bodily injury to another person or damage to the property of another with the intent to induce another to do an act against his or her will or to refrain from doing a lawful act.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed 45 days, or a fine not to exceed \$1,000, or both.

**Sec. 6.94      Harassment**

- A. A person commits harassment if the person:
  - 1. Anonymously or otherwise communicates or causes a communication with another person by verbal, electronic, mechanical, telegraphic, telephonic, or written means in a manner that harasses.
  - 2. Continues to follow another person in or about a public place for no legitimate purpose after being asked to desist.
  - 3. Repeatedly commits an act or a series of acts that harasses another person.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed 45 days, or a fine not to exceed \$1,000, or both.

- B. For the purpose of this Section, "harassment" means conduct directed at a specific person which would cause a reasonable person to be seriously alarmed, annoyed, intimidated or harassed and the conduct in fact seriously alarms, annoys, intimidates or harasses the person and which serves no legitimate purpose.

**Sec. 6.95 Use of Telephone to Commit Offense**

- A. It shall be unlawful for any person, with intent to terrify, intimidate, threaten, harass, annoy, or offend, to use a telephone and:
1. Use any obscene, lewd, or profane language.
  2. Suggest any sexual act.
  3. Threaten to inflict injury of physical harm to the person or property of any person.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed 45 days, or a fine not to exceed \$1,000, or both.

- B. It shall be unlawful for any person to disturb by repeated anonymous telephone calls the peace, quiet, or right or privacy of any person at the place where the telephone calls were received.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed 45 days, or a fine not to exceed \$1,000, or both.

- C. The use of obscene, lewd, or profane language or the making of a threat or statement as set forth in Subsection A of this Section shall be prima facie evidence of intent to terrify, intimidate, threaten, harass, annoy, or offend.
- D. Any offense committed by use of a telephone, as set forth in this Section shall be deemed to have been committed at either the place where the telephone call was or calls originated or at the place where the telephone call or calls were received.

**Sec. 6.96 Care of Dependent Persons**

Every person who, because of intemperance, gambling or for any other reason, refuses or neglects to furnish food, shelter or care to those dependent upon that person shall be deemed guilty of an offense. If the Hualapai Tribal Court orders said person to pay a specified amount to the party taking care of the dependents, and the person fails to make such payment, a warrant shall be issued for violation of this Section.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed 90 days, or a fine not to exceed \$2,000, or both.



**Sec. 6.97 Permitting Child's Life, Health or Morals to be Imperiled**

Any person having the custody of any child who shall willfully cause or permit the life of such child to be endangered or the child's health to be injured or his or her moral welfare to be imperiled, by neglect, abuse or immoral association, shall be guilty of an offense.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed 90 days, or a fine not to exceed \$2,000, or both.

**Sec. 6.98 Selling Tobacco, Paper or Wrappers to Minors**

Any person who intentionally sells, exchanges, barter, disposes of or gives away to any person under the age of 18 years any tobacco or any cigarette paper or wrapper prepared or designed to be used for filling with tobacco shall be guilty of an offense.

Any person guilty of this offense may be sentenced to a fine not to exceed \$500.

**Sec. 6.99 Home Invasion**

A person who, by day or night, forcibly enters an inhabited dwelling without permission of the owner, resident or lawful occupant, whether or not a person is present at the time of the entry, is guilty of invasion of the home.

A. As used in this section:

1. "Forcibly enters" means the entry of an inhabited dwelling involving any act of physical force resulting in damage to the structure.
2. "Inhabited dwelling" means any structure, building, house, room, apartment, tenement, tent, conveyance, vessel, boat, vehicle, house trailer, travel trailer, motor home or railroad car in which the owner or other lawful occupant resides.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed one year, or a fine not to exceed \$5,000, or both.

**Mandatory sentencing.** Any person convicted of an offense defined in this Section shall be sentenced to imprisonment and shall not be eligible for suspension of sentence, probation, parole, or any other release from custody until the sentence imposed by the Court is served.

**Sec. 6.100 Mayhem**

Mayhem consists of unlawfully depriving a human being of a member of his body, or disfiguring or rendering it useless. If a person cuts out or disables the tongue, puts out an eye, slits the nose, ear or lip, or disables any limb or member of another, or voluntarily, or of purpose, puts out an eye, that person is guilty of mayhem.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed one year, or a fine not to exceed \$5,000, or both.

**Mandatory sentencing.** Any person convicted of an offense defined in this Section shall be sentenced to imprisonment and shall not be eligible for suspension of sentence, probation, parole, or any other release from custody until the sentence imposed by the Court is served.

## **Murder and Related Offenses**

### **Sec. 6.101 Murder**

It shall be unlawful for any person to kill a human being with malice aforethought.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed one year, or a fine not to exceed \$5,000, or both.

**Mandatory sentencing.** Any person convicted of an offense defined in this Section shall be sentenced to imprisonment and shall not be eligible for suspension of sentence, probation, parole, or any other release from custody until the sentence imposed by the Court is served.

### **Sec. 6.102 Manslaughter**

It shall be unlawful for any person to kill a human being:

- A. Voluntarily - upon a sudden quarrel or heat of passion; or
- B. Involuntarily -
  - 1. In the perpetration of or attempt to perpetrate any unlawful act;
  - 2. In the commission of a lawful act which might produce death, in an unlawful manner;
  - 3. Without due caution or care; or
  - 4. In the operation of any firearm or dangerous weapon in a reckless, careless or negligent manner which produces death.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed six months, or a fine not to exceed \$4,000, or both.

### **Sec. 6.103 – 6.105 Reserved**

## **KIDNAPPING AND RELATED OFFENSES**

### **Sec. 6.106 Kidnapping**

It shall be unlawful for any person to unlawfully seize, confine, entice, deceive, abduct, or carry away any person for the purpose of holding such person for ransom, reward or otherwise.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed one year, or a fine not to exceed \$5,000, or both.

**Mandatory sentencing.** Any person convicted of an offense defined in this Section shall be sentenced to imprisonment and shall not be eligible for suspension of sentence, probation, parole, or any other release from custody until the sentence imposed by the Court is served.

### **Sec. 6.107 False Imprisonment**

It shall be unlawful for any person to willfully and unlawfully restrain another so that the person substantially interferes with the victim's liberty.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed one year, or a fine not to exceed \$5,000, or both.

**Mandatory sentencing.** Any person convicted of an offense defined in this Section shall be sentenced to imprisonment and shall not be eligible for suspension of sentence, probation, parole, or any other release from custody until the sentence imposed by the Court is served.

### **Sec. 6.108 Child Custodial Interference**

- A. It shall be unlawful for any person to intentionally and without lawful authority take or entice away, keep or withhold any minor child from a parent or another having custody, joint custody, visitation or other parental rights, whether such rights arise from a temporary or permanent custody order, or from the equal custodial rights of each parent in the absence of such order.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed 90 days, or a fine not to exceed \$2,000, or both.

- B. It shall be an affirmative defense to a violation of the provisions of this Section that:
1. The action is taken to protect the child from imminent bodily harm; or
  2. The action is taken by a parent fleeing from imminent bodily harm to himself or herself.

**Sec. 6.109 – 6.111 Reserved**

## **SEXUAL OFFENSES**

### **Sec. 6.112 Sexual Assault**

- A. It shall be unlawful for any person to engage in a sexual act or attempt to do so with another:
1. Who is incapable, through mental defect or any other unsoundness of mind, whether temporary or permanent, of giving legal consent;
  2. Who is prevented from resistance by force or threats of immediate bodily harm, accompanied by an apparent ability to carry out such threats or by any intoxicating narcotic, or anaesthetic substance administered by the accused;
  3. Who is at the time is not aware of the nature of the act and this is known to the accused;
  4. Against the will or consent of the other; or
  5. With a child under the age of 12 years.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed one year, or a fine not to exceed \$5,000, or both.

**Mandatory sentencing.** Any person convicted of an offense defined in this Section shall be sentenced to imprisonment and shall not be eligible for suspension of sentence, probation, parole, or any other release from custody until the sentence imposed by the Court is served.

### **Sec. 6.113 Forcible Sexual Penetration with a Foreign Object**

It shall be unlawful for any person to intentionally cause or attempt to cause the penetration, however slight, of the genitals or anal opening of another person, with any object, instrument or device, against the victim's will by use of force, violence, duress or threats of bodily harm, accompanied by an apparent power of execution.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed one year, or a fine not to exceed \$5,000, or both.

**Mandatory sentencing.** Any person convicted of an offense defined in this Section shall be sentenced to imprisonment and shall not be eligible for suspension of sentence, probation, parole, or any other release from custody until the sentence imposed by the Court is served.

**Sec. 6.114 Unlawful Sexual Acts**

It shall be unlawful for any person who is over the age of 18 to:

- A. Solicit a child under the age of 16 years to participate in a sexual act; or
- B. Engage in a sexual act with a child under the age of 16 years or attempt to do so.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed six months, or a fine not to exceed \$4,000, or both.

**Sec. 6.115 Unlawful Sexual Contact**

It shall be unlawful for any person to have sexual contact with another or cause another to have sexual contact with him or her, or attempt to do so if:

- A. The person knows that the contact is offensive to the victim;
- B. The person knows that the other person suffers from a mental disease or defect which renders the victim incapable of understanding the nature of the defenders conduct;
- C. The person knows that the victim is unaware that a sexual act is being committed;
- D. The person has substantially impaired the victim's ability to understand or control the victim's conduct, by administering or employing without the victim's knowledge drugs, intoxicants or other means; or
- E. The victim is in custody of law or detained in a hospital or other institution and the person has supervisory or disciplinary authority over the victim.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed six months, or a fine not to exceed \$4,000, or both.

**Sec. 6.116 Reserved**

**Sec. 6.117 Indecent Exposure**

A person commits indecent exposure if he or she exposes his or her genitals or anus or she exposes the areola or nipple of her breast or breasts and another person is present, and the defendant acts in reckless disregard about whether such other person, as a reasonable person, would be offended or alarmed by the act.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed six months, or a fine not to exceed \$2,500, or both.

**Mandatory sentencing.** Any person convicted of an offense defined in this Section shall be sentenced to imprisonment and shall not be eligible for suspension of sentence, probation, parole, or any other release from custody until the sentence imposed by the Court is served.

**Sec. 6.118 Enticement of a Child for Purposes of Prostitution or Illicit Intercourse**

- A. Any person who entices a child into any house of prostitution or elsewhere for the purpose of prostitution, and any person who aids in such enticement, shall be deemed guilty of an offense.
- B. Any person who, by false pretenses, false representation or other fraudulent means, procures a child to have sexual intercourse with any person shall be deemed guilty of an offense.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed one year, or a fine not to exceed \$5,000, or both.

**Mandatory sentencing.** Any person convicted of an offense defined in this Section shall be sentenced to imprisonment and shall not be eligible for suspension of sentence, probation, parole, or any other release from custody until the sentence imposed by the Court is served.

**Sec. 6.119 Reserved**

**Sec. 6.120 Child Pornography**

Any person who possesses, manufactures, distributes, produces or solicits any visual depiction of a child engaged in sexually explicit conduct shall be guilty of an offense.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed one year, or a fine not to exceed \$5,000, or both.

**Mandatory sentencing.** Any person convicted of an offense defined in this Section shall be sentenced to imprisonment and shall not be eligible for suspension of sentence, probation, parole, or any other release from custody until the sentence imposed by the Court is served.

**Sec. 6.121 Transporting a Child for Sexual Purposes**

Any person who transports a child with the intent to commit any sexual conduct proscribed by this Code shall be guilty of an offense.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed six months, or a fine not to exceed \$4,000, or both.

