

**HUALAPAI TRIBAL COUNCIL
RESOLUTION NO. 42-2004
OF THE GOVERNING BODY OF THE
HUALAPAI TRIBE OF THE HUALAPAI RESERVATION**

WHEREAS, the Hualapai Tribe is presently operating its Tribal Court and Police Department under an outdated Law and Order Code; and

WHEREAS, considerable time and work has been expended in working to develop and finalize a new Hualapai Law and Order Code based on the procedural standards required by the Indian Civil Rights Act, as amended.


NOW, THEREFORE, BE IT RESOLVED, that the Hualapai Tribal Council assembled this day of June 02, 2004, does hereby approve the attached revised Ordinance 9, Hualapai Law and Order Code, and hereby adopts said revised and updated Law and Order Code to be used to govern the administration of the justice by the tribe's criminal justice system.

BE IT FURTHER RESOLVED, that this revised Ordinance 9, Hualapai Tribal Law and Order Code, supercedes and replaces any and all prior Hualapai Law and Order Codes.


BE IT FURTHER RESOLVED, that this revised Ordinance 9, will go into effective midnight, July 01, 2004.

CERTIFICATION

I, the undersigned as Chairwoman of the Hualapai Tribal Council hereby certify that a Hualapai Tribal Council of the Hualapai Tribe is composed of nine(9) members of whom 8 constitution a quorum were present at a **SPECIAL COUNCIL MEETING** thereof held on this **02nd day of June, 2004**; and that the foregoing resolution was duly adopted by a vote of 8 in favor, 0 opposed, 0 not voting, 1 excused pursuant to authority of Article V, Section (a) of the Constitution of the Hualapai Tribe approved March 13, 1991.


Louise Benson, Chairwoman
Hualapai Tribal Council

ATTEST:


Christine Lee, Secretary
Hualapai Tribal Council

LAW AND ORDER CODE

HUALAPAI TRIBE

July 2004

TABLE OF CONTENTS

CHAPTER 1 GENERAL PROVISIONS Pages 1-5

| | |
|----------|--|
| Sec. 1.1 | Constitutional Authority |
| Sec. 1.2 | Prior Inconsistent Codes and Ordinances |
| Sec. 1.3 | Sovereign Immunity |
| Sec. 1.4 | Territory, Persons and Property Affected |
| Sec. 1.5 | Full Faith and Credit |
| Sec. 1.6 | Construction |
| Sec. 1.7 | Amendment |
| Sec. 1.8 | Definitions |

CHAPTER 2 THE TRIBAL COURT SYSTEM Pages 6-9

| | |
|-----------|--|
| Sec. 2.1 | Reaffirmation of Court System |
| Sec. 2.2 | Civil Jurisdiction |
| Sec. 2.3 | Criminal Jurisdiction |
| Sec. 2.4 | Personal Jurisdiction |
| Sec. 2.5 | Concurrent Jurisdiction |
| Sec. 2.6 | Composition of Tribal Court |
| Sec. 2.7 | Appointment of Judges and Filling of Vacancies |
| Sec. 2.8 | Term of Office |
| Sec. 2.9 | Qualifications |
| Sec. 2.10 | Disqualification to Act |
| Sec. 2.11 | Removal of Judges |
| Sec. 2.12 | Juvenile Court |
| Sec. 2.13 | Family Conciliation Division |
| Sec. 2.14 | Court of Appeals |
| Sec. 2.15 | Tribal Court Administrator; Duties |

CHAPTER 3 TRIBAL COURT PROCEDURE – GENERAL Pages 10-14

| | |
|-----------|--|
| Sec. 3.1 | Application of Law |
| Sec. 3.2 | Copies of Laws |
| Sec. 3.3 | Time: Computation |
| Sec. 3.4 | Pre-Trial Conference; Alternative Dispute Resolution |
| Sec. 3.5 | Jury List |
| Sec. 3.6 | Jury: How Constituted |
| Sec. 3.7 | Jurors' Fees |
| Sec. 3.8 | Evidence |
| Sec. 3.9 | Witnesses: Testimony |
| Sec. 3.10 | Witnesses: Subpoenas |

CHAPTER 3 (cont'd)

| | |
|-----------|---|
| Sec. 3.11 | Failure to Obey Subpoena |
| Sec. 3.12 | Jury Instruction |
| Sec. 3.13 | Jury Deliberation |
| Sec. 3.14 | Judgment of the Court |
| Sec. 3.15 | Installment Payments of Fines and Monetary Awards |
| Sec. 3.16 | Injunctions; Cease and Desist Orders |
| Sec. 3.17 | Restraining Orders |
| Sec. 3.18 | Appeals |
| Sec. 3.19 | Records and Fines to be Transmitted |
| Sec. 3.20 | Maintenance of Court Records |
| Sec. 3.21 | Relations with the Court |
| Sec. 3.22 | Rules of Court |

CHAPTER 4

CIVIL PROCEDURE

Pages 15-19

| | |
|-----------|--|
| Sec. 4.1 | Commencement of Action |
| Sec. 4.2 | Limitation of Time to Institute Proceeding |
| Sec. 4.3 | Filing Fee |
| Sec. 4.4 | Duty of Clerk upon Receipt of Complaint; Issuance of Summons and Notice of Hearing |
| Sec. 4.5 | Service of Process |
| Sec. 4.6 | Time to Respond |
| Sec. 4.7 | Written Answer: Form; Content |
| Sec. 4.8 | Counterclaims and Setoffs |
| Sec. 4.9 | Pre-Trial Proceedings |
| Sec. 4.10 | Setting a Trial Date |
| Sec. 4.11 | Trial by the Tribal Court |
| Sec. 4.12 | Trial Proceedings |
| Sec. 4.13 | Failure of Parties to Appear |
| Sec. 4.14 | Judgment – Stay of Entry and Execution – Installment Payment |
| Sec. 4.15 | Judgment for Wages – Examination – Payment |
| Sec. 4.16 | Non-Indian Right of Claim |
| Sec. 4.17 | Forfeiture of the Property |
| Sec. 4.18 | Appeals |

CHAPTER 5

CRIMINAL PROCEDURE

Pages 20-31

| | |
|----------|---|
| Sec. 5.1 | Tribal Prosecutor: Authority; Duties |
| Sec. 5.2 | Representation of Defendant |
| Sec. 5.3 | Criminal Complaint: Basis; Content; Amendment |
| Sec. 5.4 | Criminal Complaint: Time for Filing |
| Sec. 5.5 | Right to Jury |

CHAPTER 5 (cont'd)

| | |
|-----------|---|
| Sec. 5.6 | Complaint against Defendant not in Custody: Tribal Court Action |
| Sec. 5.7 | Arrest Warrants |
| Sec. 5.8 | Arrests |
| Sec. 5.9 | Search and Seizure |
| Sec. 5.10 | Arraignment |
| Sec. 5.11 | Pre-Trial Release: Bail or Bond |
| Sec. 5.12 | Commitments |
| Sec. 5.13 | Pre-Trial Hearings |
| Sec. 5.14 | Wellness Tribal Court Division |
| Sec. 5.15 | Setting a Trial Date |
| Sec. 5.16 | Trial |
| Sec. 5.17 | Jury Verdict |
| Sec. 5.18 | Judgment |
| Sec. 5.19 | General Principles |
| Sec. 5.20 | Nature of Sentence |
| Sec. 5.21 | Determining Factors |
| Sec. 5.22 | Imprisonment |
| Sec. 5.23 | Fines |
| Sec. 5.24 | Community Service |
| Sec. 5.25 | Probation Officers |
| Sec. 5.26 | Violation of Probation |
| Sec. 5.27 | Early Release from Imprisonment |
| Sec. 5.28 | Deposit and Disposition of Fines |
| Sec. 5.29 | Failure to Appear |
| Sec. 5.30 | Extradition |
| Sec. 5.31 | Fugitive Warrant of Arrest |
| Sec. 5.32 | Confiscated Contraband and Abandoned Property |
| Sec. 5.33 | Eligible Age for Criminal Prosecution |

CHAPTER 6

CRIMINAL PROVISIONS AND OFFENSES

Pages 32-108

GENERAL PROVISIONS

| | |
|-----------------|--------------------------|
| Sec. 6.1 | Scope |
| Sec. 6.2 | Purpose and Construction |
| Sec. 6.3 | Definitions |
| Sec. 6.4 | Civil Remedies Preserved |
| Sec. 6.5 | Double Jeopardy |
| Sec. 6.6 | Burden of Proof |
| Sec. 6.7 | Negating Defenses |
| Sec. 6.8 – 6.60 | Reserved |

OFFENSES AGAINST PUBLIC ADMINISTRATION

| | |
|-----------|--------------------|
| Sec. 6.61 | Aiding or Abetting |
| Sec. 6.62 | False Arrest |

CHAPTER 6 (cont'd)

| | |
|------------------|---|
| Sec. 6.63 | Maintaining a Public Nuisance |
| Sec. 6.64 | Disorderly Conduct |
| Sec. 6.65 | Gambling |
| Sec. 6.66 | Criminal Street Gangs |
| Sec. 6.67 | Environmental and Natural Resources Violations |
| Sec. 6.68 | Removal or Destruction of Cultural Resources |
| Sec. 6.69 – 6.70 | Reserved |
| Sec. 6.71 | Resisting Lawful Arrest |
| Sec. 6.72 | Duty to Assist Peace Officer |
| Sec. 6.73 | Impersonation of Peace Officer or Tribal Officer |
| Sec. 6.74 | Duty to Report Suspicious Deaths |
| Sec. 6.75 | Violence or Assault on a Tribally Commissioned Peace Officer or Judge |
| Sec. 6.76 | Obstructing Criminal Investigation or Prosecution |
| Sec. 6.77 | Reporting to Law Enforcement; Interfering with Peace Officer |
| Sec. 6.78 | Concealment of Fugitives and Escapees; Accessory after the Fact |
| Sec. 6.79 | Contempt of Court |
| Sec. 6.80 | Destroying Evidence |
| Sec. 6.81 – 6.85 | Reserved |

OFFENSES AGAINST THE PERSON

Assault and Related Offenses

| | |
|------------|---|
| Sec. 6.86 | Simple Assault |
| Sec. 6.87 | Battery |
| Sec. 6.88 | Aggravated Assault |
| Sec. 6.89 | Aggravated Battery |
| Sec. 6.90 | Stalking |
| Sec. 6.91 | Aggravated Stalking |
| Sec. 6.92 | Endangerment |
| Sec. 6.93 | Threatening or Intimidating |
| Sec. 6.94 | Harassment |
| Sec. 6.95 | Use of Telephone to Commit Offense |
| Sec. 6.96 | Care of Dependent Persons |
| Sec. 6.97 | Permitting Child's Life, Health or Morals to be Imperiled |
| Sec. 6.98 | Selling Tobacco, Paper or Wrappers to Minors |
| Sec. 6.99 | Home Invasion |
| Sec. 6.100 | Mayhem |

Murder and Related Offenses

| | |
|--------------------|--------------|
| Sec. 6.101 | Murder |
| Sec. 6.102 | Manslaughter |
| Sec. 6.103 – 6.105 | Reserved |

KIDNAPPING AND RELATED OFFENSES

| | |
|------------|------------------------------|
| Sec. 6.106 | Kidnapping |
| Sec. 6.107 | False Imprisonment |
| Sec. 6.108 | Child Custodial Interference |

CHAPTER 6 (cont'd)

Sec. 6.109 – 6.111 Reserved

SEXUAL OFFENSES

Sec. 6.112 Sexual Assault
Sec. 6.113 Forcible Sexual Penetration with a Foreign Object
Sec. 6.114 Unlawful Sexual Acts
Sec. 6.115 Unlawful Sexual Contact
Sec. 6.116 Reserved
Sec. 6.117 Indecent Exposure
Sec. 6.118 Enticement of a Child for Purposes of Prostitution or Illicit Intercourse
Sec. 6.119 Reserved
Sec. 6.120 Child Pornography
Sec. 6.121 Transporting a Child for Sexual Purposes
Sec. 6.122-6.125 Reserved

SEX OFFENDER REGISTRATION

Sec. 6.126 Failure to Register as a Sex Offender
Sec. 6.127 Title Registration - Time Limit - Duration Period
Sec. 6.128 Duration of Registration Requirement
Sec. 6.129 Exemption from Lifetime Registration
Sec. 6.130 Manner of Registering
Sec. 6.131 Notice of Duty to Register
Sec. 6.132 False or Misleading Information
Sec. 6.133 Penalty
Sec. 6.134 Additional Requirements
Sec. 6.135 Publication
Sec. 6.136 Unlawful Use of Registry Information
Sec. 6.137-6.140 Reserved

OFFENSES AGAINST PROPERTY

Property Destruction

Sec. 6.141 Arson
Sec. 6.142 Aggravated Arson
Sec. 6.143 Negligent Handling of Campfire or Negligent Starting of a Fire
Sec. 6.144 Causing a Catastrophe
Sec. 6.145 Malicious Injury to Property
Sec. 6.146 Vandalism
Sec. 6.147 Aggravated Vandalism
Sec. 6.148 Littering
Sec. 6.149 – 6.150 Reserved

BURGLARY AND RELATED OFFENSES

Sec. 6.151 Burglary
Sec. 6.152 Burglary of a Vehicle
Sec. 6.153 Breaking and Entering

CHAPTER 6 (cont'd)

| | |
|------------|---|
| Sec. 6.154 | Trespass |
| Sec. 6.155 | Aggravated Trespass |
| Sec. 6.156 | Robbery |
| Sec. 6.157 | Theft |
| Sec. 6.158 | Theft by Deception |
| Sec. 6.159 | Acquiring Lost Property |
| Sec. 6.160 | Extortion |
| Sec. 6.161 | Receiving Stolen Property |
| Sec. 6.162 | Theft of Services |
| Sec. 6.163 | Defenses to Theft and Related Offenses |
| Sec. 6.164 | Theft of Telephone Services |
| Sec. 6.165 | Unauthorized Connection with Facilities |
| Sec. 6.166 | Abuse of Corpse |
| Sec. 6.167 | Unauthorized Use of a Vehicle |
| Sec. 6.168 | Unlawful Taking of a Vehicle |
| Sec. 6.169 | Seizure of Stolen Vessels, Motor and Other Vehicles |
| Sec. 6.170 | Reserved |

FORGERY

| | |
|------------|---------|
| Sec. 6.171 | Forgery |
|------------|---------|

FRAUD

| | |
|--------------------|---|
| Sec. 6.172 | Criminal Simulation |
| Sec. 6.173 | Fraudulent Handling of Recordable Instruments |
| Sec. 6.174 | Tampering with Records |
| Sec. 6.175 | Bad Checks |
| Sec. 6.176 | Deceptive Business Practices |
| Sec. 6.177 | Fraudulent Use of Credit Card |
| Sec. 6.178 | Rigging a Contest |
| Sec. 6.179 | Defrauding Creditors |
| Sec. 6.180 | Unlawful Dealing with Property by a Fiduciary |
| Sec. 6.181 | Making a False Credit Report |
| Sec. 6.182 | Embezzlement |
| Sec. 6.183 | Disposing of Property of an Estate |
| Sec. 6.184 | Failure to Brand Stock |
| Sec. 6.185 | Misbranding |
| Sec. 6.186 | Libel |
| Sec. 6.187 – 6.195 | Reserved |

OFFENSES AGAINST THE FAMILY

Marital Violations

| | |
|------------|----------------------------|
| Sec. 6.196 | Bigamy |
| Sec. 6.197 | Incest |
| Sec. 6.198 | Criminal Nonsupport |
| Sec. 6.199 | Abuse of Vulnerable Adults |
| Sec. 6.200 | Child Abuse |

CHAPTER 6 (cont'd)

- Sec. 6.201 Endangering the Welfare of a Minor
- Sec. 6.202 Contributing to the Delinquency of a Minor
- Sec. 6.203 – 6.205 Reserved

OFFENSES AGAINST THE ADMINISTRATION OF GOVERNMENT

Bribery and Corrupt Influences

- Sec. 6.206 Definitions
- Sec. 6.207 Bribery in Official Matters
- Sec. 6.208 Threats and Other Improper Influence in Official Matters
- Sec. 6.209 Compensation for Past Official Behavior
- Sec. 6.210 Retaliation for Past Official Action
- Sec. 6.211 Improper Gifts to Public Servants
- Sec. 6.212 – 6.215 Reserved

ABUSE OF OFFICE

- Sec. 6.216 Official Misconduct
- Sec. 6.217 Interference with Tribal Court
- Sec. 6.218 Official Oppression
- Sec. 6.219 Misuse of Public Money

FALSIFICATION IN OFFICIAL MATTERS

- Sec. 6.220 Perjury
- Sec. 6.221 False Swearing
- Sec. 6.222 Unsworn Falsification
- Sec. 6.223 Tampering with Physical Evidence
- Sec. 6.224 Tampering with Public Records
- Sec. 6.225 Tampering with a Witness
- Sec. 6.226 Bribing Witnesses
- Sec. 6.227 Receiving Bribes in Exchange for Testimony
- Sec. 6.228 Simulating Legal Process
- Sec. 6.229 Criminal Impersonation
- Sec. 6.230 Welfare Offenses
- Sec. 6.231-6.235 Reserved

OBSTRUCTING GOVERNMENT FUNCTION

- Sec. 6.236 Resisting and Obstructing Officers
- Sec. 6.237 Arrests for Offenses Committed on Roadways
- Sec. 6.238 Hindering Prosecution
- Sec. 6.239 Escape
- Sec. 6.240 Providing Contraband
- Sec. 6.241 Bail Jumping
- Sec. 6.242 Failure to Obey an Order of the Court
- Sec. 6.243 Default on Fine
- Sec. 6.244 Riot

CHAPTER 6 (cont'd)

| | |
|-------------------|---|
| Sec. 6.245 | Obstructing the Administration of Justice |
| Sec 6.246 – 6.250 | Reserved |

OFFENSES AGAINST PUBLIC HEALTH, SAFETY AND WELFARE

| | |
|--------------------|--|
| Sec. 6.251 | Prostitution |
| Sec. 6.252 | Spreading Sexually Transmitted Disease |
| Sec. 6.253 | Discharge of Firearms |
| Sec. 6.254 | Misuse of Firearms |
| Sec. 6.255 | Carrying Concealed Weapon |
| Sec. 6.256 | Restrictions on Carrying Firearms |
| Sec. 6.257 | Public Uses of Firearms |
| Sec. 6.258 | Weapons Offense |
| Sec. 6.259 | Committing an Offense while Armed |
| Sec. 6.260 | Explosives |
| Sec. 6.261 | Setting a Dangerous Device |
| Sec. 6.262 | Drive-by Shooting |
| Sec. 6.263 | Seizure of Vehicle Used in Drive-by Shooting |
| Sec. 6.264 – 6.270 | Reserved |

DRUG AND ALCOHOL RELATED OFFENSES

| | |
|------------|--|
| Sec. 6.271 | Drug Promotion |
| Sec. 6.272 | Reserved |
| Sec. 6.273 | Possession or Use of Controlled Substances |
| Sec. 6.274 | Possession, Manufacture, or Delivery of Drug Paraphernalia |
| Sec. 6.275 | Seizure of Vehicles Used in Narcotic Violations |
| Sec. 6.276 | Liquor Violation |
| Sec. 6.277 | Possession of Alcohol by a Person under Twenty-One |
| Sec. 6.278 | Public Intoxication |
| Sec. 6.279 | Open Container |

DRIVING UNDER THE INFLUENCE; RECKLESS DRIVING

| | |
|------------|---|
| Sec. 6.280 | Driving or Actual Physical Control While Under the Influence |
| Sec. 6.281 | Testing for Drug or Alcoholic Content of Blood, Breath or Urine; When Given; Consequences of Refusal |
| Sec. 6.282 | Reckless Driving |
| Sec. 6.283 | Accidents Involving Death or Personal Injuries |

CHAPTER 7

DOMESTIC VIOLENCE

Pages 109-124

| | |
|----------|---|
| Sec. 7.1 | Policy and Purpose |
| Sec. 7.2 | Definitions |
| Sec. 7.3 | Crime Involving Domestic Violence – Defined |
| Sec. 7.4 | Penalties |

CHAPTER 7 (cont'd)

| | |
|-----------|--|
| Sec. 7.5 | Court Ordered Treatment and Counseling |
| Sec. 7.6 | Procedure for Arrest and Disposition |
| Sec. 7.7 | Duties of Peace Officers |
| Sec. 7.8 | Special Court Rules |
| Sec. 7.9 | Civil Orders of Protection |
| Sec. 7.10 | Reporting of Domestic Violence |
| Sec. 7.11 | Disclosure of Domestic Violence Shelters |
| Sec. 7.12 | Non-Indians |
| Sec. 7.13 | Severability |

CHAPTER 8

CIVIL CONTEMPT

Pages 125-126

| | |
|----------|---|
| Sec. 8.1 | Contempt of Court Defined |
| Sec. 8.2 | Contempt in Presence of Court: Summary Punishment |
| Sec. 8.3 | Procedure in Other Cases |
| Sec. 8.4 | Damages to Injured Party |
| Sec. 8.5 | Imprisonment Until Act Performed |
| Sec. 8.6 | Additional Proceedings not Precluded |

CHAPTER 9

TRESPASS, EXCLUSION AND EXPULSION

Pages 127-129

| | |
|----------|---|
| Sec. 9.1 | Who may be Excluded or Expelled |
| Sec. 9.2 | Trespass; Grounds for Exclusion or Expulsion |
| Sec. 9.3 | Initiation of Expulsion or Exclusion Proceeding by Petition |
| Sec. 9.4 | Notice of Proposed Expulsion or Exclusion; Service |
| Sec. 9.5 | Timing of Hearing |
| Sec. 9.6 | Hearing to Determine Expulsion or Exclusion |
| Sec. 9.7 | Order of the Court |
| Sec. 9.8 | Enforcement of Orders of Exclusion or Expulsion |
| Sec. 9.9 | Physical Removal of Non-members: Emergency |

CHAPTER 10

TRIBAL COURT OF APPEALS; PROCEDURE

Pages 130-133

| | |
|------------|---|
| Sec. 10.1 | Composition |
| Sec. 10.2 | Jurisdiction |
| Sec. 10.3 | Right of Appeal |
| Sec. 10.4 | How Taken |
| Sec. 10.5 | Content of Notice of Appeal; Written Response; Service |
| Sec. 10.6 | Action of Clerk of Court |
| Sec. 10.7 | Scope of Appellate Review Generally |
| Sec. 10.8 | Review of Findings of Fact |
| Sec. 10.9 | Review of Tribal Court Procedure and Conclusions of Law |
| Sec. 10.10 | Rules Governing Appeals |