**Sec. 6.122 – 6.125 Reserved**

## **SEX OFFENDER REGISTRATION**

### **Sec. 6.126 Failure to Register as a Sex Offender**

- A. This provision shall apply to any person who:
1. On or after the date of adoption of this Chapter, pleads guilty to or is found guilty of a crime, or an attempt, a solicitation, or a conspiracy to commit a crime provided for in 6.112 (Rape), 6.111 (Attempted Rape), 6.113 (Forcible Sexual Penetration with a Foreign Object), 6.114 (Unlawful Sexual Intercourse), 6.115 (Sexual Assault), 6.116 (Sexual Molestation of a Minor Under Sixteen) or 6.197 (Incest).
  2. Enters the Hualapai Indian Reservation on or after the date of adoption of this Chapter, and who has pled guilty to or has been found guilty of any crime, an attempt, a solicitation or a conspiracy to commit a crime on another reservation, in the State of Arizona, in another state, territory, commonwealth, or other jurisdiction of the United States that is substantially equivalent to the offenses listed in subsection A 1 of this Section.
  3. Pleads guilty to or has been found guilty of a crime covered in this section prior to the date of adoption of this Chapter, and the person, as a result of the offense, is incarcerated in a jail facility or a penal facility or is under probation or parole supervision, on or after the date of adoption of this Chapter.
- B. The provisions of this Section shall not apply to any such person while the person is incarcerated in a correctional institution or jail facility.

### **Sec. 6.127 Title Registration - Time Limit - Duration Period**

- A. Any person, who becomes subject to the provisions of this Section on or after the date of adoption of this Chapter, shall register within five days of entering the Hualapai Indian Reservation, with the Tribal Police of the Hualapai Nation.
- B. If there is an address change for a person required to register, such person shall inform the Tribal Police of the Hualapai Nation with whom that person last registered of the new address, in writing, within five days of such change.
- C. The Tribal Police of the Hualapai Nation shall within five working days of receipt of the new address, forward this information to the law enforcement agency where such person would be required to register.

**Sec. 6.128 Duration of Registration Requirement**

Any person to whom this section applies shall be required to register during any period of probation or parole and shall continue to comply with the provisions of this section for life while residing on the Hualapai Indian Reservation.

**Sec. 6.129 Exemption from Lifetime Registration**

- A. Any person whom this Section applies may, after a period of 10 years from the date of discharge from probation, parole or release from incarceration, whichever is greater, petition the Court for a show cause hearing to determine whether the person should be exempted from the duty to register as a sex offender. In the petition the petitioner shall:
1. Provide clear and convincing evidence that the petitioner is not a risk to commit a new violation for any violent crime or crime identified in 6.126.
  2. Provide an affidavit indicating that petitioner does not have a criminal charge pending nor is the petitioner knowingly under criminal investigation for any violent crime or crime identified in 6.126.
  3. Provide proof of service of such petition upon the tribal prosecuting attorney of the Hualapai Nation; and
  4. Provide a certified copy of the judgment of conviction which caused the petitioner to report as a sex offender to the Tribal Court of the Hualapai Nation.
- B. The Tribal Court of the Hualapai Nation may grant a hearing if it finds that the petition is sufficient. The Court shall provide at least 60 days prior notice of the hearing to the petitioner and the tribal prosecuting attorney.
- C. The Court may exempt the petitioner from the reporting requirement only after a hearing on the petition in open Court and only upon proof by clear and convincing evidence that the petitioner is not a risk to commit a new violation for any violent crime or crime identified in 6.126.

**Sec. 6.130 Manner of Registering**

Registration shall be in a form approved by the Hualapai Tribal Police and shall include the following information about the person registered:

- A. Name and all aliases which the person has used or under which the person has been known;



- B. A complete description of the person including the date of birth, social security number, photograph and fingerprints;
- C. Name of each offense covered in this section to which the person pled guilty or was found guilty, where each offense was committed, where the person pled guilty or was found guilty of each offense, and the name under which the person pled guilty or was found guilty of each offense;
- D. The name and location of each hospital, jail or penal institution to which the person was committed for each offense covered under this Section; and
- E. Address of current residence and place of employment.

**Sec. 6.131 Notice of Duty to Register**

- A. The Tribal Court of the Hualapai Tribe shall provide written notification at the time of sentencing of the duty to register pursuant to this section to any defendant who has pled guilty or has been found guilty of an offense as identified in Subsection A 1 of 6.126. The written notification shall be signed by the defendant and one copy retained by the Court, one copy provided to the tribal prosecutor and one copy provided to the defendant.
- B. The Tribal Police of the Hualapai Tribe shall provide written notification of the duty to register pursuant to this Section to any person committed or accepted to its custody for an offense identified in Subsection A 1 of 6.126, prior to the person's release from confinement or supervision. The written notice shall be signed by the person and one copy shall be retained by the Tribal Police, and one copy provided to the person.

**Sec. 6.132 False or Misleading Information**

Any person subject to the registration provisions of this Section who knowingly furnishes any false or misleading information in the registration required under this Section shall be guilty of an offense.

**Sec. 6.133 Penalty**

Any person who is required to register under this section who violates the provisions of 6.127 and 6.132 of the Hualapai Tribal Law and Order Code shall be guilty of the offense of failure to register as a sex offender.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed six months, or a fine not to exceed \$4,000, or both.

**Sec. 6.134 Additional Requirements**

- A. Any person whom this Section applies shall notify the Tribal Police before establishing or changing any personal residence.
- B. Any person whom this Section applies shall be subject to any reasonable restrictions on personal associations, class associations, and/or geographic limitations that the Tribal Court may impose at the request of the Tribal Police.
- C. Any person whom this Section applies shall meet with a designated Tribal Peace or Probation Officer weekly, or other times as set.
- D. Any person whom is required to register under this Section who violates these requirements shall be guilty of the offense of failure to register.

**Sec. 6.135 Publication**

- A. Individuals may obtain a list of registered sex offenders from the Tribal Police.
- B. The Tribal Police may, at its discretion, publish names and/or pictures of all registered sex offenders in local media.
- C. Any release of information under this Section will be accompanied by the following:

**WARNING**

This information is made available for the purpose of protecting the public. It is not to be used for the purpose of harassing or intimidating anyone. A person who uses registry information to commit a criminal act against another person is subject to arrest and prosecution under the Hualapai Tribal Law and Order Code.

**Sec. 6.136 Unlawful Use of Registry Information**

Any person who knowingly uses, or causes to be used, registry information to commit a criminal act against another person, including but not limited to use for the purpose of harassing or intimidating another person.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed 90 days, or a fine not to exceed \$2,000, or both.

**Sec. 6.137 – 6.140 Reserved**

## OFFENSES AGAINST PROPERTY

### Property Destruction

#### Sec. 6.141 Arson

- A. It shall be unlawful for any person to willfully and maliciously set fire to, burn or cause to be burned any building or structure or attempt to do so.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed six months, or a fine not to exceed \$4,000, or both.

- B. A person who willfully and maliciously sets fire to or burns or causes to be burned, or who aids, counsels or procures the burning of:
1. Any unoccupied personal property or another which has the value of \$25 or more;
  2. Any unoccupied personal property owned by him in which another person has legal interest; or
  3. Any timber, forest, shrubbery, crops, grass, vegetation or other flammable material not his own, is guilty of a crime.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed 90 days, or a fine not to exceed \$2,000, or both.

#### Sec. 6.142 Aggravated Arson

The act of arson is aggravated if while committing arson:

- A. Any person knows or reasonably should know that one or more persons are present inside of the structure involved or any structure adjacent to the structure involved; or
- B. Any person suffers death, bodily harm, disability or disfigurement as a result of the fire.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed one year, or a fine not to exceed \$5,000, or both.

**Mandatory sentencing.** Any person convicted of an offense defined in this Section shall be sentenced to imprisonment and shall not be eligible for suspension of sentence, probation, parole, or any other release from custody until the sentence imposed by the Court is served.

**Sec. 6.143 Negligent Handling of Campfire or Negligent Starting of a Fire**

Any person who builds a campfire upon the lands of the Hualapai Indian Reservation without clearing the ground immediately around it free from material which may carry fire, or who leaves thereon a campfire burning and unattended, or who permits a campfire to spread thereon, or who by throwing away a lighted cigar, cigarette or match or by use of firearms, or in any other manner starts a fire in a forest, or in any other area on the Hualapai Reservation and leaves the fire unquenched or extinguished shall be deemed guilty of an offense.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed 45 days, or a fine not to exceed \$1,000, or both.

**Sec. 6.144 Causing a Catastrophe**

It shall be unlawful for any person to knowingly by explosion, fire, flood, rock slide, collapse of building, release of poison gas, radioactive material or other harmful or destructive force or substance, or by any other means cause wide-spread injury or damage.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed one year, or a fine not to exceed \$5,000, or both.

**Mandatory sentencing.** Any person convicted of an offense defined in this Section shall be sentenced to imprisonment and shall not be eligible for suspension of sentence, probation, parole, or any other release from custody until the sentence imposed by the Court is served.

**Sec. 6.145 Malicious Injury to Property**

It shall be unlawful for any person to:

- A. Maliciously injure or destroy any real or personal property not the person's own; or
- B. Intentionally and unlawfully tamper with the property of another and thereby:
  - 1. Endanger human life; or
  - 2. Cause or threaten a substantial interruption or impairment of any public utility service.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed six months, or a fine not to exceed \$4,000, or both.

**Sec. 6.146 Vandalism**

- A. A person commits the infraction of vandalism if the person injures, defaces, damages or destroys:
1. Private property in which any other person has an interest without the consent of such other person;
  2. Tribal or other public property without the lawful consent of the appropriate governing body; or
  3. A recognized place of burial.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed 90 days, or a fine not to exceed \$2,000, or both.

**Sec. 6.147 Aggravated Vandalism**

It shall be unlawful for any person to willfully and maliciously:

- A. Cause or threaten a substantial interruption or impairment of any public utility service, including but not limited to transportation, water supply, gas, or power; or
- B. Cause a substantial interruption or impairment in mass communications service, police, fire, other public service communications or an amateur or citizens band radio communications being used for public service or emergency communications.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed six months, or a fine not to exceed \$4,000, or both.

**Sec. 6.148 Littering**

Deposits, throws, or propels any substance upon any road from a vehicle whether such vehicle is in motion or stationary.

Any person guilty of this offense may be sentenced to a fine not to exceed \$500.

**Sec. 6.149 – 6.150 Reserved**

**BURGLARY AND RELATED OFFENSES**

**Sec. 6.151 Burglary**

It shall be unlawful for any person to enter a building or occupied structure with intent to commit an offense therein.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed one year, or a fine not to exceed \$5,000, or both.

Mandatory sentencing. Any person convicted of an offense defined in this Section shall be sentenced to imprisonment and shall not be eligible for suspension of sentence, probation, parole, or any other release from custody until the sentence imposed by the Court is served.

**Sec. 6.152 Burglary of a Vehicle**

It shall be unlawful for any person to enter any vehicle with intent to commit an offense therein.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed six months, or a fine not to exceed \$4,000, or both.

Mandatory sentencing. Any person convicted of an offense defined in this Section shall be sentenced to imprisonment and shall not be eligible for suspension of sentence, probation, parole, or any other release from custody until the sentence imposed by the Court is served.

**Sec. 6.153 Breaking and Entering**

Any person who enters any building, motor vehicle, trailer or a fenced or enclosed yard, without first having obtained the permission of the owner, shall be deemed guilty of an offense.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed 45 days, or a fine not to exceed \$1,000, or both.

**Sec. 6.154 Trespass**

It shall be unlawful for any person to unlawfully:

- A. Refuse to depart from the property of another, except under a landlord-tenant relationship, after being notified in writing, or verbally by the owner, lawful occupant or authorized agent of the owner of such property, to immediately depart; or
- B. Enter without permission of the owner or the owner's agent, upon the property of another.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed 45 days, or a fine not to exceed \$1,000, or both.

**Sec. 6.155 Aggravated Trespass**

The act of trespass shall be aggravated if while committing trespass a person:

- A. Accomplishes entry on the property by an act of force or violence or the use of a key or similar device which provides entry and which device the actor is not authorized or privileged to use for such purpose;

- B. Intends to cause or causes annoyance or injury to any person thereon or damage to any property thereon;
- C. Intends to commit or commits an offense thereon; or
- D. Is in possession of a deadly or dangerous weapon.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed 90 days, or a fine not to exceed \$2,000, or both.

**Sec. 6.156 Robbery**

- A. It shall be unlawful for any person to take personal property from the possession of another or from the immediate area of another by means of force or intimidation.
- B. As used in this section, the term "intimidation" means the fear of an immediate and unlawful injury to the person or property of the person robbed or of anyone in the company of such person at the time of the robbery.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed one year or a fine not to exceed \$5,000, or both.

Mandatory sentencing. Any person convicted of an offense defined in this Section shall be sentenced to imprisonment and shall not be eligible for suspension of sentence, probation, parole, or any other release from custody until the sentence imposed by the Court is served.

**Sec. 6.157 Theft**

It shall be unlawful for any person if, with intent to deprive another of property or to appropriate the same to himself or herself or to a third person, wrongfully takes, obtains or withholds such property from its owner.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed 45 days, or a fine not to exceed \$1,000, or both.

**Sec. 6.158 Theft by Deception**

It shall be unlawful for any person if, with intent to deprive another of property or to appropriate the same to them or to a third person, wrongfully takes, obtains or withholds another's property by:

- A. Creating or confirming another's impression which is false and which the offender does not believe to be true;
- B. Failing to correct a false impression which the offender previously has created or confirmed;
- C. Preventing another from acquiring information pertinent to the disposition of the property involved;

- D. Selling or otherwise transferring or encumbering property while failing to disclose a lien, adverse claim, or other legal impediment to the enjoyment of the property whether such impediment is or is not valid, or is or is not a matter of official record.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed 90 days, or a fine not to exceed \$2,000, or both.

**Sec. 6.159 Acquiring Lost Property**

It shall be unlawful for any person if with the intent to deprive another of such property or to appropriate such property for himself or herself or a third person, the person exercises control over property of another which the person knows to have been lost or mislaid, or to have been delivered under a mistake as to the identity of the recipient or the nature or amount of the property, without taking reasonable measures to return such property to the owner.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed 45 days, or a fine not to exceed \$1,000, or both.

**Sec. 6.160 Extortion**

It shall be unlawful for any person (the actor) to compel or induce another person or attempt to do so to deliver property to himself or herself or to a third person by means of instilling in the third person a fear that, if the property is not so delivered, the actor or another will:

- A. Cause physical injury to some person in the future;
- B. Cause damage to property;
- C. Engage in conduct constituting a crime;
- D. Accuse some person of a crime or cause criminal charges to be instituted against them;
- E. Expose a secret or publicize an asserted fact, whether true or false, tending to subject some person to hatred, contempt or ridicule;
- F. Cause a strike, boycott or other collective labor group action injurious to some person's business; unless the property is demanded or received for the benefit of the group in whose interest the actor purports to act;
- G. Testify or provide information or withhold testimony or information with respect to another's legal claim or defense;
- H. Use or abuse the actor's position as a public servant by performing some act



within or related to the official duties, or by failing or refusing to perform an official duty, in such manner as to affect some person adversely; or

- I. Perform any other act which would not in itself materially benefit the actor but which is calculated to harm another person materially with respect to the person's health, safety, business, calling, career, financial condition, reputation or personal relationships.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed six months, or a fine not to exceed \$4,000, or both.

#### **Sec. 6.161 Receiving Stolen Property**

It shall be unlawful for any person to knowingly receive, retain, obtain control over or possess, stolen property, knowing the property to have been stolen by another or under such circumstances as would reasonably induce him or her to believe that the property was stolen; and

- A. The person intends to deprive the owner permanently of the use or benefit of the property; or
- B. The person knowingly uses, conceals or abandons the property in such manner as to deprive the owner permanently of such use or benefit.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed 90 days, or a fine not to exceed \$2,000, or both.

#### **Sec. 6.162 Theft of Services**

It shall be unlawful for any person to obtain for himself or herself or another the labor or services of another or cable, water or other utility services which are available only for hire, by means of threat or deception.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed 45 days, or a fine not to exceed \$1,000, or both.

#### **Sec. 6.163 Defenses to Theft and Related Offenses**

- A. It is no defense to a charge of theft of property that the offender has an interest therein, when the owner also has an interest to which the offender is not entitled.
- B. In any prosecution for theft committed by trespassory taking or embezzlement, it is an affirmative defense that the property was appropriated openly and avowedly, and under a claim of right made in good faith.

#### **Sec. 6.164 Theft of Telephone Services**

It shall be unlawful for any person to knowingly, and without consent, use or receive another's telephone services in which a charge or fee is involved with the intent to withhold compensation for the use of such services.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed 45 days, or a fine not to exceed \$1,000, or both.

**Sec. 6.165 Unauthorized Connection with Facilities**

A person shall not make any connection, either physically or by induction, with the wire or radio communication facilities of any person engaged in the business of providing service and facilities for communication unless the connection is authorized by the person providing the service and facilities.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed 45 days, or a fine not to exceed \$1,000, or both.

**Sec. 6.166 Abuse of Corpse**

It shall be unlawful for any person to intentionally and unlawfully desecrate, remove, destroy or molest in any way any part of human remains.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed 90 days, or a fine not to exceed \$2,000, or both.

**Sec. 6.167 Unauthorized Use of a Vehicle**

It shall be unlawful for any person:

- A. To knowingly take, operate, exercise control over, ride in or otherwise use another's vehicle, boat or aircraft without consent of the owner;
- B. Having custody of a vehicle, boat or aircraft pursuant to an agreement to perform a specific service for the owner involving the maintenance, repair or use of such vehicle, boat or aircraft, to intentionally use or operate thereof, without consent of the owner, for his or her own purpose in a manner constituting a gross deviation from the agreed purpose; or
- C. Having custody of a vehicle, boat or aircraft pursuant to an agreement with the owner thereof whereby such vehicle, boat or aircraft is to be returned to the owner at a specified time, to knowingly retain or withhold possession thereof without consent of the owner for so long of time as to render such retention or possession a gross deviation from the agreement.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed 90 days, or a fine not to exceed \$2,000, or both.

**Sec. 6.168 Unlawful Taking of a Vehicle**

- A. Every person who takes and carries away or drives away the vehicle of another without the intent to permanently deprive the owner thereof but without the consent of the owner of such vehicle is guilty of a crime.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed one year, or a fine not to exceed \$2,000, or both.

- B. Every person who is in possession of a vehicle without the consent of the owner of such vehicle may reasonably be inferred to have taken and carried away or driven away the vehicle.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed 90 days, or a fine not to exceed \$2,000, or both.

**Sec. 6.169 Seizure of Stolen Vessels, Motor and Other Vehicles**

A peace officer, with or without a warrant, may seize and take possession of any vehicle, trailer or vessel or any part thereof, which he has probable cause to believe is stolen. Any peace officer so seizing a vehicle, vessel or parts thereof shall immediately notify the jurisdiction where the vehicle is registered and shall make every reasonable effort to determine ownership of the vehicle, vessel or equipment and to notify the rightful owner that the vehicle has been seized.

**Sec. 6.170 Reserved**

**FORGERY**

**Sec. 6.171 Forgery**

It shall be unlawful for any person if with intent to defraud or injure anyone, he or she:

- A. Alters any writing of another without such person's authority;
- B. Makes, completes, executes, authenticates, issues or transfers any writing so that it purports to be:
1. The act of another who did not authorize that act;
  2. To have been executed at a time or place or in numbered sequence other than was in fact the case;
  3. To be a copy of an original when no such original existed; or
- C. Utters or attempts to circulate as genuine any writing which they know to be

forged in the manner specified in this Section.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed six months, or a fine not to exceed \$4,000, or both.

## **FRAUD**

### **Sec. 6.172 Criminal Simulation**

It shall be unlawful for any person if, with intent to defraud anyone or with knowledge that the person is facilitating a fraud to be perpetrated by anyone, makes, alters or utters or attempts to circulate or sell as genuine any object so that it appears to have value because of antiquity, rarity, source, or authorship which it does not possess.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed 90 days, or a fine not to exceed \$2,000, or both.

### **Sec. 6.173 Fraudulent Handling of Recordable Instruments**

It shall be unlawful for any person if, with intent to deceive or injure anyone, the person destroys, removes or conceals any will, deed, mortgage, security instrument or other writing for which the law provides public recording or knowingly records a false or forged instrument.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed 90 days, or a fine not to exceed \$2,000, or both.

### **Sec. 6.174 Tampering with Records**

It shall be unlawful for any person if, knowing that the person has no privilege to do so, falsifies, destroys, removes or conceals any writing or record, with intent to deceive or injure anyone or to conceal any wrong doing.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed six months, or a fine not to exceed \$4,000, or both.

### **Sec. 6.175 Bad Checks**

- A. It shall be unlawful for any person to issue or pass a check or similar sight order for the payment of money, for the purpose of obtaining any money, property, or other thing of value or paying for any services, rent, wages or salary, knowing or believing that it will not be honored by the drawee.
- B. An issuer is presumed to know that the check or order would not be paid if:
  - 1. The issuer had no account with the drawee at the time the check or order was issued; or

2. Payment was refused by the drawee for lack of funds, upon presentation for payment within 30 days of issue, and the issuer failed or was intentionally unavailable to make good within 10 days after such refusal and receipt of notice of refusal to pay.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed 45 days, or a fine not to exceed \$1,000, or both.

**Sec. 6.176 Deceptive Business Practices**

A. It shall be unlawful for any person in the course of business to:

1. Use or possess for use a false weight or measure, or any other device for falsely determining or recording any quality or quantity;
2. Sell, offer or expose for sale, or deliver less than the represented quality or quantity of any commodity or service;
3. Take or attempt to take more than the represented quantity of any commodity or service when as buyer the defendant furnishes the weight or measure;
4. Sell, offer or expose for sale adulterated or mislabeled commodities;
5. Makes a false or misleading statement in any advertisement with the intent of promoting the purchase or sale of property or services;
6. Makes a false or misleading statement for the purpose of obtaining property or credit; or
7. Makes a false or misleading written statement for the purpose of promoting the sale of securities, or omits information required by law to be disclosed in written documents relating to securities.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed 45 days, or a fine not to exceed \$1,000, or both.

B. It is an affirmative defense to prosecution under this section if the defendant proves by clear convincing evidence that his or her conduct was not intentionally, knowingly or willfully deceptive.

**Sec. 6.177 Fraudulent Use of Credit Card**

A. It shall be unlawful for any person to use with the intention of obtaining money, goods, services or any other thing of value a credit card or credit card account which he knows is forged, expired, canceled, revoked, stolen, or retained without consent of the card or account holder.

- B. It shall be unlawful for the holder of a tribal issued credit card to knowingly misuse the tribal credit card.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed 90 days, or a fine not to exceed \$2,000, or both.

**Sec. 6.178 Rigging a Contest**

It shall be unlawful for any person who:

- A. With a purpose to prevent a contest from being conducted in accordance with the rules and usage purporting to govern it, the person:
  - 1. Confers or offers or agrees to confer any benefit upon, or threatens any injury to a participant, official or other person associated with the contest;
  - 2. Tampers with any person, animal, or thing associated with the contest;
  - 3. Knowingly solicits, accepts or agrees to accept any benefit from a participant, official or other person associated with the contest; or
- B. Knowingly engages in, sponsors, produces, judges, or otherwise participates in a contest knowing that the contest is not being conducted in compliance with the rules and usage purporting to govern it, by reason of conduct unlawful under this Section.

Any person guilty of this offense may be sentenced to a fine not to exceed \$500.

**Sec. 6.179 Defrauding Creditors**

It shall be unlawful for any person:

- A. To destroy, remove, conceal, encumber, transfer, or otherwise deal with property subject to a security interest with purpose to hinder enforcement or use of that interest;
- B. Knowing that proceedings have been or are about to be instituted for the appointment of a receiver or other person entitled to administer property for the benefit of creditors, to:
  - 1. Destroy, remove, encumber, transfer, or otherwise deal with any property with purpose to defeat or obstruct the operation of any law relating to administration of such property for the benefit of creditors;
  - 2. Knowingly falsify any writing or record relating to the property; or

3. Knowingly misrepresent or refuse to disclose to a person entitled to administer property for the benefit of creditors, the existence, amount or location of the property, or any other information which the actor is legally required to furnish in relation to such administration.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed 45 days, or a fine not to exceed \$1,000, or both.

**Sec. 6.180 Unlawful Dealing with Property by a Fiduciary**

It shall be unlawful for any person to deal with property that has been entrusted to him or her as a fiduciary, or property of the Tribe or government or of a financial institution, in a manner which the person knows or should know is a violation of the duty and which involves a substantial loss or risk of loss to the owner or to a person for whose benefit the property was entrusted.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed 90 days, or a fine not to exceed \$2,000, or both.