CHAPTER 11**LAW ENFORCEMENT**

Pages 134-135

- Sec. 11.1 Tribal Police Department
- Sec. 11.2 Tribal Rangers as Authorized Officers
- Sec. 11.3 Commissioning
- Sec. 11.4 Additional Powers and Duties of Peace Officers
- Sec. 11.5 Limitations on Authority and Action
- Sec. 11.6 Offenses by Peace Officers
- Sec. 11.7 Offenses Against Peace Officers
- Sec. 11.8 Lawful Concealed Weapon

CHAPTER 12**DOMESTIC RELATIONS**

Pages 136-154

GENERAL PROVISIONS; MARRIAGE UNDER TRIBAL LAW

- Sec. 12.1 Jurisdiction of Tribal Court over Marriage and Domestic Relations Proceedings
- Sec. 12.2 Recognized Marriages
- Sec. 12.3 Marriage Defined
- Sec. 12.4 Who may Marry
- Sec. 12.5 Age
- Sec. 12.6 Incest Prohibited
- Sec. 12.7 Marriage Licenses; Issuance
- Sec. 12.8 Return of Marriage Licenses

ANNULMENT, LEGAL SEPARATION AND DISSOLUTION OF MARRIAGE

- Sec. 12.9 Pleadings in Domestic Relations Cases; Form
- Sec. 12.10 Filing Fees
- Sec. 12.11 Legal Separation or Dissolution: Pleadings; Contents; Defense; Joinder of Parties
- Sec. 12.12 Irretrievable Breakdown; Finding
- Sec. 12.13 Decree of Legal Separation; Findings Necessary
- Sec. 12.14 Decree of Dissolution of Marriage; Findings Necessary
- Sec. 12.15 Annulment: Contents of Petition; Grounds
- Sec. 12.16 Decree: Effect
- Sec. 12.17 Decree; Finality; Restoration of Maiden Name

PROPERTY DIVISION, MAINTENANCE AND SUPPORT

- Sec. 12.18 Property Ownership
- Sec. 12.19 Disposition of Property
- Sec. 12.20 Maintenance Computation Factors
- Sec. 12.21 Child Support; Factors
- Sec. 12.22 Temporary Order or Preliminary Injunction; Effect
- Sec. 12.23 Separation Agreement; Effect
- Sec. 12.24 Payment of Maintenance or Support to Courts; Records

CHAPTER 12 (cont'd)

- Sec. 12.25 Assignments
- Sec. 12.26 Modification and Termination of Provisions for Maintenance,
Support and Property Disposition

CHILD CUSTODY AND VISITATION

- Sec. 12.27 Separate Trials When Custody or Visitation is an Issue
- Sec. 12.28 Representation of Child by Counsel; Fees
- Sec. 12.29 Jurisdiction
- Sec. 12.30 Commencement of Child Custody Proceeding; Notice;
Intervention
- Sec. 12.31 Best Interest of Child; Modification of Decree
- Sec. 12.32 Temporary Orders
- Sec. 12.33 Affidavit, Contents
- Sec. 12.34 Interviews by Court; Professional Assistance
- Sec. 12.35 Investigations and Reports
- Sec. 12.36 Custody Hearings; Priority; Costs; Record
- Sec. 12.37 Visitation Rights; Exception
- Sec. 12.38 Judicial Supervision

FAMILY CONCILIATION

- Sec. 12.39 Family Conciliation Division
- Sec. 12.40 Investigations
- Sec. 12.41 Petition for Conciliation or for Transfer of Action to Family
Conciliation Division
- Sec. 12.42 Conciliation Petition; Contents
- Sec. 12.43 Forms
- Sec. 12.44 Fees
- Sec. 12.45 Conciliation Conference: Time; Place; Notice, Citation; Witnesses
- Sec. 12.46 Time and Place of Conciliation Conferences
- Sec. 12.47 Conduct of Conference
- Sec. 12.48 Orders; Duration of Effectiveness; Reconciliation Agreement
- Sec. 12.49 Stay of Right to File Other Domestic Relations Proceedings
Pending Conciliation

CHAPTER 13

JUVENILE COURT AND PROCEDURE

Pages 155-173

- Sec. 13.1 Tribal Juvenile Court
- Sec. 13.2 Juvenile Court Judges
- Sec. 13.3 Jurisdiction
- Sec. 13.4 Transfer of Jurisdiction
- Sec. 13.5 Definitions
- Sec. 13.6 Responsible Adults: Jurisdiction; Liability for Acts of Child
- Sec. 13.7 Duties and Powers of Juvenile Judges
- Sec. 13.8 Cooperation with other Agencies
- Sec. 13.9 Utilization of Social Services

CHAPTER 13 (cont'd)

| | |
|------------|--|
| Sec. 13.10 | Placement of Children |
| Sec. 13.11 | Proceedings Involving Children Commenced by Petition; Exception |
| Sec. 13.12 | Determination of Status as Child |
| Sec. 13.13 | Examination |
| Sec. 13.14 | Speedy Trial |
| Sec. 13.15 | No Additional Criminal Prosecution |
| Sec. 13.16 | Summons and Service of Process |
| Sec. 13.17 | Search and Arrest Warrants |
| Sec. 13.18 | Arrest and Detention of Children |
| Sec. 13.19 | Investigation |
| Sec. 13.20 | Hearings |
| Sec. 13.21 | Amendment of Petition |
| Sec. 13.22 | New Hearing |
| Sec. 13.23 | Disposition of Cases |
| Sec. 13.24 | Primary Consideration - Welfare of the Child |
| Sec. 13.25 | Establishment of Conditions by Court |
| Sec. 13.26 | Hospitalization of Child |
| Sec. 13.27 | Commitment of Mentally Deficient Child |
| Sec. 13.28 | Termination of Parental Rights |
| Sec. 13.29 | Other Disposition of Cases |
| Sec. 13.30 | Periodic Review of Cases |
| Sec. 13.31 | Judgments and Orders |
| Sec. 13.32 | Custody of Children |
| Sec. 13.33 | Support of Children |
| Sec. 13.34 | Appeals; Effect |
| Sec. 13.35 | Fees |
| Sec. 13.36 | Records |
| Sec. 13.37 | Detention |
| Sec. 13.38 | Juvenile Detention Facility |

CHAPTER 14**MENTAL HEALTH; GUARDIANSHIP**

Pages 174-176

| | |
|-----------|--|
| Sec. 14.1 | Definitions |
| Sec. 14.2 | Qualifications of Guardians |
| Sec. 14.3 | Petition for Guardianship; Notice; Hearing |
| Sec. 14.4 | Duties |
| Sec. 14.5 | Restoration |
| Sec. 14.6 | Mental Health; Emergency and Involuntary Court-ordered Admissions |

CHAPTER 15**ANIMAL CONTROL**

Pages 177-184

| | |
|-----------|-------------|
| Sec. 15.1 | Definitions |
|-----------|-------------|

CHAPTER 15 (cont'd)

| | |
|-----------|-------------------------------|
| Sec. 15.2 | General Animal Control |
| Sec. 15.3 | Rabies Control |
| Sec. 15.4 | Animal Care |
| Sec. 15.5 | Public Nuisance |
| Sec. 15.6 | Running at Large |
| Sec. 15.7 | Disturbing the Peace |
| Sec. 15.8 | Control of Vicious Animals |
| Sec. 15.9 | Fees, Policies and Procedures |

CHAPTER 16**HEIRSHIP AND PROBATE**

Pages 185-191

| | |
|------------|--|
| Sec. 16.1 | Purpose |
| Sec. 16.2 | Court Proceedings or Family Settlement Agreement |
| Sec. 16.3 | Family Settlement Meeting |
| Sec. 16.4 | Determination of Heirs |
| Sec. 16.5 | Family Settlement Agreement |
| Sec. 16.6 | Petition for Probate of Will or Administration of an Estate |
| Sec. 16.7 | Fees |
| Sec. 16.8 | Who may be Executor or Administrator |
| Sec. 16.9 | Duties of Executors and Administrators |
| Sec. 16.10 | Persons Entitled to Distribution of an Estate in the Absence of a Will |
| Sec. 16.11 | Settlement of Estates |
| Sec. 16.12 | Small Estates |
| Sec. 16.13 | Probate of Wills |
| Sec. 16.14 | Final Settlement Order; Effect |
| Sec. 16.15 | Appeals |

CHAPTER 17**CIVIL TRAFFIC CONTROL AND OPERATION OF VEHICLES**

Pages 192-244

GENERAL PROVISIONS

| | |
|-----------|--------------------------|
| Sec. 17.1 | General |
| Sec. 17.2 | Definitions |
| Sec. 17.3 | Authority |
| Sec. 17.4 | Reservation of Authority |
| Sec. 17.5 | Jurisdiction |

PROCEDURES FOR CIVIL TRAFFIC VIOLATIONS

| | |
|------------|--------------------------------------|
| Sec. 17.6 | Traffic Violations; Civil Matters |
| Sec. 17.7 | Commencement of Action |
| Sec. 17.8 | Service of Uniform Traffic Complaint |
| Sec. 17.9 | Authority to Detain Persons |
| Sec. 17.10 | Traffic Complaint; Proceedings |
| Sec. 17.11 | Fines |

CHAPTER 17 (cont'd)

| | |
|------------|---|
| Sec. 17.12 | Maximum Civil Penalty |
| Sec. 17.13 | Appeal |
| Sec. 17.14 | Failure to Pay Civil Penalty |
| Sec. 17.15 | Traffic Violation Charge; Juveniles |
| Sec. 17.16 | Grant of Privilege to Drive |
| Sec. 17.17 | Violation of Promise to Appear |
| Sec. 17.18 | Form for Traffic Citations |
| Sec. 17.19 | Disposition and Records of Traffic Citations |
| Sec. 17.20 | Reserved |
| Sec. 17.21 | Illegal Cancellation of Traffic Citation; Audit of Citation Records |
| Sec. 17.22 | Certification of Uniform Traffic Complaint Forms |
| Sec. 17.23 | Amendments |
| Sec. 17.24 | Operators to Comply with Uniform Motor Vehicles Safety Responsibility Act |
| Sec. 17.25 | Where Provisions Effective |
| Sec. 17.26 | Provisions of Chapter Refer to Vehicles upon the Highways; Exceptions |
| Sec. 17.27 | Application of Chapter to Public Employees; Exceptions |

OBEDIENCE TO AND EFFECT OF TRAFFIC LAWS

| | |
|------------|--|
| Sec. 17.28 | Obedience to Peace Officers |
| Sec. 17.29 | Authorized Emergency Vehicles |
| Sec. 17.30 | Injuring, Unlawfully Starting, Using or Preventing Use of Vehicles |
| Sec. 17.31 | Placing or Allowing Dangerous Articles on Roadway |
| Sec. 17.32 | Crossing Fire Hose |
| Sec. 17.33 | Reserved |