**Sec. 6.181 Making a False Credit Report**

It shall be unlawful for any person to knowingly make a materially false or misleading statement to obtain property or credit for him or her or another or to keep some other person from obtaining credit.

Any person guilty of this offense may be sentenced to a fine not to exceed \$500.

**Sec. 6.182 Embezzlement**

Any person who shall, having lawful custody of property not his or her own, appropriate the same with intent to deprive the owner thereof shall be deemed guilty of embezzlement.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed six months, or a fine not to exceed \$4,000, or both.

**Sec. 6.183 Disposing of Property of an Estate**

Any person who, without proper authority, sells, trades or otherwise disposes of any property of an estate before determination of the heirs shall be deemed guilty of an offense.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed 45 days, or a fine not to exceed \$1,000, or both.

**Sec. 6.184 Failure to Brand Stock**

- A. Any person who shall willfully refuse to brand, or mark his or her livestock where such branding or marking is required in the interest of ownership identification and for designating trust property shall be deemed guilty of an offense.

- B. Individuals who have in good faith followed the Hualapai Tribal grazing ordinance or cattle district rules shall not be found guilty of an offense under this section.

Any person guilty of this offense may be sentenced to a fine not to exceed \$1,000.

**Sec. 6.185 Misbranding**

Any person who knowingly or willfully misbrands or alters any brand or mark or tag on any livestock of another person shall be deemed guilty of an offense.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed 45 days, or a fine not to exceed \$1,000, or both.

**Sec. 6.186 Libel**

A libel is a malicious defamation, expressed by printing, writing, signs, pictures or the like, tending to blacken the memory of the dead, or to impeach the honesty, integrity, virtue, or reputation, or to publish the natural defects of a living person or persons, or community of persons, or association of persons, and thereby to expose them to public hatred, contempt or ridicule.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed 90 days, or a fine not to exceed \$2,000, or both.

**Sec. 6.187 – 6.195 Reserved**

**OFFENSES AGAINST THE FAMILY**

**Marital Violations**

**Sec. 6.196 Bigamy**

It shall be unlawful for any person if, knowing that he or she has a husband or wife or knowing the other person has a husband or wife, purports to marry or cohabit with such other person. It shall be a defense to bigamy if the defendant proves by a preponderance of the evidence that the defendant reasonably believed the defendant and the other person were eligible to marry.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed 45 days, or a fine not to exceed \$1,000, or both.

**Sec. 6.197 Incest**

- A. It shall be unlawful for any parent and child, ancestor and descendant of any degree, siblings of the half or whole blood, uncle and niece or nephew, aunt and niece or nephew, or first cousins to intermarry or to engage in sexual intercourse.



- B. Minors, incompetents or non-consenting parties may not be found guilty of incest.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed 90 days, or a fine not to exceed \$2,000, or both.

**Sec. 6.198 Criminal Nonsupport**

- A. It shall be unlawful for any person:
1. Who is the parent, guardian or legal guardian of any minor dependent upon him or her for care, education or support, to desert such child in any manner whatever with intent to abandon the child;
  2. To willfully omit, without lawful excuse, to furnish necessary food, clothing, shelter, or medical attendance for his or her child, ward or spouse. The practice of a parent or guardian who chooses for the child or ward or spouse treatment by prayer or spiritual means alone shall not for that reason alone be construed to be a violation of duty of care to such child or ward or spouse.
- B. Proof of the desertion of a spouse, child or children in destitute or necessitous circumstances or of neglect to furnish such spouse, child, or children necessary and proper food, clothing or shelter is prima facie evidence that such desertion or neglect is willful.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed 90 days, or a fine not to exceed \$2,000, or both.

**Sec. 6.199 Abuse of Vulnerable Adults**

- A. It shall be unlawful for any person:
1. To willfully or negligently inflict physical or mental pain or injury on a vulnerable adult;
  2. To willfully or negligently misuse the funds, property or resources of a vulnerable adult for profit or advantage; or
  3. Who is responsible for the care of a vulnerable adult, to willfully or negligently fail to provide food, clothing, shelter, medical care or other services reasonably necessary to sustain the life and health of a vulnerable adult.

- B. "Vulnerable adult" means any person over the age of 18 years who by physical or mental condition depends substantially on the finances or physical care of another.
- 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.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed one year, or a fine not to exceed \$5,000, or both.

**Mandatory sentencing.** Any person convicted of an offense defined in this Section shall be sentenced to imprisonment and shall not be eligible for suspension of sentence, probation, parole, or any other release from custody until the sentence imposed by the Court is served.

**Sec. 6.200 Child Abuse**

- A. It shall be unlawful for any person:
  - 1. To willfully cause or permit any child to suffer or inflict thereon unjustifiable physical pain or mental suffering;
  - 2. Having the care or custody of any child, to willfully cause or permit the person or health of such child to be injured;
  - 3. To willfully cause or permit any child to be placed in such situation that the child's person or health is seriously endangered; or
  - 4. To commit a crime involving domestic violence in the presence of a child. For the purpose of this subsection, "in the presence of a child" shall mean in the physical presence of a child or knowing that a child is present and may see or hear an act of domestic violence.
- B. The practice of a parent or guardian who chooses for his or her child treatment solely by prayer or spiritual means shall not for that reason alone be construed to have violated the duty of care to such child.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed one year, or a fine not to exceed \$5,000, or both.

**Mandatory sentencing.** Any person convicted of an offense defined in this Section shall be sentenced to imprisonment and shall not be eligible for suspension of sentence, probation, parole, or any other release from custody until the sentence imposed by the Court is served.

**Sec. 6.201 Endangering the Welfare of a Minor**

- A. It shall be unlawful for any person to knowingly:

1. Induce, cause or permit an unmarried person under 16 years of age to witness a sexual act;
2. Permit a person under 16 years of age to enter or remain in a place where unlawful narcotic or illicit drug activity is maintained or conducted;
3. Induce, cause or permit a person under 16 years of age to participate in gambling other than a social game;
4. Sell, cause to be sold or provide tobacco, alcohol or unprescribed drugs or narcotics in any form to a person under 16 years of age; or
5. Sell, cause to be sold or provide tobacco in any form to a person under 16 years of age; or
6. Otherwise threaten serious harm to the physical, emotional or mental well being of the minor.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed six months, or a fine not to exceed \$4,000, or both.

- B. For the purposes of this section, traditional Indian games including, but not limited to, "Stick Games" shall be considered social games.

**Sec. 6.202 Contributing to the Delinquency of a Minor**

- A. It shall be unlawful for any person by any act or omission to willfully aid, encourage or cause or attempt to aid, encourage or cause any child to:
1. Become or remain delinquent;
  2. Do or perform any act or follow any course of conduct which would cause or manifestly tend to cause such child to become or remain delinquent; or
  3. Cause a child to become or remain a runaway.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed 90 days, or a fine not to exceed \$2,000, or both.

- B. In addition to any other penalties imposed for a violation of this Section, the court may require the juvenile and his or her parent or guardian to perform community service, participate in counseling, or issue such other orders designed to contribute to the rehabilitation of the juvenile or to the ability of the parent or guardian to provide proper parental care and supervision.

**Sec. 6.203 – 6.205 Reserved**

## OFFENSES AGAINST THE ADMINISTRATION OF GOVERNMENT

### Bribery and Corrupt Influences

#### Sec. 6.206 Definitions

As used in this part:

- A. "Benefit" means a gain or advantage, or anything regarded by the beneficiary as a gain or advantage, including benefit to any other person or entity in whose welfare the beneficiary is interested, but not an advantage promised generally to a group or class of voters as a consequence of public measures which a candidate engages to support or oppose;
- B. "Government" includes any branch, subdivision or agency of the government of any state, the United States or any locality within such entities;
- C. "Harm" means loss, disadvantage or injury, or anything regarded as such by the person affected, including loss, disadvantage or injury to any other person or entity in whose welfare the person is interested;
- D. "Official proceeding" means a proceeding heard or which may be heard before any tribal legislative, judicial, administrative body or any tribal agency or official authorized to take evidence under oath;
- E. "Party official" means a person who holds an elective or appointive post in a political party by virtue of which the person directs or conducts, or participates in directing or conducting party affairs at any level of responsibility;
- F. "Pecuniary benefit" is benefit in the form of money, property, commercial interests or anything else of which the primary significance of which is economic gain;
- G. "Public servant" means any officer or employee of the Tribal government, including Tribal Council members and judges, and any person participating as juror, advisor, consultant or otherwise, in performing a function for the Tribal government; but the term does not include witnesses;
- H. "Administrative proceeding" means any proceeding, other than a judicial proceeding, the outcome of which is required to be based on a record or documentation prescribed by law, or in which law or regulation is particularized in application to individuals.

**Sec. 6.207 Bribery in Official Matters**

- A. It is unlawful for any person to offer, confer or agree to confer upon another, or to solicit, accept or agree to accept from another:
1. Any pecuniary benefit as consideration for the recipient's decision, opinion, recommendation, vote or other exercise of discretion as a public servant, party official or voter; or
  2. Any benefit as consideration for a violation of a known legal duty as public servant or party official.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed 90 days, or a fine not to exceed \$2,000, or both.

- B. It is no defense to prosecution under this section that a person whom the actor sought to influence was not qualified to act in the desired way for any reason.

**Sec. 6.208 Threats and Other Improper Influence in Official Matters**

- A. It shall be unlawful for any person to:
1. Threaten harm to any person with intent to influence the person's decision, opinion, recommendation, vote or other exercise of discretion as a public servant, party official or voter;
  2. Threaten harm to any public servant or party official with intent to influence the public servant to violate the known legal duty; or
  3. Privately address to any public servant who has or will have an official discretion in a judicial or administrative proceeding any representation, entreaty, argument or other communication with intent to influence the outcome on the basis of considerations other than those authorized by law.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed six months, or a fine not to exceed \$4,000, or both.

- B. It is no defense to prosecution under this Section that a person whom the actor sought to influence was not qualified to act in the desired way, whether because the person had not yet assumed office, or lacked jurisdiction or for any other reason.

**Sec. 6.209 Compensation for Past Official Behavior**

It shall be unlawful for any person to:

- A. Solicit, accept, or agree to accept any pecuniary benefit as compensation for having as a public servant given a decision, opinion, recommendation or vote favorable to another or for having otherwise exercised discretion in such other person's favor, or for having violated his or her duty; or
- B. Offer, confer or agree to confer, compensation to said public servant for the above purposes.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed 45 days, or a fine not to exceed \$1,000, or both.

**Sec. 6.210     Retaliation for Past Official Action**

It shall be unlawful for any person to harm another by any unlawful acts in retaliation for anything lawfully done by the latter in the capacity of public servant.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed six months, or a fine not to exceed \$4,000, or both.

**Sec. 6.211     Improper Gifts to Public Servants**

- A. It shall be unlawful for any person who:
  - 1. Being a public servant in any department or agency exercising regulatory functions, or conducting inspections or investigations or carrying on civil or criminal litigation on behalf of the Tribal government or agency thereof, or having custody of prisoners, solicits, accepts or agrees to accept any pecuniary benefit from a person known to be subject to such regulation, inspection, investigation or custody, or against whom such litigation is known to be pending or contemplated;
  - 2. Being a public servant having any discretionary function to perform in connection with contracts, purchases, payments, claims or other pecuniary transactions of the Tribal government or agency thereof solicits, accepts or agrees to accept any pecuniary benefit from any person known to be interested in or likely to become interested in any such contract, purchase, payment, claim or transaction;
  - 3. Being a public servant having judicial or administrative authority or employed by the Tribal Court or other tribunal having such authority, or participating in the enforcement of its decisions, solicits, accepts or agrees to accept any pecuniary benefit from a person known to be interested in or likely to become interested in any matter before such public servant or a tribunal with which he is association;

4. Being a Hualapai Tribal Council member or public servant employed by the Hualapai Tribe or agency thereof solicits, accepts or agrees to accept any pecuniary benefit from any person known to be interested in a matter, transaction or proceeding, pending or contemplated before the Tribal Council or agency thereof; or
5. Knowingly confers or agrees to confer any benefit prohibited by the above sections.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed 45 days, or a fine not to exceed \$1,000, or both.

B. This section shall not apply to:

1. Fees prescribed by law to be received by a public servant, or any other benefit for which the recipient gives legitimate consideration or to which the public servant is otherwise legally entitled;
2. Gifts or other benefits conferred on account of kinship or other personal, professional or business relationship independent of the official status of the receiver; or
3. Trivial benefits incidental to personal, professional or business contacts and involving no substantial risk of undermining official impartiality.

**Sec. 6.212 – 6.215 Reserved**

## **ABUSE OF OFFICE**

**Sec. 6.216 Official Misconduct**

It shall be unlawful for any person who:

- A. Being a public servant, and with intent to benefit himself or herself or another or harm another, the public servant willfully commits an unauthorized act which purports to be an act of the office, or refrains from performing a nondiscretionary duty imposed on the public servant by law or clearly inherent in the nature of the office; or
- B. Being a public servant and knowing that official action is contemplated or in reliance on information which the public servant has acquired by virtue of the office or from another public servant, which information has not been made public, the public servant:
  1. Acquires or divests himself or herself of a valuable interest in any

property, transaction, or enterprise which may be affected by such action or information; or

2. Speculates or wagers on the basis of such action or information; or knowingly aids another in doing any of the foregoing.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed 45 days, or a fine not to exceed \$1,000, or both.

#### **Sec. 6.217 Interference with Tribal Court**

No officer of the Hualapai Tribal Council shall interfere with or attempt to influence, any decision of the Tribal Court or the investigation, prosecution, disposition or settlement of any case.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed six months, or a fine not to exceed \$4,000, or both.

#### **Sec. 6.218 Official Oppression**

It shall be unlawful for any person who, when acting or purporting to act in an official capacity or taking advantage of such actual or purported capacity, and knowing that the conduct is illegal,:

- A. Subjects another to arrest, detention, search, seizure, mistreatment, dispossession, assessment, lien or other infringement of personal or property rights; or
- B. Denies or impedes another in the exercise or enjoyment of any right, power, or immunity.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed 90 days, or a fine not to exceed \$2,000, or both.

#### **Sec. 6.219 Misuse of Public Money**

It shall be unlawful for any person who is a public servant or other person charged with the receipt, safekeeping, transfer or disbursement of public moneys:

- A. Without authority of law, to appropriate such money or any portion thereof to the public servant's own use, or to the use of another;
- B. To unofficially loan such money or any portion thereof;
- C. Having the possession or control of any public money, to make a profit out of, or use the same for any purpose not authorized by law;



- D. To fail to keep such money in the person's possession until disbursed or paid out by authority of law;
- E. To deposit such money or any portion thereof other than in a Hualapai tribal government authorized bank account.
- F. To knowingly keep any false account, or make any false entry or erasure in any account of or relating to the same;
- G. To fraudulently alter, falsify, conceal, destroy or obliterate any such account;
- H. To willfully refuse or omit to pay over, on demand, any public moneys in his or her hands, upon the presentation of a draft, order or warrant drawn upon such moneys by competent authority;
- I. To willfully omit to transfer or pay over any money when such transfer is required by law; or
- J. To misuse or misappropriate any contract or program monies.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed one year, or a fine not to exceed \$5,000, or both.

### FALSIFICATION IN OFFICIAL MATTERS

#### Sec. 6.220 Perjury

- A. It shall be unlawful for any person who, while under oath before any competent tribunal, officer, or person in any official proceeding, willfully and contrary to such oath, states as true any material matter which the person knows to be false.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed six months, or a fine not to exceed \$4,000, or both.

- B. It is no defense to a prosecution under this Section that:
  1. The oath or affirmation was administered or taken in an irregular manner;
  2. The accused was not competent to give the testimony, deposition, certificate or affirmation of which falsehood is alleged;
  3. The accused did not know the materiality of the false statement made by the accuser; or that it did not, in fact, affect the proceeding in or for

which it was made.

- C. It is a defense to prosecution under this section that the defendant retracted the false statement:
  - 1. In a manner showing a complete and voluntary retraction of the statement;
  - 2. During the course of the same proceeding in which it was made; and
  - 3. Before the subject matter of the proceeding is submitted to the ultimate trier of fact or decision maker.
- D. As used in this Section, the term "competent" shall refer to sufficient qualification for testifying on particular subject matter and not mental capacity or ability.

**Sec. 6.221 False Swearing**

- A. It shall be unlawful for any person to make a false sworn statement, knowing it to be false.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed 90 days, or a fine not to exceed \$2,000, or both.

- B. It is no defense to a prosecution under this Section that:
  - 1. The oath or affirmation was administered or taken in an irregular manner;
  - 2. The accused was not competent to give the sworn statement of which falsehood is alleged;
  - 3. The accused did not know the materiality of the false statement made by the accuser; or that it did not, in fact, affect the proceeding in or for which it was made.
- C. It is a defense to prosecution under this Section that the defendant retracted the false statement:
  - 1. In a manner showing a complete and voluntary retraction of the statement;
  - 2. During the course of the same proceeding in which it was made; and
  - 3. Before the subject matter of the proceeding is submitted to the ultimate trier of fact or decision maker.

- D. As used in this Section, the term “competent” shall refer to sufficient qualification for testifying on particular subject matter and not mental capacity or ability.

**Sec. 6.222 Unsworn Falsification**

- A. It shall be unlawful for any person to knowingly make any false written statement in an attempt to gain any benefit.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed 90 days, or a fine not to exceed \$2,000, or both.

- B. It is no defense to a prosecution under this section that:
  - 1. The oath or affirmation was administered or taken in an irregular manner;
  - 2. The accused was not competent to give the written statement of which falsehood is alleged;
  - 3. The accused did not know the materiality of the false statement made by the accuser; or that it did not, in fact, affect the proceeding in or for which it was made.
- C. It is a defense to prosecution under this Section that the defendant retracted the false statement:
  - 1. In a manner showing a complete and voluntary retraction of the statement;
  - 2. During the course of the same proceeding in which it was made; and
  - 3. Before the subject matter of the proceeding is submitted to the ultimate trier of fact or decision maker.
- D. As used in this Section, the term “competent” shall refer to sufficient qualification for testifying on particular subject matter and not mental capacity or ability.

**Sec. 6.223 Tampering with Physical Evidence**

It is unlawful for any person to:

- A. Present evidence as genuine or true which the person knows has been forged or fraudulently altered;

- B. Prepare any false or fraudulently altered physical evidence for any fraudulent or deceitful purpose; or
- C. Knowingly destroy, alter or conceal the same.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed six months, or a fine not to exceed \$4,000, or both.

**Sec. 6.224 Tampering with Public Records**

It shall be unlawful for any person who does not have the authority to willfully destroy, alter, falsify or remove any record kept as part of the official governmental records of the Tribal government or agency thereof.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed six months, or a fine not to exceed \$4,000, or both.

**Sec. 6.225 Tampering with a Witness**

- A. It shall be unlawful for any person to willfully intimidate, influence, impede, deter, threaten, harass, obstruct or prevent a witness, or any person he or she believes has been or may be called as a witness in any proceeding from testifying freely, fully or truthfully in that proceeding.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed six months, or a fine not to exceed \$4,000, or both.

- B. The fact that a witness was not actually prevented from testifying or influenced shall not be a defense to a charge brought under this Section.

**Sec. 6.226 Bribing Witnesses**

It shall be unlawful for any person to offer, or promise to give to a witness any bribe, or attempt by any other means fraudulently to induce any witness to give false or withhold true testimony.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed six months, or a fine not to exceed \$4,000, or both.

**Sec. 6.227 Receiving Bribes in Exchange for Testimony**

It shall be unlawful for any person to receive or offer to receive any bribe in exchange for false or altered testimony.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed six months, or a fine not to exceed \$4,000, or both.

**Sec. 6.228     Simulating Legal Process**

It shall be unlawful for any person to knowingly issue or deliver to another any document that in form and substance falsely purports to represent a civil or criminal process.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed 45 days, or a fine not to exceed \$1,000, or both.

**Sec. 6.229     Criminal Impersonation**

It shall be unlawful for any person to unlawfully exercise or attempt to exercise the functions of, or hold himself or herself out to anyone as a public servant.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed 90 days, or a fine not to exceed \$2,000, or both.

**Sec. 6.230     Welfare Offenses**

It shall be unlawful for any person to:

- A. Give false information to another for the purpose of obtaining or retaining public assistance;
- B. Knowingly fail to correct misinformation which enables him or her to obtain or retain public assistance;
- C. Continue to accept and use for his or her own benefit or the benefit of another, public assistance to which he or she knows they are not entitled;
- D. Use or expend money or commodities granted the person as public assistance in an improper manner or in a manner which does not proportionately benefit each of those persons intended to benefit by the grant; or
- E. Knowingly use public assistance in a manner contrary to the regulations relating thereto.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed 90 days, or a fine not to exceed \$2,000, or both.

**Sec. 6.231 – 6.235     Reserved**

## **OBSTRUCTING GOVERNMENT FUNCTION**

### **Sec. 6.236 Resisting and Obstructing Officers**

A. It shall be unlawful for any person to:

1. Willfully resist, delay, obstruct or otherwise endeavor to prevent with or without actual force any public officer, in the discharge, or attempt to discharge, of any duty of the office; or
2. Knowingly give a false report to any peace officer.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed six months, or a fine not to exceed \$4,000, or both.

B. "Resists" as used in this Section means the use of or threatened use of violence, physical force or any other means that creates a substantial risk of physical injury to any person or that justifies or requires substantial force to overcome.

### **Sec. 6.237 Arrests for Offenses Committed on Roadways**

A. A peace officer shall arrest any person charged with:

1. Negligent homicide; or
2. Driving or being in actual physical control of a vehicle while under the influence of an intoxicant.

B. A peace officer may in the officer's discretion issue either a traffic citation as provided in this Chapter or arrest any person who:

1. Fails to stop, fails to give information, or fails to render reasonable assistance, in the event of an accident resulting in death or personal injury, damage to a vehicle, to fixtures or other property legally upon or adjacent to a highway;
2. Is charged with fleeing or attempting to elude a peace officer; or
3. Is charged with reckless driving.

### **Sec. 6.238 Hindering Prosecution**

It shall be unlawful for any person, with intent to hinder the apprehension, prosecution, conviction or punishment of a person who has committed a crime or with the intent to assist a person who has committed a crime in profiting or benefiting from the commission of the crime to:

- A. Harbor or conceal such person;
- B. Warn such person of impending discovery or apprehension, except if such warning is given in an attempt to get the other person to comply with the law;
- C. Provide or aid in providing such person with money, transportation, any weapon, disguise or other means of avoiding discovery or apprehension;
- D. Prevent or obstruct, by means of force, intimidation or deception, anyone from performing an act which might aid in the discovery, apprehension, prosecution or conviction of such person;
- E. Suppress by any act of concealment, alteration or destruction of physical evidence which might aid in the discovery, apprehension, prosecution or conviction of such person; or
- F. Aid such person in securing or protecting the proceeds of the crime.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed six months, or a fine not to exceed \$4,000, or both.

**Sec. 6.239     Escape**

It shall be unlawful for any person:

- A. While being in the custody of any jail, prison, or officer, to escape or attempt to escape from custody;
- B. To aid or attempt to aid another in escaping from jail, prison or from any officer; or
- C. With intent to facilitate such escape, to provide another with anything useful to aid in making an escape from jail, prison or from any officer.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed six months, or a fine not to exceed \$4,000, or both.

**Sec. 6.240     Providing Contraband**

It is unlawful for any person to provide a person in official detention with any alcoholic beverage, drug, weapon, implement of escape or any other thing or substance which is unlawful for the detainee to possess.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed six months, or a fine not to exceed \$4,000, or both.

**Sec. 6.241 Bail Jumping**

It is unlawful for any person having been released on bail or on his or her own recognizance upon condition that they subsequently appear, to fail to appear at the time and place which have been lawfully designated for the appearance.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed six months, or a fine not to exceed \$4,000, or both.