REGISTRATION, LICENSING AND INSPECTION

| | |
|------------|---|
| Sec. 17.34 | Registration of Motor Vehicle required; Exceptions |
| Sec. 17.35 | Registration Violations |
| Sec. 17.36 | License Plates; Attachment |
| Sec. 17.37 | Registration; Violations; Penalties |
| Sec. 17.38 | Operator's or Chauffeur's License Required |
| Sec. 17.39 | Driver License Requirement |
| Sec. 17.40 | Driver License; Exemptions |
| Sec. 17.41 | Restricted Licenses |
| Sec. 17.42 | License to be Carried, Exhibited on Demand |
| Sec. 17.43 | Violation of License Provisions |
| Sec. 17.44 | Permitting Unauthorized Person to Drive |
| Sec. 17.45 | Permitting Unauthorized Minor to Drive; Liability Therefore |
| Sec. 17.46 | Employing Unlicensed Chauffeur |
| Sec. 17.47 | Inspection by Peace Officers |
| Sec. 17.48 | Owners or Driver to Comply with Inspection Provisions |
| Sec. 17.49 | Air Pollution Control Devices |
| Sec. 17.50 | Reserved |

CHAPTER 17 (cont'd)

EQUIPMENT

| | |
|--------------------|--|
| Sec. 17.51 | Applicability of Equipment Requirements |
| Sec. 17.52 | Vehicle to Comply with Chapter; Exceptions |
| Sec. 17.53 | Special Requirements for Motorcycles and Motor-Driven Cycles |
| Sec. 17.54 | Required Brake Equipment |
| Sec. 17.55 | Horns and Audible Warning Devices |
| Sec. 17.56 | Mufflers and Air Pollution Control Devices |
| Sec. 17.57 | Mirrors |
| Sec. 17.58 | Windshields Required |
| Sec. 17.59 | Rear Fender Splash Guards |
| Sec. 17.60 – 17.68 | Reserved |
| Sec. 17.69 | Windshields must be Unobstructed and Equipped with Wipers |
| Sec. 17.70 | Lamps on Parked Vehicles |
| Sec. 17.71 | Lighted Lamps Required |
| Sec. 17.72 | Motor Vehicle Head Lamps |
| Sec. 17.73 | Tail Lamps |
| Sec. 17.74 | Lamp or Flag on Projecting Load |
| Sec. 17.75 | Stop Lamps and Turn Signals |
| Sec. 17.76 | Multiple Beam Road Lighting Equipment Arrangement |
| Sec. 17.77 | Multiple Beam Road Lighting Equipment Usage |
| Sec. 17.78 | Number of Driving Lamps Required or Permitted |
| Sec. 17.79 | Special Restrictions on Lamps |
| Sec. 17.80 | Vehicle Restraints required; Exceptions; Civil Penalty |
| Sec. 17.81 | Child Passenger Restraint System |
| Sec. 17.82 – 17.90 | Reserved |

SIZE, WEIGHT, AND LOAD

| | |
|---------------------|---|
| Sec. 17.91 | Scope and Effect of Requirements; Limitations |
| Sec. 17.92 | Permits for Excess Size and Weight |
| Sec. 17.93 | Tribal Officers Authorized to Stop Vehicles, Weigh and Require Removal of Excess Weight |
| Sec. 17.94 | Vehicle Loads; Restrictions |
| Sec. 17.95 - 17.100 | Reserved |

TRAFFIC-CONTROL DEVICES

| | |
|----------------------|--|
| Sec. 17.101 | Obedience to Devices Required; Exceptions |
| Sec. 17.102 | Display of Unauthorized Signs, Signals, Marking or Devices |
| Sec. 17.103 | Construction or Roadwork Site Warning Devices |
| Sec. 17.104 | Injuring, Defacing, Etc., Traffic-Control or Warning Signs |
| Sec. 17.105 - 17.140 | Reserved |

OPERATION OF VEHICLES

| | |
|-------------|--|
| Sec. 17.141 | Operation of Vehicles by Non-Members on Land Other than Reservation Roadways |
|-------------|--|

CHAPTER 17 (cont'd)

- Sec. 17.142 Offenses by Persons Owning or Controlling Vehicles
- Sec. 17.143 – 17.152 Reserved
- Sec. 17.153 Turning Movements and Required Signals
- Sec. 17.154 Hand or Arm Signals or Signal Device
- Sec. 17.155 Method of Giving Hand and Arm Signals
- Sec. 17.156 Turning on Curve or Crest of Grade Prohibited
- Sec. 17.157 Backing Limitations
- Sec. 17.158 Obstruction to View; Interference with Driving
- Sec. 17.159 – 17.170 Reserved

RIGHT-OF-WAY AND PASSING

- Sec. 17.171 Vehicle at Intersection; Exceptions
- Sec. 17.172 Vehicle Turning Left at Intersection
- Sec. 17.173 Through Highway; Intersection Entrance
- Sec. 17.174 Highway Access from Private Road or Driveway
- Sec. 17.175 Approach of Authorized Emergency Vehicle; Following Fire Apparatus
- Sec. 17.176 Overtaking a Vehicle on the Left
- Sec. 17.177 Limitations on Overtaking on the Left
- Sec. 17.178 Limitations on Driving to Left of Roadway Center
- Sec. 17.179 Overtaking on the Right
- Sec. 17.180 Following too Closely
- Sec. 17.181 Application of Chapter to Persons Riding Animals or Driving Animal-Drawn Vehicles
- Sec. 17.182 Driver's Duty when Approaching Horse or Livestock
- Sec. 17.183 - 17.189 Reserved

STOPPING, STANDING AND PARKING

- Sec. 17.190 Starting Parked Vehicles
- Sec. 17.191 Vehicles to be Parked or Stopped off Pavement if Possible
- Sec. 17.192 Stop Signs; Yield Signs
- Sec. 17.193 School Bus Signs; Overtaking and Passing School Bus; Violations
- Sec. 17.194 Stopping, Standing or Parking Prohibitions
- Sec. 17.195 Removal of Illegally Stopped Vehicles
- Sec. 17.196 Stop Required before Emerging from Alley or Driveway
- Sec. 17.197 Obedience to Signal Indicating Approach of Train
- Sec. 17.198 Certain Vehicles must Stop at all Railroad Grade Crossings
- Sec. 17.199 Moving Heavy Equipment at Railroad Grade Crossings
- Sec. 17.200 – 17.211 Reserved

SPEED RESTRICTIONS

- Sec. 17.212 Maximum Speed Limit
- Sec. 17.213 Minimum Speed Limit; Exceptions
- Sec. 17.214 Speeds to be Reasonable and Prudent
- Sec. 17.215 Special Speed Limitation on Motor-Driven Cycles

CHAPTER 17 (cont'd)

- Sec. 17.216 Charging Violations and Rule in Civil Actions
- Sec. 17.217 Racing and Drag Races
- Sec. 17.218 Driving at Speed which Causes Trailer to Sway
- Sec. 17.219 Charge of Violation to Specify Alleged Speed of Violator; Speed Limit not to Relieve Plaintiff of Proving Negligence
- Sec. 17.220 - 17.241 Reserved

ACCIDENTS

- Sec. 17.242 Accidents Involving Damage to Vehicle
- Sec. 17.243 Duty upon Striking Unattended Vehicle
- Sec. 17.244 Duty upon Striking Fixtures upon a Highway
- Sec. 17.245 Immediate Reports of Certain Accidents
- Sec. 17.246 Duty to Give Information and Render Aid
- Sec. 17.247 Written Reports of Accidents
- Sec. 17.248 When Driver is Unable to Report
- Sec. 17.249 Accident Report Forms
- Sec. 17.250 Offense for Failure to Report
- Sec. 17.251 Garages to Report
- Sec. 17.252 Accident Reports
- Sec. 17.253 - 17.260 Reserved

PEDESTRIANS' RIGHTS AND DUTIES

- Sec. 17.261 Right-Of-Way in Crosswalks
- Sec. 17.262 Crossing at Other than at Crosswalks
- Sec. 17.263 Drivers to Exercise due Care
- Sec. 17.264 Pedestrians on Roadways
- Sec. 17.265 School Crossings
- Sec. 17.266 Provisions for Blind Pedestrians
- Sec. 17.267 - 17.300 Reserved

BICYCLES AND PLAY VEHICLES

- Sec. 17.301 Application of Provisions
- Sec. 17.302 Traffic Laws Apply to Persons Riding Bicycles
- Sec. 17.303 Riding on Roadways and Bicycle Paths
- Sec. 17.304 Manner of Riding
- Sec. 17.305 Carrying Articles
- Sec. 17.306 Lamps and other Equipment on Bicycles
- Sec. 17.307 Clinging to Vehicles
- Sec. 17.308 - 17.310 Reserved

MISCELLANEOUS

- Sec. 17.311 Riding on Motorcycles
- Sec. 17.312 Maximum Number in School Bus; Exceptions, Receiving or Discharging School Children at School
- Sec. 17.313 Liability for Damage to Highways or Structures

CHAPTER 17 (cont'd)

- Sec. 17.314 Parties to a Civil Offense
- Sec. 17.315 Driving on Mountain Highways
- Sec. 17.316 Coasting Prohibited
- Sec. 17.317 Injuring or Preventing Operation of Vehicle

CHAPTER 18 COMPULSORY SCHOOL ATTENDANCE

Pages 245-249

GENERAL PROVISIONS

- Sec. 18.1 Purpose
- Sec. 18.2 Definitions
- Sec. 18.3 Jurisdiction

**COMPULSORY SCHOOL ATTENDANCE
REQUIREMENTS**

- Sec. 18.4 Duties of Guardian to Enroll Child
- Sec. 18.5 Duties of Child to Attend School
- Sec. 18.6 Exceptions

SANCTIONS

- Sec. 18.7 Adult Sanctions
- Sec. 18.8 Children's Sanctions

ENFORCEMENT PROCEDURES

- Sec. 18.9 Truancy Officer
- Sec. 18.10 Public Responsibility to Report
- Sec. 18.11 Locating and Detaining Child; Notification to Child's Guardian
- Sec. 18.12 Tribal Juvenile Court Petition

TRIBAL JUVENILE COURT DISPOSITION

- Sec. 18.13 Tribal Juvenile Code Controlling; Informal Settlement: Transfer of Adult Action to Tribal Court
- Sec. 18.14 Conditions Imposed as Part of Informal Settlement

RECORDS

- Sec. 18.15 Repeat Violations; Order to School to Release School Records
- Sec. 18.16 School Information Provided to Tribal Education Department

SCOPE AND APPLICATION

- Sec. 18.17 Construction
- Sec. 18.18 Savings Clause
- Sec. 18.19 Sovereign Immunity
- Sec. 18.20 Severability

GENERAL PROVISIONS

| | |
|-----------|---|
| Sec. 19.1 | Purpose |
| Sec. 19.2 | Scope and Territory |
| Sec. 19.3 | Application of 18 United States Code, Section 1161 |
| Sec. 19.4 | Definitions |
| Sec. 19.5 | Unlawful Acts |
| Sec. 19.6 | Limited Use of Alcohol for Commercial Champagne Helicopter Tours |
| Sec. 19.7 | Removal of Alcoholic Beverages |
| Sec. 19.8 | Violation of Section |
| Sec. 19.9 | Agreement to Consent of Civil Jurisdiction Required |

CHAPTER 1 GENERAL PROVISIONS

Sec. 1.1 Constitutional Authority

This Code is adopted pursuant to the authority vested in the Hualapai Tribal Council under Article V, and in conformity with the provisions of Articles VI, IX, XIV and XVI, of the Constitution of the Hualapai Indian Tribe of the Hualapai Indian Reservation, Arizona, approved March 13, 1991.