**Sec. 6.242 Failure to Obey an Order of the Court**

- A. It shall be unlawful for any person to fail to obey an order, subpoena, or warrant issued by the Tribal Court.
- B. It shall be unlawful for any person to violate domestic protection orders issued in accordance with the Hualapai Law and Order Code.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed six months, or a fine not to exceed \$4,000, or both.

**Sec. 6.243 Default on Fine**

It shall be unlawful for a person, who being convicted of any offense under this Code, defaults in the payment of a fine imposed or any installment thereof.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed 45 days, or a fine not to exceed \$1,000, or both.

**Sec. 6.244 Riot**

It is unlawful for any person acting together with two or more persons in the course of conducting any act in a violent, boisterous, tumultuous or threatening manner to:

- A. Physically injure another person;
- B. Damage or destroy public or private property; or
- C. Disturb the public peace.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed six months, or a fine not to exceed \$4,000, or both.



**Sec. 6.245     Obstructing the Administration of Justice**

It shall be unlawful for any person to:

- A. By threat or force, or by any threatening letter or communication, endeavor to influence, intimidate, or impede any juror, officer of the Court, officer who may be serving at any examination or other proceeding before the Court or member of the Hualapai Tribal Council in the discharge of their duty;
- B. Injure any such juror, officer of the Court, officer who may be serving at any examination or other proceeding before the Court, or member of the Hualapai Tribal Council in his or her person or property on account of any verdict or judgment assented to by him or her;
- C. Injure any officer of the Court, officer who may be serving at any examination or other proceeding before the Court, or member of the Hualapai Tribal Council in his or her person or property on account of the performance of his or her official duties; or
- D. Corruptly or by threats or force, or by any threatening letter or communication, attempt to influence, obstruct, or impede the due administration of justice.
- E. As used in this Section, "Officer of the Court" shall include all persons connected with the administration of the judicial process and/or whose duty it is to serve the process of the Court.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed six months, or a fine not to exceed \$4,000, or both.

**Sec 6.246 – 6.250     Reserved**

**OFFENSES AGAINST PUBLIC HEALTH, SAFETY AND WELFARE**

**Sec. 6.251     Prostitution**

It shall be unlawful for any person to:

- A. Engage in or offer or agree to engage in sexual intercourse or sexual contact with another person in return for a fee;
- B. Pay or offer or agree to pay another person a fee for the purpose of engaging in an act of sexual intercourse or sexual contact;
- C. Own, control or otherwise maintain any place or aid or abet in the same for the purpose of prostitution;

- D. Induce or cause a person to engage in prostitution or remain in a place of prostitution or aid or assist another in such an act; or
- E. Knowingly accept, receive or appropriate any money, property or other benefit from the proceeds or earnings of any person engaged in prostitution.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed 45 days, or a fine not to exceed \$1,000, or both.

#### **Sec. 6.252 Spreading Sexually Transmitted Disease**

It shall be unlawful for any person knowing or having reason to believe he is infected with a sexually transmitted disease, to infect another with such disease.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed 45 days, or a fine not to exceed \$1,000, or both.

#### **Sec. 6.253 Discharge of Firearms**

A person who discharges a firearm in a building, thereby endangering the life or person of another, or disturbing the peace of the persons inside the building or injuring, destroying or damaging any property therein, or who discharges a firearm in an inhabited area in such a way as to place persons or property in the vicinity in danger is guilty of an offense.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed 45 days, or a fine not to exceed \$1,000, or both.

#### **Sec. 6.254 Misuse of Firearms**

It is unlawful for any person while hunting, pursuing, taking or killing any game or other wild animal, or while in any game area, to handle or discharge any firearm in a careless or reckless manner or with wanton disregard for the safety of human life or property.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed 45 days, or a fine not to exceed \$1,000, or both.

#### **Sec. 6.255 Carrying Concealed Weapon**

- A. Any person who shall go about in a public place armed with a dangerous weapon concealed upon their person, which weapon is either designed or reasonably has the potential to inflict serious bodily injury upon another person, shall be deemed guilty of an offense.
- B. A weapon is not a concealed weapon as used in this Section if:

1. It is carried in a belt holster, is wholly or partially visible, or is carried in a scabbard or case designed for carrying weapons which scabbard or case is wholly or partially visible.
2. It is located in a closed trunk, luggage or glove compartment of a motor vehicle.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed six months, or a fine not to exceed \$4,000, or both.

**Sec. 6.256 Restrictions on Carrying Firearms**

- A. No person may enter any public establishment or school grounds or school building or attend any event while carrying a firearm or other dangerous weapon, or otherwise be in the possession of a firearm or other dangerous weapon in such establishment or at such events.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed six months, or a fine not to exceed \$4,000, or both.

- B. Subsection A of this Section shall not apply to a certified peace officer or any person summoned to assist by a peace officer, while in the performance of official duties.

**Sec. 6.257 Public Uses of Firearms**

- A. The possessing, transporting, selling or transferring of firearms by a museum as a part of its collection or an education institution for educational purposes or by an authorized employee of such museum or institution is lawful, provided that reasonable precautions are taken with respect to theft or misuse of such firearms.
- B. A person may possess a firearm for the purpose of preparing for, conducting or participating in lawful exhibitions, demonstrations, contests or athletic events involving the use of a firearm, or if such firearm is possessed for the purpose of preparing for, conducting or participating in a firearm safety course.
- C. A person may possess, transport, or sell firearms where such person is expressly licensed or permitted to do so pursuant to federal law.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed 45 days, or a fine not to exceed \$1,000, or both.

**Sec. 6.258 Weapons Offense**

It shall be unlawful for any person:

- A. Being convicted of a felony or an equivalent crime under this Code or having been declared mentally incompetent, to own or have in their possession or

under their custody or control a dangerous weapon;

- B. Being intoxicated or otherwise under the influence of alcohol beverages or other intoxicating substance, drug, or medicine, to have a dangerous weapon in their possession;
- C. To have on their person a concealed dangerous weapon without legal authority;
- D. To point or aim any dangerous weapon at or toward any other person within range of the weapon except in self defense;
- E. To discharge any kind of dangerous weapon from a motor vehicle, from, upon or across any public highway without lawful authority;
- F. To have in their possession any dangerous weapon with intent to assault another;
- G. To provide to any minor under the age of 16 a dangerous weapon without consent of parent or guardian; or
- H. Subject to a domestic protection order or restraining order, to possess any firearm or ammunition or to receive any firearm or ammunition.
- I. As used in this Section, proper authority to carry a concealed weapon shall include the authority granted to any law enforcement officer or a permit issued by the state of Arizona.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed six months, or a fine not to exceed \$4,000, or both.

#### **Sec. 6.259 Committing an Offense while Armed**

It shall be unlawful for any person to commit or attempt to commit any offense while armed with any dangerous or deadly weapon.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed six months, or a fine not to exceed \$4,000, or both.

#### **Sec. 6.260 Explosives**

Any person is guilty of a crime who:

- A. Maliciously deposits or explodes, or who attempts to explode at, in, under or near any building, vessel, boat, railroad or any train or car, or any depot, stable, outhouse, theater, schoolhouse, church, dwelling house or any other

place or structure where human beings usually inhabit, assemble, frequent or pass, or with intent to injure, intimidate or terrify a human being, or by means of which a human being is injured or endangered.

- B. Keeps or stores dynamite, gun cotton, nitroglycerine or giant powder in greater quantities than 25 pounds at one time, or blasting or gunpowder in greater quantities than 50 pounds at one time, in or upon any building or premises within a distance of one-half mile of the exterior limits of a city or town, except in vessels, railroad cars or vehicles receiving and keeping them in the course of and for the purpose of transportation alone.
- C. Keeps or stores percussion caps, gunpowder or other blasting powder, within a distance of powder is kept stored.
- D. Knowingly sells or has in their possession dynamite, nitroglycerine or other highly explosive materials, or transports them from point to point within the Reservation without having plainly marked, in large letters, in a conspicuous place on the box or package containing such explosive material, the name and explosive character thereof, and without having marked plainly upon the wrapper of each stick of dynamite or other explosive material or package of fuses, the date of the manufacture thereof; and, upon conviction thereof, shall be punished.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed 45 days, or a fine not to exceed \$1,000, or both.

#### **Sec. 6.261     Setting a Dangerous Device**

It shall be unlawful for any person to place or set any dangerous device with intent to frighten, confine, deter or injure any person in any place where it may be exploded, discharged or otherwise triggered by the contact or movement of any person.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed 90 days, or a fine not to exceed \$2,000, or both.

#### **Sec. 6.262     Drive-by Shooting**

##### **A.     Definitions.**

1. Drive-by shooting is the discharge of a firearm or the propulsion of any explosive or explosive device from a vehicle whether moving or stopped.
2. Participant is a person who of his or her own will is in the vehicle used in a drive-by shooting during the drive-by shooting.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed one year, or a fine not to exceed \$5,000, or both.

**Mandatory sentencing.** Any person convicted of an offense defined in this Section shall be sentenced to imprisonment and shall not be eligible for suspension of sentence, probation, parole, or any other release from custody until the sentence imposed by the Court is served.

**Sec. 6.263 Seizure of Vehicle Used in Drive-by Shooting**

- A. Any vehicle used in a drive-by shooting shall be seized by any peace officer of the Hualapai Police Department.
- B. A peace officer who seizes a vehicle under the provisions of this Section shall file within 10 days after seizure a notice of seizure and a complaint with the clerk of the tribal court and the clerk shall, within three days of filing, serve notice thereof on all owners of the vehicle, by one of the following methods:
  - 1. Upon an owner of a claimant whose right, title, or interest is of record in the division of motor vehicles of the state in which the automobile is licensed, by mailing a copy of the notice by registered mail to the address on the records of the division of motor vehicles of such state.
  - 2. Upon an owner or claimant whose name and address are known, by mailing a copy of the notice by registered mail to their last known address.
  - 3. Upon an owner or claimant, whose address is unknown but who is believed to have an interest in the vehicle, by publication in one issue of a newspaper of general circulation in Mohave County, Arizona.
- C. **Owner's answer to notice.** Within 20 days after the mailing or publication of a notice, as provided by Subsection B, the owner of the seized vehicle may file a verified answer to the allegation of the use of the vehicle contained in the notice and of the complaint and raise such other defenses as are provided for in Subsection E. 3 hereof. No extension of time shall be granted for the purpose of filing the answer.
- D. **Claimant's answer to notice.** Within 20 days after the mailing or publication of a notice, as provided in Subsection B, a claimant of any right, title, or interest in the vehicle may file a verified answer to the notice and complaint showing the lien, mortgage, or conditional sales contract to be bona fide, and that his right, title, or interest was created after a reasonable investigation of the purchaser, and without knowledge that the vehicle was being, or was to be, used for the purpose charged; but no person who has the lien dependent upon possession for the compensation to which he or she is legally entitled for

making repairs or performing labor upon and furnishing supplies and materials for, and for the storage, repairs, safekeeping of any vehicle, and no person doing business under any law or any state or the United States relating to banks, trust companies, credit unions, or licensed pawnbrokers or money lenders or regularly engaged in the business of selling vehicles or purchasing conditional sales contracts on vehicles shall be required to prove that their right, title, or interest was created after a reasonable investigation of the moral responsibility, character, and reputation of the owner, purchaser, or person in possession of the vehicle when it was bought to the claimant, and such claimants need only allege the lien, mortgage, or conditional sales contract in the vehicle is bona fide.

E. Procedure for hearing.

1. If a verified answer to the notice and complaint given as prescribed by this Section is not filed within the 20 days after the mailing or publication thereof, the court shall hear evidence upon the charge of unlawful use of the vehicle, and if the court determines the vehicle was used in violation of Subsection A hereof, the court shall order the vehicle sold, subject to the provisions of Subsection E 4 hereof.
2. If a verified answer is filed, the proceedings shall be set for a hearing on a day not less than 30 days after the answer is filed, and the proceedings shall have the priority over other civil cases. Notice of the hearing shall be given to the respondent by ordinary mail at the respondent's address as set out in the respondent's answer.
3. At the hearing, any owner who has a verified answer on file may show by competent evidence that the vehicle was not used in violation of Subsection A hereof by an occupant of the vehicle, and that the owner did not consent or act negligently in regard to the vehicle as defined in Subsection E. 1 hereof.
4. At the hearing, any claimant may show by competent evidence that the lien, mortgage or conditional sales contract in the vehicle is bona fide.

F. Judgment.

1. The court shall determine whether the vehicle was used in violation of Subsection A hereof, and whether the owner consented to the use of the vehicle by a person in the vehicle at the time of the drive-by shooting or by a person who supplied the vehicle to the person or persons in the vehicle at the time of the drive-by shooting, knowing or having reason to know that the vehicle would be used in violation of the law, or negligently allowed such a person to take possession of the vehicle knowing or having reason to know that such a person would

use the vehicle to violate the law. If the court determines that the vehicle was used in violation of Subsection A hereof, and the owner of the vehicle acted in a manner described in this Subsection hereof, the court shall enter its order as provided in Subsection E. 2 hereof. If the court determines that the vehicle was not used in violation of Subsection A hereof, and/or the owner neither consented or acted negligently as described in this Subsection hereof, the court will dismiss the seizure notice and complaint and order the return of the vehicle to the owner. If the court finds there was a violation of Subsection A hereof, and consent and negligence by the owner as described in this Subsection hereof, then the court shall also determine whether the interest in the vehicle belonging to any lienholder, mortgagee, or vendor is equal to or in excess of the value of the vehicle as of the date of seizure. If the value is equal to or in excess of the value of the vehicle at the date of seizure, the vehicle shall be released to such lienholder, mortgagee or vendor, it being the purpose of this Section to secure damages only from the right, title or interest of a consorting or negligent owner of the vehicle.

2. If the court determines that the vehicle was used in violation of Subsection A hereof, and that the owner consented to the use of the vehicle or was negligent as described in Subsection C. 1 hereof, and that there is a value in excess of that belonging to a lienholder, mortgagee or vendor, then the court shall order the chief of the department of police to cause the vehicle to be sold at public auction and to pay out of the proceeds of such sale: first, the cost of such sale; second, the interest of any lienholder, mortgagee or vendor in such vehicle; third, compensation for the damages done; and fourth, any balance to the titled owner of the vehicle.
3. No amount will be paid for compensation or to the titled owner of the vehicle until a final judgment on a claim for damages resulting from a violation of Subsection A hereof has been entered and submitted to the court with a petition for payment out of the proceeds of the sale or until the statute of limitations in regard to such claim has expired. The court shall make orders that are appropriate to the circumstance.

**Sec. 6.264 – 6.270** Reserved

## **DRUG AND ALCOHOL RELATED OFFENSES**

**Sec. 6.271** Drug Promotion

It shall be unlawful for any person to knowingly maintain, frequent or remain at a place:



- A. Resorted to by drug users for the purpose of unlawfully using narcotic or dangerous drugs; or
- B. Which is used for the unlawful keeping or sale of narcotic or dangerous drugs.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed six months, or a fine not to exceed \$4,000, or both.

**Sec. 6.272 Reserved**

**Sec. 6.273 Possession or Use of Controlled Substances**

- A. Prohibited generally. It shall be unlawful for any person to possess, have under control, dispense, use, transport, carry, sell, give away, prepare for sale, furnish, administer, distribute or offer to sell, furnish, administer or give away any narcotic, hallucinatory or other dangerous drug except as pursuant to this Section.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed one year, or a fine not to exceed \$5,000, or both.

**Mandatory sentencing.** Any person convicted of an offense defined in this Section shall be sentenced to imprisonment and shall not be eligible for suspension of sentence, probation, parole, or any other release from custody until the sentence imposed by the Court is served.

- B. Inhalation prohibited. It shall be unlawful for any person to inhale or sniff any substance for the purpose of becoming intoxicated.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed one year, or a fine not to exceed \$5,000, or both.

**Mandatory sentencing.** Any person convicted of an offense defined in this Section shall be sentenced to imprisonment and shall not be eligible for suspension of sentence, probation, parole, or any other release from custody until the sentence imposed by the Court is served.

- C. Prescription drugs exempt.
  - 1. This Section shall not apply to persons who possess, have under their control, use, transport, or carry narcotics pursuant to a prescription by a licensed physician, osteopath, dentist or veterinarian; or
  - 2. The possession, purchase, consumption, obtaining, ingestion, distribution or sale of peyote for bona fide Native American religious ceremonies.

- D. Certain professionals exempt. This Section shall not apply to manufacturers, wholesalers, apothecaries, physicians, osteopaths, dentists or veterinarians who have under their control, dispense, use, transport, sell, prepare for sale, furnish, administer, or offer to do the same any drug regulated by this Section, so long as such acts are done without violation of any law of the United States.
- E. Law enforcement exception. This Section shall not apply to duly commissioned law enforcement official and other authorized employees of any tribal, state, or federal law enforcement agency while performing required functions within the scope of their official duties.
- F. Narcotics enumerated. Narcotics regulated by this Section include but are not limited to opium and opiates, including but not limited to heroin, methadone, morphine and codeine; coca leaves and their derivatives, including but not limited to cocaine; and those narcotics listed in Schedules I, II, III, IV and V of Chapter 13, Title 21, United States Code, Section 812.
- G. Hallucinogens enumerated. Hallucinogens regulated by this Section include but are not limited to mescal buttons, peyote buttons, marijuana, dimethyltryptamine (DMT) lysergic acid diethylamide (LSD), 4-methyl-2, 5-dimethoxyamphetamine (STP), and those hallucinogens listed in Schedules I, II, III, IV and V of Chapter 13, Title 21, United States Code, Section 812.
- H. Dangerous drugs defined. Dangerous drugs related by this Section include the drugs and/or amounts of drugs prohibited in Chapter 13, Title 21, United States Code, Section 812, not included within Subsection F and G hereof.
- I. Option to retain jurisdiction over nonmembers. If there is probable cause to believe that a nonmember of the Hualapai Tribe has violated a provision of this Section, the tribal court shall have the option of retaining jurisdiction over that person or of placing the nonmember in the custody of the United States Marshals Service for prosecution in the federal courts or to Mohave County authorities or the State of Arizona law enforcement officials.

**Sec. 6.274 Possession, Manufacture, or Delivery of Drug Paraphernalia**

- A. It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, pack, repack, store, conceal, inject, ingest, inhale, or otherwise to introduce into the human body a controlled substance or the residue, smoke, vapor, or fumes of a controlled substance in violation of this Chapter.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed one year, or a fine not to exceed \$5,000, or both.

**Mandatory sentencing.** Any person convicted of an offense defined in this Section shall be sentenced to imprisonment and shall not be eligible for suspension of sentence, probation, parole, or any other release from custody until the sentence imposed by the Court is served.

- B. It is unlawful for any person to deliver, possess with intent to deliver or manufacture with intent to deliver drug paraphernalia knowing, or under circumstances where one reasonably should know that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, pack, repack, store, conceal, inject, ingest, inhale, or otherwise to introduce into the human body a controlled substance or the residue, smoke, vapor, or fumes of a controlled substance in violation of this Chapter.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed one year, or a fine not to exceed \$5,000, or both.

**Mandatory sentencing.** Any person convicted of an offense defined in this Section shall be sentenced to imprisonment and shall not be eligible for suspension of sentence, probation, parole, or any other release from custody until the sentence imposed by the Court is served.

- C. In determining whether an object is drug paraphernalia, a court shall consider, in addition to all other logically relevant factors, the following:
1. Statements by an owner or by anyone in control of the object concerning its use.
  2. The proximity of the object, in time and space, to a direct violation of this Chapter.
  3. The proximity of the object to controlled substances.
  4. The existence of any residue of controlled substances on the object.
  5. 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 or she knows, or should reasonably know, intend to use the object to facilitate a violation of this Chapter.
  6. Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the tribe, such as a licensed distributor or dealer of tobacco products.
  7. The existence and scope of legitimate uses for the object in the tribal.

8. Expert testimony concerning its use.

D. In this Section, unless the context otherwise requires, “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, packing, repacking, storing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance or the residue, smoke, vapor, or fumes of a controlled substance in violation of this Chapter. It includes, but is not limited to:

1. Kits used, intended for use or designed for use in planting, propagating, cultivating, growing, harvesting any species of plant which is a controlled substance or from which a controlled substance can be derived.
2. Kits used, intended to use or designed for use in manufacturing, compounding, converting, producing, processing, 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 or from which a controlled substance can be derived.
4. Scales and balances used, intended for use or designed for use in weighing or measuring controlled substances.
5. Dilutents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose, and lactose, used, intended for use or designed for use in cutting controlled substances.
6. 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.
7. Blenders, bowls, containers, spoons, and mixing devices used, intended for use or designed for use in compounding controlled substances.
8. Capsules, balloons, envelopes, and other containers used, intended for use or designed for use in packaging small quantities of controlled substances.
9. Containers and other objects used, intended for use or designed for use in storing or concealing controlled substances.

10. Syringes, hypodermic needles, and other objects use, intended for use or designed for use in parenterally injecting controlled substances into the human body.
11. Objects used, intended for use or designed for use in ingesting, inhaling, or otherwise introducing into the human body a controlled substance or the residue, smoke, vapors, or fumes of a controlled substance, 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. Carburetion pipes.
  - i. Electric pipes.
  - j. Air-driven pipes.
  - k. Chillums.
  - l. Bongs.
  - m. Ice pipes or chillers.

**Sec. 6.275 Seizure of Vehicles Used in Narcotic Violations**

- A. Any vehicle used to transport unlawfully a narcotic drug, or in which a narcotic drug is unlawfully kept, deposited or concealed, or in which a narcotic is unlawfully possessed by and occupant, shall be forfeited to the Hualapai Tribe.
- B. A peace officer who seizes a vehicle under the provisions of this Section shall

file within 10 days after seizure a notice of seizure and a complaint with the Tribal Court Administrator and the administrator shall, within three days of filing, serve notice thereof on all owners of the vehicle, by one of the following methods:

1. Upon an owner or claimant whose right, title or interest is of record in the division of motor vehicles of the state in which the automobile is licensed, by mailing a copy of the notice by registered mail to the address on the records of the division of motor vehicles of said state.
  2. Upon an owner or claimant whose name and address are known, by mailing a copy of the notice by registered mail to his last known address.
  3. Upon an owner or claimant, whose address is unknown but who is believed to have an interest in the vehicle, by publication in one issue of a newspaper of general circulation in Mohave County, Arizona.
- C. Owner's answer to notice. Within 20 days after the mailing or publication of a notice of seizure, as provided by Subsection C hereof, the owner of the seized vehicle may file a verified answer to the allegation of the use of the vehicle contained in the notice of seizure and of the intended forfeiture proceedings. No extension of time shall be granted for the purpose of filing the answer.
- D. Claimant's answer to notice. Within 20 days after the mailing or publication of a notice, as provided in Subsection B, a claimant of any right, title, or interest in the vehicle may file a verified answer to the notice and complaint showing lien, mortgage, or conditional sales contract to be bona fide, and that the claimants right, title, or interest was created after a reasonable investigation of the purchaser, and without knowledge that the vehicle was being, or was to be, used for the purpose charged; but not person who has the lien dependent upon possession for the compensation to which he or she is legally entitled for making repairs or performing labor upon and furnishing supplies and materials for, and for the storage, repairs, safekeeping of any vehicle, and no person doing business under any law or any state or the United States relating to banks, trust companies, credit unions, or licensed pawnbrokers or money lenders or regularly engaged in the business of selling vehicles or purchasing conditional sales contracts on vehicles shall be required to prove that their right, title, or interest was created after a reasonable investigation of the moral responsibility, character, and reputation of the owner, purchaser, or person in possession of the vehicle when it was bought to the claimant, and such claimants need only allege the lien, mortgage, or conditional sales contract in the vehicle is bona fide.
- E. Procedure for hearing.

1. If a verified answer to the notice and complaint given as prescribed by this Section is not filed within 20 days after the mailing or publication thereof, the Court shall hear evidence upon the charge of unlawful use of the vehicle, and if the Court determines the vehicle was used in violation of Subsection A hereof, the Court shall order the vehicle to be sold, subject to the provisions of Subsection E 4 hereof.
2. If a verified answer is filed, the proceedings shall be set for a hearing on a day not less than 30 days after the answer is filed, and the proceedings shall have the priority over other civil cases. Notice of the hearing shall be given to the respondent by ordinary mail at the respondent's address as set out in the respondent's answer.
3. At the hearing, any owner who has a verified answer on file may show by competent evidence that the vehicle was not used in violation of Subsection A hereof by an occupant of the vehicle, and that the owner did not consent or act negligently in regard to the vehicle as defined in Subsection E 1 hereof.
4. At the hearing, any claimant may show by competent evidence that the lien, mortgage or conditional sales contract in the vehicle is bona fide.