Sec. 1.2 Prior Inconsistent Codes and Ordinances

Any code or ordinance of the Tribe that conflicts in any way with the provisions of this Code is hereby repealed to the extent that it is inconsistent with or is contrary to the spirit or purpose of this Code.

Sec. 1.3 Sovereign Immunity

Nothing in this Code, nor any individual Chapter or Section herein, shall be construed to be a waiver of the sovereign immunity of the Hualapai Tribe, its officers, officials, employees, agents, subdivisions or enterprises or corporate entities of any nature or type or to be a consent to any suit beyond the limits now or hereafter specifically stated by Tribal law.

Sec. 1.4 Territory, Persons and Property Affected

The jurisdiction and governmental authority of the Hualapai Indian Tribe applies to all of the following:

- A. All lands and related resources, including water, minerals, vegetation, wildlife, and air space, roads and bridges or any interests therein, notwithstanding the issuance of any patent or right-of-way, within the boundaries of the Hualapai Indian Reservation as established by the Executive Orders of January 4, 1883 and June 2, 1911, and Public Law No. 93-560, December 30, 1974; any and all lands and appurtenant resources held by the Hualapai Indian Tribe located outside the boundaries of the Hualapai Indian Reservation, whether trust or non-trust status, to the extent permitted by federal law; and such other lands and appurtenant resources or any interest therein subsequently acquired by the Hualapai Indian Tribe or by the United States for the benefit of the Hualapai Indian Tribe, or added to the Hualapai Indian Reservation.
- B. All persons, property and activities occurring within the geographical areas referred to in Subsection A, to the extent not prohibited by federal or Tribal law.

- C. All members of the Hualapai Indian Tribe.
- D. All persons and property outside the geographical areas referenced in Subsection A, to the extent not prohibited by federal or Tribal law, including any person who personally or through an agent does any of the following:
 - 1. Transacts any business on the Hualapai Indian Reservation or transacts any business concerning any property located on the Hualapai Indian Reservation;
 - 2. Commits a tortious act on the Hualapai Indian Reservation; or
 - 3. Contracts with any person located on the Hualapai Indian Reservation.

Sec. 1.5 Full Faith and Credit

It is the intention of this Code that all federal and state courts shall give full faith and credit to the public acts, records and judicial proceedings of the Hualapai Indian Tribe as to any proceeding brought under this Code to the same extent that full faith and credit is given to the public acts, records and judicial proceedings of any state as provided for in the United States Constitution.

Sec. 1.6 Construction

- A. This Code shall be liberally construed to effect its purpose and to promote substantial justice.
- B. As used in this Code, the singular includes the plural and the plural the singular; and the masculine includes the feminine and the feminine the masculine.

Sec. 1.7 Amendment

This Code may be amended in the manner provided for the adoption of Tribal ordinances. Amendments and additions to this Code shall become a part of the Code for all purposes and shall be codified and incorporated herein in a manner consistent with the numbering and organization of this Code.

Sec. 1.8 Definitions

As used in this Code, unless otherwise expressly provided, the following terms shall have the following meanings:

- A. "Business Day" means a day of the week other than a Saturday, a Sunday or a Federal or Tribal holiday.

- B. "Civil" refers to any non-criminal issue, matter, subject, case or controversy.
- C. "Clerk" means the Clerk of the Hualapai Tribal Court, or any employee or officer thereof.
- D. "Constitution" or "Tribal Constitution" means the Constitution of the Hualapai Indian Tribe of the Hualapai Indian Reservation, Arizona, adopted by the Hualapai Tribe February 14, 1991, and approved by the Department of the Interior March 13, 1991.
- E. "Contraband" means any dangerous item, drug or substance, the possession, sale, transportation or use of which has been deemed an offense under Tribal or Federal law; or any firearm or other weapon seized under Tribal or Federal law.
- F. "Criminal" refers to those offenses under this Code and any other Tribal law for which, upon conviction, a person may be subject to a fine or imprisonment or both, and to the cases involving such alleged offenses and to the procedures for their trial or other disposition.
- G. "Court" or "Tribal Court" means the Hualapai Tribal Court or any branch or division thereof.
- H. "Federal Law" includes statutes, acts and regulations enacted or promulgated by any branch or agency of the United States government.
- I. "Imprisonment" means incarceration in any detention facility.
- J. "Indian" means a person who is a member of, or who is eligible for membership in a federally recognized Indian Tribe.
- K. "Member" or "Tribal Member" means an enrolled member of the Hualapai Indian Tribe.
- L. "Misdemeanor" means any offense defined in Chapter 6 of this Law and Order Code, or any offense defined by any other jurisdiction to be a misdemeanor.
- M. "Non-Indian" means a person who is not a member of, or who is not eligible for membership in, any federally recognized Indian Tribe.
- N. "Party" means a person who is a participant, or involved in or subject of or to, whether active or inactive, voluntary or involuntary, including one made a party by the action of another person, in or to a case, trial, hearing, controversy, matter, relationship or proceeding that is governed by this Code or other Tribal law.

- O. "Peace Officer" means any law enforcement officer or any other person who has been commissioned or deputized by the Tribal Council to administer justice and maintain law and order on the Hualapai Indian Reservation.
- P. "Person" means an individual, receiver, assignee, trustee in bankruptcy, trust, estate, firm, partnership, joint venture, club, company, joint stock company, business trust, municipal corporation, corporation, association, society, political entity, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise.
- Q. "Property" means realty and personalty, of whatever nature, including fixtures, money, claims, intangible rights and interests in property.
- R. "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.
- S. "Reservation" or "Hualapai Indian Reservation" means the Hualapai Indian Reservation established by Executive Orders dated January 4, 1883 and June 2, 1911, and by Public Law No. 93-560, December 30, 1974, any and all additional lands hereafter acquired by the Tribe or by the United States in trust for and on behalf of the Tribe, including lands, islands, waters, roads and bridges, or any interests therein, whether in trust or non-trust status, and notwithstanding the issuance of any patent or right-of-way, and includes, without limitation, surface rights, subsurface rights, tenements, hereditaments, water rights, accretions and air space.
- T. "Resident" means any person who claims residency for a period of not less than 30 days and has a physical or mailing address within the exterior boundaries of the Reservation.
- U. "Serious misdemeanor" means a Tribal offense, or an offense defined as a misdemeanor by federal or state law, which involves violence or harm to a person, dishonesty, or a second or subsequent offense involving intoxication.
- V. "Signature" means the written signature, official seal, or witnessed thumbprint or mark of any person.
- W. "Tribal Council" means the Tribal Council of the Hualapai Indian Tribe elected, existing and functioning pursuant to the Constitution.
- X. "Tribal Law" means all laws duly enacted by the Hualapai Indian Tribe, including codes, ordinances and resolutions.

Y. "Tribe" or "Tribal" means and refers to the Hualapai Indian Tribe, a federally recognized Indian Tribe.

CHAPTER 2 THE TRIBAL COURT SYSTEM

Sec. 2.1 Reaffirmation of Court System

The Tribe hereby reaffirms establishment of a court system pursuant to the provisions of Article VI of Tribal Constitution, known as the Hualapai Court System, which consists of a Tribal Court, including such divisions thereof as provided for in this Code, and the Tribal Court of Appeals.

Sec. 2.2 Civil Jurisdiction

The Tribal Court shall have general civil jurisdiction over all actions arising under Tribal law, including the Constitution, this Code, any ordinance or resolution adopted by the Hualapai Indian Tribe, and the Tribal Common Law; over all general civil claims which arise within the Tribal jurisdiction; and over all transitory claims in which the defendants may be served within the Tribal jurisdiction.

Sec. 2.3 Criminal Jurisdiction

The Tribal Court shall have original jurisdiction over all criminal offenses enumerated and defined by Tribal law, including those set forth in Chapter 6 of this Code, insofar as not prohibited by Tribal or federal law.

Sec. 2.4 Personal Jurisdiction

The Tribal Court shall have personal jurisdiction over all defendants served within the territorial jurisdiction of the Tribe, or served anywhere in cases arising within the jurisdiction of the Tribe, and over all persons consenting to such jurisdiction. Any person entering the Hualapai Indian Reservation shall be deemed to consent to the exercise of personal jurisdiction over such person by the Tribal Court.

Sec. 2.5 Concurrent Jurisdiction

With respect to any of the offenses enumerated in Chapter 6 of this Code or otherwise defined by Tribal law over which federal, state or other tribal courts may have lawful jurisdiction, the jurisdiction of the Hualapai Tribal Court shall be concurrent. In accordance with the provisions of Section 5.30 of this Code, the Tribal Court may order delivery to the proper authorities of the federal or state government or any other tribe or reservation for prosecution, any offender, there to be dealt with according to the law of the government asserting jurisdiction.

Sec. 2.6 Composition of Tribal Court

The Hualapai Tribal Court shall be composed of one Chief Judge and such Associate

Judge(s) as may be determined necessary by the Tribal Council.

Sec. 2.7 Appointment of Judges and Filling of Vacancies

The Chief Judge and Associate Judge(s) shall be appointed by the Tribal Council. Should a vacancy occur through death, resignation, or otherwise, for the position of Chief Judge or Associate Judge(s), the Tribal Council shall appoint a person or persons to fill such vacancy or vacancies.

Sec. 2.8 Term of Office

Each Judge shall hold office for a period of two years, unless sooner removed for cause or by reason of the abandonment of the office; however, the Chief Judge and Associate Judge(s) shall be eligible for re-appointment.

Sec. 2.9 Qualifications

Any person shall be eligible for the office of Tribal Judge, regardless of whether he or she is a resident of the Hualapai Indian Reservation, if he or she meets all of the following criteria:

- A. He or she is 21 years of age or older.
- B. He or she is a graduate from high school and is proficient in reading, writing and speaking the English language.
- C. He or she has never been convicted of a felony, or, within one year of the date of application filed with the Hualapai Tribal Council, has not been convicted of a serious misdemeanor.
- D. He or she has never been removed from elected office for violation of the Hualapai Tribe's Code of Ethics.
- E. He or she is of good moral character.
- F. He or she consents to undergo such training as the Tribal Council or the Tribal Chairperson specifies.

Sec. 2.10 Disqualification to Act

No Judge shall be qualified to act in any case wherein the judge has any direct interest or wherein any relative by marriage or blood in the first degree is a party.

Sec. 2.11 Removal of Judges

Any Judge of the Hualapai Tribal Court may be suspended, dismissed or removed by

the Hualapai Tribal Council for any of the following reasons:

- A. Conviction of a felony in any court;
- B. Conviction of any two misdemeanors in any tribal, federal or state court;
- C. Performing official duties while under the influence of alcoholic beverages;
- D. Conviction, in any tribal, federal or state court, of driving under the influence of alcohol, or the equivalent crime;
- E. Failure to disqualify himself or herself under Section 2.10 above;
- F. Unnecessary and repeated lengthy delays in hearing and adjudicating matters filed in the Tribal Court;
- G. Violating Article VII, Section 13 of the Tribal Constitution;
- H. For good cause by at least seven members of the Tribal Council.
- I. A Judge shall be given full and fair opportunity to reply to any and all charges for which the judge may be suspended, dismissed or removed from the judge's judicial office.
- J. A Judge suspended, dismissed or removed under Subsections A through G of Section 2.11 may appeal such action directly to the Tribal Court of Appeals. Removal of a Judge under Subsection H of Section 2.11 shall be determined solely by the Tribal Council, and the Council's decision is non-appealable.