F. Judgment.

1. The Court shall determine whether the vehicle was used in violation of Subsection A hereof, and whether the owner consented to the use of the vehicle by a person in the vehicle at the time of the narcotic violation or by a person who supplied the vehicle to the person or persons in the vehicle at the time of the narcotic violation, knowing or having reason to know that the vehicle would be used in violation of the law, or negligently allowed such a person to take possession of the vehicle knowing or having reason to know that such a person would use the vehicle to violate the law. If the Court determines that the vehicle was used in violation of Subsection A hereof, and the owner of the vehicle acted in a manner described in this Subsection hereof, the Court shall enter its order as provided in Subsection E2 hereof. If the Court determines that the vehicle was not used in violation of Subsection A hereof, and/or the owner neither consented or acted negligently as described in this Subsection hereof, the Court will dismiss the seizure notice and complaint and order the return of the vehicle to the owner. If the Court finds there was a violation of Subsection A hereof, and consent and negligence by the owner as described in this Subsection hereof, then the Court shall also determine whether the interest in the vehicle belonging to any lienholder, mortgagee, or vendor is equal to or in excess of the value of the vehicle as of the date of seizure. If the value is equal to or in excess of

the value of the vehicle at the date of seizure, the vehicle shall be released to such lienholder, mortgagee or vendor, it being the purpose of this Section to secure damages only from the right, title or interest of a consorting or negligent owner of the vehicle.

2. If the Court determines that the vehicle was used in violation of Subsection A hereof, and that the owner consented to the use of the vehicle or was negligent as described in Subsection C 1 hereof, and that there is a value in excess of that belonging to a lienholder, mortgagee or vendor, then the Court shall order the chief of the department of police to cause the vehicle to be sold at public auction and to pay out of the proceeds of such sale: first, the cost of such sale; second, the interest of any lienholder, mortgagee or vendor in such vehicle; third, compensation for the damages done; and fourth, any balance to the title owner of the vehicle.
3. No amount will be paid for compensation or to the title owner of the vehicle until a final judgment on a claim for damages resulting from a violation of Subsection A hereof has been entered and submitted to the Court with petition for payment out of the proceeds of the sale or until the statute of limitations in regard to such claim has expired. The Court shall make orders that are appropriate to the circumstance. The Court and the administrator shall forthwith serve notice thereof on all owners of the vehicle, by one of the following methods:

#### **Sec. 6.276     Liquor Violation**

It shall be unlawful for any person within the exterior boundaries of the Hualapai Indian Reservation to sell, offer for sale, or otherwise distribute beer, wine, liquor or other alcoholic beverages.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed six months, or a fine not to exceed \$4,000, or both.

#### **Sec. 6.277     Possession of Alcohol by a Person under Twenty-One**

A person commits the offense of possession of alcohol by a person under the age of 21 if, while being under the age of 21, the person possesses, purchases, consumes, obtains, or sells, or is found under the influence, of any beer, wine, ale, whiskey or any substance whatsoever which produces alcoholic intoxication, or misrepresents his or her age for the purpose of buying or otherwise obtaining an alcoholic beverage.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed 90 days, or a fine not to exceed \$2,000, or both.



**Sec. 6.278 Public Intoxication**

Any person who shall appear in any public place including any Tribal, or public meeting place, or gathering and is manifestly under the influence of an intoxicating alcoholic beverage, marijuana, narcotics, dangerous drugs, or other drugs not medically administered, to a degree that the accused may endanger himself/herself, or another person, or public or private property, or the community, or annoy any person(s).

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed 30 days, or a fine not to exceed \$300 , or both.

Upon a second conviction or any convictions thereafter, the Court shall impose a mandatory sentence of imprisonment no less than 10 days and not to exceed 30 days, the Court shall order the person, upon a second conviction or any convictions thereafter, to participate in any available inpatient or outpatient alcohol or drug abuse rehabilitation program in conjunction with the foregoing penalties which may be imposed. The Court shall determine the amount of time a person shall participate in the rehabilitation program.

**Sec. 6.279 Open Container**

Except as authorized under Chapter 19, Commercial Champagne Flights, it shall be unlawful for any person to appear in any public place with, or a driver or owner of a motor vehicle to possess within the vehicle, any alcoholic beverage such as beer, wine, whiskey, or any other intoxicating beverage in an opened container in which the United States tax seal has been broken or removed, or from which the cap, cork, top, or seal placed thereupon by the manufacturer has been removed.

Any person guilty of this offense may be sentenced to a fine not to exceed \$500.

**DRIVING UNDER THE INFLUENCE; RECKLESS DRIVING**

**Sec. 6.280 Driving or Actual Physical Control While Under the Influence**

- A. Violations. It is a crime for any person who is under the influence of intoxicating liquor or drugs to drive or to be in actual physical control of any vehicle within the Hualapai Reservation.
- B. "Intoxicating liquor or drug" means any substance that renders a person physically impaired or otherwise unable to reasonably and capably operate any vehicle.
- C. Presumptions in evidence. In the adjudication of any action or proceeding for a violation of Subsection A of this Section relating to driving or being in actual physical control of a vehicle while under the influence of intoxicating liquor, the amount of alcohol in the defendant's blood at the time alleged as

shown by chemical analysis of the defendant's blood, urine, breath or other bodily substance shall give rise to the following presumptions:

1. If there was at that time 0.05 per cent or less by weight of alcohol in the defendant's blood, it shall be presumed that the defendant was not under the influence of intoxicating liquor.
  2. If there was at that time in excess of 0.05 per cent but less than 0.08 per cent by weight of alcohol in the defendant's blood, such fact shall not give rise to any presumption that the defendant was or was not under the influence of intoxicating liquor, but such fact may be considered with other competent evidence in determining whether or not the defendant was under the influence of intoxicating liquor.
  3. If there was at that time 0.08 per cent or more by weight of alcohol in the defendant's blood, it shall be presumed that the defendant was under the influence of intoxicating liquor.
  4. Paragraphs 2, 3, or 4 of this Subsection shall not be construed as limiting the introduction of any competent evidence bearing upon the question of whether or not the defendant was under the influence of intoxicating liquor.
- D. Basis for measurements. Percent by weight of alcohol in the blood shall be based upon milligrams of alcohol per 100 cubic centimeters of blood.
- E. Persons qualified to administer test. When a person shall submit to a blood or urine test under the provisions of the preceding Section, only a physician or a registered nurse, or other qualified person, other than the arresting officer, may withdraw blood or take the urine specimen for the purpose of determining the alcoholic content therein. Such limitation shall not apply to taking of breath specimens.
- F. Person tested authorized to have own physician, at the person's own expense. The person tested may have a physician or a qualified technician, chemist, registered nurse or other qualified person of the person's own choosing administer a chemical test or tests in addition to any administered at the direction of a peace officer. The failure or inability to obtain an additional test by a person shall not preclude the admission of evidence relating to the test or tests taken at the direction of a peace officer.
- G. Results to be made available to person tested. Upon the request of the person who shall submit to a chemical test or tests, full information concerning the test or tests shall be made available to the person or the person's attorney.

- H. Refusal admissible in evidence. If a person under arrest refuses to submit to a chemical test under the provisions of the preceding Section, evidence of refusal shall be admissible in any action or proceeding arising from acts alleged to have been committed while the person was driving or in actual physical control of a motor vehicle upon the highways of this tribe while under the influence of intoxicating liquor.
- I. It is a civil offense for any person who is under the influence of any intoxicating drug, or who is under the influence of any other drug or substance to a degree which renders the person incapable of safely driving a vehicle within the Hualapai Reservation. The fact that any person charged with a violation of Subsection I is or has been lawfully entitled to use such drug shall not constitute a defense to any charge of violating Subsection I.
- J. A person who is convicted of a violation of this section shall be sentenced to any or all of the following:
  - 1. May be sentenced to imprisonment not to exceed 90 days.
  - 2. May be ordered to pay a fine up to \$300.
  - 3. May be ordered by the court to perform community service.

A person who commits a second or subsequent offense under this section within a period of 24 months from the commission of the first offense:

- 1. Shall be sentenced to serve not less than 48 consecutive hours in jail.
- 2. May be sentenced to imprisonment not to exceed 180 days.
- 3. Shall pay a fine of not less than \$300, and may be ordered to pay a fine up to \$500.
- 4. May be ordered by the court to perform community service.

**Sec. 6.281 Testing for Drug or Alcoholic Content of Blood, Breath or Urine; When Given; Consequences of Refusal**

- A. Implied consent. Any person who operates a motor vehicle within the Reservation shall be deemed to have given consent, subject to the provisions of the following Section 6.280 to a chemical test or tests of the person's blood, breath or urine for the purpose of determining the alcoholic content of the person's blood if arrested for any offense arising out of acts alleged to have been committed while the person was driving or in actual physical control of a motor vehicle while under the influence of drugs or intoxicating liquor. The test or tests shall be administered at the direction of a peace officer having

reasonable grounds to believe the person to have been driving or in actual physical control of a motor vehicle upon the highways of this tribe while under the influence of drugs or intoxicating liquor. The law enforcement agency which such officer represents shall designate which of such tests shall be administered in all cases except where circumstances preclude its use.

- B. Twenty-minute waiting period before giving test. Following the test by a peace officer, such officer shall allow a period of 15 minutes to elapse from the time the violator is stopped before administering any test prescribed by the terms of Subsection A of this Section. During such period of time the peace officer shall inform the violator that the privilege of driving on the Hualapai Reservation will be suspended or denied for a period of six months, if the driver refuses to submit to the test.
- C. Persons incapable of refusal. Any person who is dead, unconscious or who is otherwise in a condition rendering the person incapable of refusal shall be deemed not to have withdrawn the consent provided by Subsection A and the test or tests may be administered, subject to the provisions of Section 6.280.
- D. Refusal to submit. If a person under arrest refuses to submit to a chemical test designated by the law enforcement agency as provided in Subsection A, none shall be given. The tribal court, upon the receipt of a sworn report of the peace officer that the officer had reasonable grounds to believe the arrested person had been driving or was in actual physical control of a motor vehicle upon the highways of this Reservation, including rights of way, while under the influence of intoxicating liquor or drugs and that the person has refused to submit to the test, shall suspend for a period of six months the privilege of operating a motor vehicle within the Hualapai Reservation subject to review as provided in this Section.
- E. Notification of suspension. Upon suspending the operating privilege of any person, the tribal court shall immediately notify the person in writing and upon the person's request shall afford the person an opportunity for a hearing. The hearing shall cover the issues of whether a peace officer has reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle upon the highways of this tribe while under the influence of intoxicating liquor or drugs, whether the person was placed under arrest, and whether the person refused to submit to the test. The court shall order that the suspension either be rescinded or sustained.
- F. If the said suspension is sustained, the person whose operating privileges have been suspended may appeal the order of the Tribal Court in the manner prescribed in Chapter 10 of this Code.

**Sec. 6.282 Reckless Driving**

- A. Any person who operates any vehicle in willful or wanton disregard for the safety of person or property commits the crime of reckless driving.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed 30 days, or a fine not to exceed \$300, or both, and may be ordered by the court to perform community service.

- B. Upon an admission to or an adjudication of liability for an offense under this Section, the court may suspend the operation privileges of the person for a period not to exceed six months.

**Sec. 6.283 Accidents Involving Death or Personal Injuries**

- A. The driver of any vehicle involved in an accident resulting in injury to or death of any person shall immediately stop the vehicle at the scene of the accident or as close thereto as possible and shall then forthwith return to and in every event shall remain at the scene of the accident until he or she has fulfilled the requirements of Section 17.247. Every such stop shall be made without obstructing traffic more than is necessary.

- B. Any person failing to stop or to comply with these requirements is guilty of a criminal offense.

Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed one year, or a fine not to exceed \$5,000, or both.