Sec. 2.12 Juvenile Court

The branch of the Hualapai Tribal Court known as the Juvenile Court is hereby reaffirmed. The jurisdiction, composition and procedure of the Juvenile Court shall be governed by the provisions of Chapter 13 of this Code.

Sec. 2.13 Family Conciliation Division

The Hualapai Tribal Court may establish a Family Conciliation Division. The jurisdiction, composition and procedure of which shall be governed by the provisions of Chapter 12 of this Code, and rules promulgated by the Tribal Court.

Sec. 2.14 Court of Appeals

The jurisdiction, composition and procedure of the Tribal Court of Appeals shall be governed by the provisions of Chapter 10 of this Code.

Sec. 2.15 Tribal Court Administrator; Duties

A Tribal Court Administrator, and such deputies and assistants as may be required to administer the Tribal Court, shall be employed by the Tribal Court. The Administrator shall render support assistance with complaints, subpoenas, warrants, commitments and any other documents incidental to the lawful function of the Court. The Administrator shall have authority to attend and keep a record of all proceedings of the Hualapai Tribal Court, to read complaints to defendants, to administer oaths to witnesses, to collect all fines paid pursuant to judgments and orders of the Court, and to make an accounting of all fines collected to the proper Tribal officials. The Administrator shall act as Clerk of the Court for all branches and divisions of the Hualapai Tribal Court.

CHAPTER 3

TRIBAL COURT PROCEDURE - GENERAL

Sec. 3.1 Application of Law

- A. In the decision of any matter before it, the Tribal Court shall apply written law as follows:
 - 1. The Tribal Constitution;
 - 2. Codes, ordinances and resolutions of the Tribe, including this Law and Order Code; and
 - 3. Any applicable laws of the United States.
- B. Except as required by federal law, no federal or state law or law of another tribe shall be applied by the Tribal Court unless specifically incorporated into Tribal law.
- C. In matters not addressed by the written law identified in Subsections A and B of this Section, the Tribal Court shall apply traditional Tribal customs and usages, which shall be called Tribal Common Law. When in doubt as to the Tribal Common Law, the Tribal Court may request the advice of counselors and tribal elders familiar with it.
- D. As to any matters that are not covered by the Tribal Constitution, codes, ordinances or resolutions of the Tribe or by Tribal Common Law or by applicable federal law or regulation, the Tribal Court may be guided by common law as developed by other Tribal, federal or state courts.

Sec. 3.2 Copies of Laws

Copies of all written Tribal law shall be maintained at the Tribal Court, and shall be made available for inspection during regular business hours by any person who is or may be subject to such laws.

Sec. 3.3 Time: Computation

In computing any time period established by this Code, the day of the act from which the time period to be calculated occurs shall not be included, but the last day of the time period shall be included. Unless otherwise specified, only Business Days shall apply in computing any time period of 10 or fewer days; for any time period greater than 10 days, calendar days shall be used.

Sec. 3.4 Pre-Trial Conference; Alternative Dispute Resolution

In every proceeding before the Tribal Court, prior to the trial of the matter, the Judge may review the matter and schedule a conference of the parties to determine if it may be appropriate to seek resolution by means other than the trial procedures set forth in this Code, such as through mediation, settlement, plea bargain, referral to the Family Conciliation or Wellness Court Division, or through other traditional Tribal dispute resolution mechanisms. In the event that such alternative dispute resolution is deemed inappropriate by the court and the parties, or that attempts to resolve the dispute through such alternative methods fails, the case shall be set for trial.

Sec. 3.5 Jury List

- A. A list of eligible jurors shall be prepared by the Tribal Court no later than July 20th of each year.
- B. An eligible juror is a Resident who has reached the age of 18 years, has not been convicted of a felony, and is not otherwise unqualified according to standards established by the Tribal Court.

Sec. 3.6 Jury: How Constituted

All civil and criminal juries shall consist of six individuals, drawn from the list of eligible jurors by some disinterested person or persons appointed by the Judge. Any party to a proceeding may challenge not more than two members of the panel so chosen. In case of challenges, additional jurors shall be drawn until six are selected.

Sec. 3.7 Jurors' Fees

Each juror who serves upon a jury shall be entitled to a fee for each day his or her services are required in Court, the amount of said fee to be determined by Tribal Council, and paid from the General Court Fund.

Sec. 3.8 Evidence

In any trial of a matter, the Tribal Court shall not be bound by any federal, state or common law rules of evidence, but may accept any evidence which it deems, in its discretion, necessary, relevant, reliable and probative; PROVIDED, however, that no evidence shall be admitted or omitted by the Court in violation of the Article VI, Section 13, or Article IX of the Tribal Constitution.

Sec. 3.9 Witnesses: Testimony

Except as otherwise provided by Tribal law, any party to a proceeding may call witnesses to testify at the trial of the matter. Witnesses may appear voluntarily, and must

appear if duly served with a subpoena issued pursuant to Section 3.11 below. Oral testimony shall be given in open court and under oath unless the Court directs otherwise for good cause.

Sec. 3.10 Witnesses: Subpoenas

All Tribal Court Judges shall have the power to issue subpoenas for the attendance of witnesses either on their own motion or on motion of a party to the case. Each subpoena shall bear the signature of the issuing Judge, and shall provide that witnesses subpoenaed in behalf of the Hualapai Tribe. Subpoenas shall be served in accordance with Section 4.5.

Sec. 3.11 Failure to Obey Subpoena

Failure to obey a subpoena duly issued and served under Section 3.11 above shall be deemed an offense against the Hualapai Indian Tribe punishable as provided in Chapters 6 and 8 of this Code.

Sec. 3.12 Jury Instruction

Upon the close of presentations of evidence in a jury trial, the Judge shall instruct the jury regarding the law governing the case. In formulating jury instructions in any case, the Judge shall consider and rule upon the written requests of any party concerning the content of the instructions submitted to the Court prior to the close of evidence, or by such other time as the Court may fix. The Judge must explain to the jury which party has the burden of proving each issue of fact, and the jury's verdict options.

Sec. 3.13 Jury Deliberation

Upon retiring, the jury must be kept together in a convenient place and under the charge of an officer of the Tribal Court until they reach a verdict. Prior to rendering the verdict, the jury is prohibited from communication with any person concerning the state of their deliberations or the agreed upon verdict.

Sec. 3.14 Judgment of the Court

Upon return of a jury verdict, or at the close of evidence in a bench trial, the Court shall issue a written final judgment or order embodying the disposition of the case, including sentencing in criminal cases, and, as provided in this Code or as otherwise appropriate, the reasons therefore.

Sec. 3.15 Installment Payments of Fines and Monetary Awards

As the equities of the case dictate, and as provided elsewhere in this Code, the court may establish an installment plan for the payment of any fines or monetary awards rendered against a defendant in a criminal or civil case. In the event the defendant fails to adhere to any such installment payment plan, the court shall take such further action as provided in this Code.

Sec. 3.16 Injunctions; Cease and Desist Orders

Whenever authorized by Tribal law, or when the circumstances of a case before the court otherwise warrant, the Tribal Court may issue an Injunction or a Cease and Desist Order which prohibits a person from engaging in specific conduct which violates Tribal law. Such an Injunction or Order shall describe with specificity the mandatory or prohibited conduct, penalties for violation of the Injunction or Order, and such other information as may be required by Tribal law. Such Injunctions or Orders may be temporary in nature, pending a hearing or trial of the matter, or may be permanent.

Sec. 3.17 Restraining Orders

- A. The Court may issue a Restraining Order preventing a person from coming into physical proximity of another, or otherwise prohibiting certain conduct, upon a showing by the person seeking the Restraining Order that the person against whom the Order is sought poses a threat of actual or imminent harm or harassment.
- B. A Temporary Restraining Order may be issued, pending a hearing on the matter, upon application to the Court without prior notice to the person sought to be restrained. Upon issuance, the Temporary Restraining Order shall be served immediately upon the person restrained by any Peace Officer or Court approved Process Server. The Temporary Restraining Order must state, at a minimum, the name(s) and address(es) of the applicant(s), the protected person(s), if other than the applicant(s), and the restrained person; a specific description of conduct prohibited by the Order and the reason(s) therefore; the date of expiration of the Order; and the date and time the matter is set for hearing.
- C. After a hearing on the matter, of which all parties have notice and the opportunity to be heard, the court may extend the duration of the Restraining Order for a specified period of time, or issue a permanent Order.

Sec. 3.18 Appeals

Appeals from final judgments and court orders may be taken as provided in Chapter 10 of this Code.

Sec. 3.19 Records and Fines to be Transmitted

Within 15 days after final disposition of a case, the Judge shall transmit all papers, including the information required by Section 3.21 below and any fines collected, to the Clerk of the Court; and the Judge or Clerk shall further transmit such reports and/or copies of such papers to other Tribal Departments or Programs as may be required by Tribal law.

Sec. 3.20 Maintenance of Court Records

The Hualapai Tribal Court shall be required to keep for inspection by the public a record of all proceedings of the court, which record shall reflect the titles of cases, the names of the parties, the substance of the complaints, the names of all witnesses, the dates of hearings, pre-trial conferences and trials, by whom conducted, the findings of the court, and the final judgments and orders, together with any other facts or circumstances deemed of importance in any case. After final judgment, the record of any proceeding, except a juvenile proceeding, may be made available for public inspection.

Sec. 3.21 Relations with the Court

No person shall obstruct, interfere with or control the functions of any Hualapai Tribal Court, or influence such functions in any manner except as permitted by this Code or in response to a request for advice or information from the Court. The Court may request employees of the Bureau of Indian Affairs and/or the Hualapai Indian Tribe, particularly those who are engaged in social work, health and education work, to assist in the preparation and presentation of the facts in the case and in the proper treatment of individual offenders.

Sec. 3.22 Rules of Court

The time and place of court sessions and other details of judicial procedure not prescribed by this Code shall be set forth in rules of court promulgated by the Tribal Court.

CHAPTER 4 CIVIL PROCEDURE

Sec. 4.1 Commencement of Action

Actions shall be commenced in the Hualapai Tribal Court by the filing of a written complaint identifying in concise and plain terms the parties to the proceeding, the nature of the claims, with the reference to written Tribal law, as appropriate, and the remedies sought. The plaintiff or the plaintiff's agent shall verify the complaint by oath or affirmation, and shall affix his or her witnessed signature thereto. The Clerk may, at the request of any individual, assist him or her in preparing the complaint and other papers required to be filed in an action under this Chapter.

Sec. 4.2 Limitation on Time to Institute Proceeding

Except as otherwise provided by Tribal law, civil action shall be instituted unless the offense, violation or other event forming the basis of the action occurred within a one-year period prior to the date of the initiation of the action.

Sec. 4.3 Filing Fee

An administrative fee to be fixed by the Court shall be collected by the Clerk at the time a complaint is filed initiating any civil action, which fee shall not be refunded if the complaint is withdrawn or dismissed.

Sec. 4.4 Duty of Clerk upon Receipt of Complaint; Issuance of Summons and Notice of Hearing

When a complaint is filed, the Clerk shall:

- A. Stamp the original complaint the day and hour on which it was filed and the case number assigned to the matter;
- B. Immediately issue a summons and notice of hearing in the form prescribed by the Tribal Court, for service on the defendant as provided in Section 4.5; and
- C. Upon verified service on the defendant/respondent the clerk shall fix a date for hearing which shall take place, not less than 30 days nor more than 60 days;
- D. Provide a copy of the notice of hearing to the plaintiff.

Sec. 4.5 Service of Process

- A. The summons, notice of hearing and a copy of the complaint shall be served together. Service shall be made as follows:

1. Upon any individual by personal service by any Peace Officer or Court approved process server.
 2. If service of the summons and complaint cannot be personally made within the jurisdiction of the Hualapai Tribal Court, a copy of the summons and complaint shall be mailed by Registered or Certified Mail, Receipt Return Requested, to the defendant's last known post office address by the Clerk of the Tribal Court.
- B. Service of a summons, notice of hearing and a copy of the complaint shall be attested to by an affidavit of the person who actually served the documents or by affidavit of the Clerk who mailed the documents.
- C. Service shall be deemed complete at the time personal service is made, or at the time of the mailing is the method of service.

Sec. 4.6 Time to Respond

If the defendant wishes to respond in writing to the complaint, the defendant shall have 30 days from the date service of summons, notice of hearing and complaint is deemed completed in which to do so.

Sec. 4.7 Written Answer: Form; Content

The written answer shall state the names of the plaintiff and defendant, a concise statement of defense to the claims asserted in the complaint, and any counterclaims or setoffs asserted by the defendant. Service of the written answer shall be made in the manner described in section 4.5 herein.

Sec. 4.8 Counterclaims and Setoffs

If a written response is filed, the defendant must state therein any counterclaims or setoffs asserted against the plaintiff. In the event the defendant chooses not to respond in writing to the complaint, any counterclaims shall not be considered by the Court.

Sec. 4.9 Pre-Trial Proceedings

- A. At the initial pre-trial hearing of every civil matter, the Tribal Court shall first advise the defendant of claim(s) made against the defendant and, if the defendant has not filed a written response to the complaint, inquire as to whether the defendant contests the claims made against the defendant, or has any counterclaims against the plaintiff.
- B. If the defendant does not contest the claim(s), the Tribal Court shall, in its discretion, either:

1. Enter an order imposing the remedy sought by the plaintiff or some other remedy deemed appropriate by the Tribal Court, considering all the circumstances of the case; or
 2. Schedule the matter for further hearing to determine what remedy to impose; provided, however, that in no event shall the further hearing to impose remedies take place more than 30 days after the initial pre-trial hearing of the matter.
- C. If the defendant contests the claim(s), either in writing or at the pre-trial hearing, the Court shall determine whether it is appropriate to dispose of the matter by mediation, settlement, or other dispute resolution method based on Tribal customs and traditions.
1. In the event the Court and the parties determine such a method should be pursued, the Court will so order, and schedule a further status hearing to be held within 30 days.
 2. In the event the parties determine, either at the first pre-trial hearing or at the subsequent status hearing that the case must proceed to trial, the Court shall set a trial date.

Sec. 4.10 Setting a Trial Date

In the event disposition of a civil case has not otherwise been achieved through pre-trial proceedings, the Judge shall set a date for trial of the case which shall take place not more than six months after the complaint has been filed, unless extraordinary circumstances exist which require further delay and all parties consent to such a delay.

Sec. 4.11 Trial by the Tribal Court

Unless otherwise provided by the Tribal law, all civil cases shall be tried by the Tribal Court and not by jury.

Sec. 4.12 Trial Proceedings

Unless the Court, in its discretion, otherwise directs, in every civil trial:

- A. The plaintiff's case shall be presented first, followed by the presentation of the defendant's case.
- B. The trial shall proceed with opening statements, presentation of evidence, closing arguments and judgment or order of the Tribal Court, including disposition.

Sec. 4.13 Failure of Parties to Appear

- A. If the defendant fails to appear at any pre-trial proceeding or at the trial of a civil matter:
 - 1. If the defendant was absent for good cause, the Tribal Court may continue the matter for an additional period of time not to exceed 30 days, subject to other deadlines set forth herein.
 - 2. If the defendant was absent without cause, judgment may be entered for the plaintiff by default without further proof if the claim is for a liquidated amount; when the amount is unliquidated, the plaintiff may be required to present proof by a preponderance of the evidence of the amount of civil penalty that the Tribal Court should impose. Additionally, any cash or property posted as a bond may be forfeited and disposed of as provided by Tribal law.
- B. If the plaintiff fails to appear at any pre-trial proceeding or at the trial of a civil matter:
 - 1. If the plaintiff is absent for good cause, the Tribal Court may continue the matter for an additional period of time, not to exceed 30 days, subject to other deadlines set forth herein.
 - 2. If the plaintiff is absent without cause, the Judge may dismiss the case for want of prosecution, or defendant may proceed to trial on the merits, and other fees posted by the plaintiff may be forfeited.
- C. If the parties fail to appear, the Tribal Judge may return the case to the files, or order the case dismissed for want of prosecution, or make any other just and proper disposition thereof as justice may require.

Sec. 4.14 Judgment – Stay of Entry and Execution – Installment Payment

When judgment is to be rendered and the party against whom it is to be entered requests it, the Tribal Judge shall inquire fully into the earnings and financial status of such party and shall have full discretionary power to stay the entry of judgment, and to stay execution, except in cases involving wage claims, and to order partial payments in such amounts, over such period, and upon such terms, as shall seem just under the circumstances and as will assure a definite and steady reduction of the judgment until it is finally and completely satisfied. Upon a showing that such party has failed to meet any installment payment without just excuse, the stay of execution shall be vacated. When no stay of execution has been ordered or when such stay of execution has been vacated as provided herein, the party in whose favor the judgment has been entered shall have the right of avail to use all remedies otherwise available in the Tribal Court for the enforcement of such judgment, including civil contempt proceedings.

Sec. 4.15 Judgment for Wages – Examination – Payment

In all cases where the judgment is founded in whole or in part on a claim for wages or personal services, the Tribal Judge shall, upon a motion of the party obtaining the judgment, order the appearance of the party against whom such judgment has been entered, but not more often than once each four weeks, for oral examination under oath as to his or her financial status and ability to pay such judgment. The Tribal Judge shall make such supplementary orders as may seem just and proper to effectuate the payment of the judgment.

Sec. 4.16 Non-Indian Right of Claim

A Non-Indian may prosecute a claim against an Indian in the Tribal Court and in the event of an action filed by a Non-Indian; all provisions of this Chapter are applicable to said Non-Indian as a party plaintiff.

Sec. 4.17 Forfeiture of the Property

A civil judgment may include the forfeiture of property to satisfy the payment of a damage award or civil penalties, or in addition thereto, as provided by Tribal Law.

Sec. 4.18 Appeals

Appeals from judgments in civil actions may be taken as provided in Chapter 10 inclusive of this Code.

CHAPTER 5 CRIMINAL PROCEDURE

Sec. 5.1 Tribal Prosecutor: Authority; Duties

- A. One or more Tribal Prosecutors appointed by the Tribal Council shall be responsible for the timely prosecution, pursuant to the provisions of this Chapter, of all criminal cases brought hereunder.
- B. Each Tribal Prosecutor shall represent the Tribe in all criminal cases as provided by Tribal law; shall prepare and file criminal and civil complaints on behalf of the Tribe; negotiate plea bargains; attend pre-trial conferences and make recommendations regarding alternative dispute resolution such as referrals to the Wellness Tribal Court; prosecute criminal cases through trial and sentencing; and make sentencing recommendations to the Tribal Court.

Sec. 5.2 Representation of Defendant

Every criminal defendant shall have the right to assistance of a professional attorney or an advocate at the defendant's own expense.

Sec. 5.3 Criminal Complaint: Basis; Content; Amendment

- A. Every criminal case shall be initiated by the filing of a written complaint based on information or charges brought by the Tribal Prosecutor.
- B. The complainant shall be the Tribe and the defendant shall be the person alleged to have committed the offense(s) charged. The complaint shall set forth in plain terms the act(s) of the defendant alleged to constitute the offense(s) charged, the date, time and place of such act(s), the provision(s) of Tribal law alleged to have been violated.
- C. Failure to cite a specific provision of law, such as a Subsection of a Section cited, shall not be grounds for dismissal with prejudice of a criminal complaint, provided the complaint clearly articulates the actions of the defendant(s) and the general provision(s) of law which those actions are alleged to violate. If the provision of law alleged to have been violated is not, in the view of the Tribal Court, articulated with sufficient specificity, the Tribal Court shall provide the prosecutor a reasonable opportunity to amend the complaint to address the defect.

Sec. 5.4 Criminal Complaint: Time for Filing

- A. Except as otherwise provided by Tribal law, no criminal action shall be instituted unless the offense, violation or other event forming the basis of the

action occurred within a one-year period prior to the date of the initiation of the action.

- B. If a criminal defendant has been apprehended pursuant to the provisions of Section 5.8 below, the complaint must be filed prior to the arraignment of the defendant.

Sec. 5.5 Right to Jury

Every criminal defendant accused of any violation of Tribal or applicable federal law shall have the right to trial by jury in the Tribal Court. To assert this right, the defendant must request a jury trial in writing at or before the pre-trial hearing provided for in Section 5.13 below.

Sec. 5.6 Complaint against Defendant not in Custody: Tribal Court Action

- A. Upon the filing of a criminal complaint against a defendant not then in custody, the Tribal Court must either:
 - 1. Issue a warrant to apprehend the defendant for detention pending arraignment, execution of such a warrant to be made by any Peace Officer; or
 - 2. Issue a summons, which shall be personally served by any Peace Officer on the defendant commanding the defendant's presence for arraignment at a specified date and time.
 - 3. If personal service of process is impractical under the circumstances, the Tribal Court may order service by registered mail with return receipt requested to be signed by the addressee only, to be addressed to the last known address of the person to be served. Service shall be complete upon return of the signed receipt to the Tribal Court.
- B. The warrant or summons must be issued within five days of the date the complaint is filed and must be served immediately.

Sec. 5.7 Arrest Warrants

Every Judge of the Hualapai Tribal Court shall have authority and discretion to issue a warrant commanding the arrest and detention of a person against whom a criminal complaint has been filed. No arrest warrant shall be valid unless signed by a Judge of the Hualapai Tribal Court and executed by a Peace Officer.

Sec. 5.8 Arrests

- A. Any Peace Officer shall arrest any person for an offense when:

1. Such offense has occurred in the presence of the arresting peace officer, or
 2. The arresting Peace Officer has reasonable cause to believe that the person has committed an offense, or
 3. The peace officer has a warrant commanding him to apprehend such person, duly issued as provided in Section 5.6 A above.
- B. No person shall be arrested in a dwelling house or other privately owned structure unless a valid warrant for the person's arrest has been issued or where the consent of the person in rightful possession of the premises to enter for the purpose of arrest has been obtained; provided, that a Peace Officer may forcefully enter such premises when the Peace Officer has reasonable cause to believe that there exists danger of imminent harm or damage to persons or property.

Sec. 5.9 Search and Seizure

A. Search Warrants

1. Every Judge of the Hualapai Tribal Court shall have authority to issue warrants for search and seizure of the premises and property of any person under the jurisdiction of said Tribal Court.
2. No warrant of search and seizure shall be issued except upon a duly signed and written affidavit based upon reliable information or belief charging that an offense has been committed against the Hualapai Indian Tribe.
3. No warrant for search and seizure shall be valid unless it contains the name or description of the person or the persons or property to be searched and describes the articles or property to be seized and bears the signature of a duly qualified Judge of the Hualapai Tribal Court.
4. Execution of a search warrant and seizure of property shall be made only by a Peace Officer from 7:00 A.M. to 7:00 P.M. according to local time, unless authorized otherwise by a duly qualified Judge of the Hualapai Tribal Court.
5. Search warrants not executed within five calendar days of issuance must be returned to the Tribal Court and voided.

- B. Search and Seizure without a Warrant - No officer shall search and seize any property without a warrant unless the officer knows or shall have probable

cause to believe that the person in possession of such property is engaged in the commission of an offense defined under Tribal law.

Sec. 5.10 Arraignment

- A. Every criminal defendant shall appear before a Tribal Court Judge for arraignment at a time specified by Tribal law or in a summons.
- B. At the arraignment, the criminal complaint shall be read to the defendant in a language which the defendant understands; and the defendant shall be advised of his or her rights under Tribal law, including the right to remain silent, to have a trial by jury, to confront accusers and to have the assistance of an attorney or an advocate at the defendant's own expense.
- C. The Tribal Court shall ask the defendant to enter a plea of guilty or not guilty.
 - 1. If the defendant pleads guilty or no contest to the charges in the complaint, the Judge shall inquire if the defendant has any reason for not being sentenced at that time.
 - a. If no reason is advanced, the Judge shall pass sentence forthwith in accordance with the sentencing procedures set forth below.
 - b. If the defendant advances reason why sentence should not be passed at that time, the Judge shall give due consideration and act thereon within his discretion considering his oath to uphold the laws; provided, however, that in no event shall sentencing be delayed more than 30 days from the date of entry of the guilty or no contest plea.
 - 2. If the defendant pleads not guilty,
 - a. The matter will be set for pre-trial hearing at the earliest practicable date, or as otherwise provided by Rules of Tribal Court; and
 - b. The Judge shall set bail, or remand the defendant to temporary custody pending the pre-trial hearing, pursuant to the bail and commitment provisions set forth below.
 - 3. If the defendant refuses to plead, the judge shall enter a plea of not guilty on the defendant's behalf, and shall follow the procedures set forth in Subsection C. 2. above.
- D. If the defendant pleads not guilty, or if the defendant pleads guilty or no

contest and sentencing is deferred, the Tribal Court shall determine whether the defendant should be committed to the Tribal Jail pending further proceedings, or released pursuant to the provisions of Section 5.11 below.

Sec. 5.11 Pre-Trial Release: Bail or Bond

- A. Every person arraigned for an offense may be released on bail or bond pending further proceedings in the case. Bail may be made by any reliable member of the Hualapai Indian Tribe, who shall execute an agreement in the form prescribed, or by a personal bond by the defendant upon deposit with the Tribal Court of money order or certified cashiers check. In no case shall the defendant's deposit, or the penalty specified in the agreement exceed twice the maximum penalty set by Tribal law for the offense(s) charged. A Tribal Judge may release a defendant on the defendant's own recognizance if the Tribal Judge finds, by a preponderance of the evidence, that the defendant will obey any order of the Tribal Court, including orders setting proceedings, and that the defendant is not a danger to any person, including the defendant.
- B. If a defendant released on bail or bond fails to appear before the Tribal Court as required, the Tribal Court shall order any posted cash or bond to be forfeited and shall issue a warrant for the defendant's arrest pending further proceedings in the case.

Sec. 5.12 Commitments

- A. Except as provided in Subsection B below, no person shall be detained, jailed or imprisoned for a longer period than 24 hours absent a temporary or final commitment order bearing the signature of a Tribal Court Judge.
- B. Any person arrested for the commission of an offense involving violence, including weapons and sexual abuse offenses, driving under the influence of intoxicating liquor or other drugs shall automatically be subject to a commitment period of up to 72 hours pending arraignment.

Sec. 5.13 Pre-Trial Hearings

In every criminal case in which the defendant enters a plea of not guilty, or such a plea is entered on the defendant's behalf by the Tribal Court, the Tribal Court shall schedule a pre-trial hearing to take place not more than 30 days after arraignment. At the pre-trial hearing the Tribal Court shall determine whether it is appropriate to dispose of the matter by plea bargain, referral to the Wellness Tribal Court Division, or some other alternative method of resolution. In the event the Tribal Court and parties determine such a method should be pursued, the Tribal Court will schedule a further status hearing to be held within 60 days. In the event the Tribal Court and parties determine, either at the first pre-trial hearing, or at a subsequent status conference, that the case must proceed to trial, the Tribal Court shall set a trial date, subject to the provisions of Section 5.15 below. In order to preserve the right to a

jury trial, a criminal defendant must submit a written request for trial by jury at or before the first pre-trial hearing.

Sec. 5.14 Wellness Tribal Court Division

The administration and procedures of the Wellness Tribal Court Division shall be governed by rules promulgated by the Tribal Court.

Sec. 5.15 Setting a Trial Date

- A. In the event disposition of a criminal case has not otherwise been achieved through pre-trial proceedings, the Tribal Court shall set a date for the trial of the case. The trial of a criminal case shall take place within 90 days after the date on which the complaint initiating the case was filed, unless extraordinary circumstances exist which require further delay or the defendant consents in writing to a delay.
- B. As used in Subsection A above, the phrase “disposition of a criminal case” shall mean either (1) a plea bargain has been entered and approved by the Tribal Court; or (2) the defendant has pled guilty or no contest and final sentence has been imposed by the Tribal Court; or (3) the defendant has been referred to the Wellness Court Division, and has satisfied all obligations imposed in connection with that referral.
- C. The Tribal Court shall retain jurisdiction over matters referred under Subsection B. 3 above, and if the defendant fails to adhere to all conditions imposed in connection with any such referral, the Tribal Court may rescind the referral; in that event, the Tribal Court shall set the matter for trial within 30 days of the date the referral is rescinded.

Sec. 5.16 Trial

- A. The complaint shall be read to the defendant and the defendant may (1) change his or her plea; or (2) stand trial. If the defendant changes his or her plea from “not guilty” to “guilty” sentence may be entered or deferred under the same procedure and subject to the same time limits as provided in Section 5.10 C. 1 above.
- B. If the defendant chooses to stand trial, the jury shall be empanelled if the defendant has made a timely jury trial request, as provided in Sections 5.5 and 5.13 above. The Tribal Court shall require the defendant and witnesses to be sworn and proceed to hear evidence. Unless the Tribal Court for good cause directs otherwise, the prosecution’s case shall be presented first, followed by the presentation of the defendant’s case. Throughout the proceeding, the Judge must preserve to the defendant the rights guaranteed to the defendant under Article VI, Section 13, and Article IX of the Tribal Constitution.

- C. In the case of a jury trial, at the close of evidence, the jury shall receive instruction and deliberate as provided in Sections 3.13 and 3.14 of this Code.

Sec. 5.17 Jury Verdict

In every criminal case tried to a jury, the jury must reach a unanimous verdict of guilty or not guilty. If the jury in a criminal case is unable to reach a unanimous verdict after due deliberation, the Tribal Court shall declare a mistrial and the case may be re-tried at the option of the Tribal Prosecutor upon written request to the Tribal Court within 90 days of the Tribal Court's declaration of mistrial.

Sec. 5.18 Judgment

After the return of the jury verdict, or after evidence has been submitted in a bench trial, the Tribal Judge shall issue a final judgment of guilty or not guilty.

- A. If found "not guilty" the defendant shall be released forthwith.
- B. If the defendant is found "guilty" the Tribal Judge shall then ascertain if the defendant has any reason why sentence should not there and then be imposed. If the defendant advances such reason, the Judge, after weighing merits of the reasons given, may: (a) defer sentence for not more than five days for an opportunity to investigate, during which time defendant shall remain in the same status as to the defendant's personal liberty as prevailed immediately preceding his or her trial; or (b) impose sentence.

Sec. 5.19 General Principles

In imposing a sentence for a violation of this Chapter, the Tribal Court in each case shall consider the protection of the public, the gravity of the offense, the impact of the crime on the victim, and the results of any pre-sentencing reports.

Sec. 5.20 Nature of Sentence

Except where Tribal law provides for specific mandatory penalties, the Tribal Court may, in its discretion, impose as a sentence upon a person convicted of a criminal offense any combination of the following:

- A. A term of imprisonment, not to exceed one year, corresponding to the offense for which the defendant was convicted as provided in Chapter 6 or elsewhere under Tribal law; and/or
- B. A fine, not to exceed \$5,000, corresponding to the offense for which the defendant was convicted as provided in Chapter 6 or elsewhere under Tribal law; and/or

- C. A term of Community Service; and/or
- D. Forfeiture of property; and/or
- E. To pay restitution or perform any other act for the benefit of any person or party injured personally or in the property by the person adjudged guilty provided such injuries are fairly attributable to the act or failure to act constituting the offense for which guilt was adjudged; and/or
- F. To treatment, counseling and/or rehabilitation; and/or
- G. To probation and/or suspension of sentence on such terms and conditions as the Tribal Court may direct, including payment of probation program costs; and/or
- H. Other penalties, including paying Tribal Court costs, deemed appropriate by the Tribal Court to address or rectify the offense committed.

Sec. 5.21 Determining Factors

In determining the character and duration of the sentence which shall be imposed, the Tribal Court shall take into consideration the previous conduct of the defendant, the circumstances under which the offense was committed, whether the offense was malicious or willful and whether the offender has attempted to make restitution, the extent of the defendant's resources and the needs of the defendant's dependents. The penalties listed in Chapter 6 of this Code are provided to guide the Tribal Court in determining appropriate sentencing except where they are specifically identified as mandatory.

Sec. 5.22 Imprisonment

Terms of imprisonment shall be served by incarceration in any detention facility.

Sec. 5.23 Fines

Assessed fines shall be paid by money order or certified cashier check, to the Clerk of the Tribal Court either in a lump sum or, at the discretion of the Tribal Court, in installments. In the event an offender is granted an installment plan for payment of a fine, the Tribal Court shall set a reasonable time limit on the payment; if the defendant does not adhere to the payment schedule fixed by the Tribal Court, the Tribal Court shall issue a warrant for the arrest of the offender, who may be required to serve a term of imprisonment in lieu of payment of the fine, and may be subject to additional charges for contempt of Tribal Court and/or disobedience of a lawful Tribal Court order.

Sec. 5.24 Community Service

- A. A person convicted of a criminal offense may be required to perform work for

the benefit of the Tribe for a period of time deemed appropriate by the Tribal Court, which time period shall not exceed the maximum period of imprisonment designated for the offense as set forth in Chapter 6 of this Code or elsewhere under Tribal law. The work shall be performed under the supervision of Tribal Court or any other Tribal department, program or personnel.

- B. During the period of sentence, the convicted person may be confined in a detention facility if so directed by the Tribal Court or to such other approved facility as the Tribal Court may deem to be in the best interests of the convicted person or of the Hualapai Tribe.
- C. If any convicted person is unwilling, or otherwise fails to perform community service, the Tribal Court may sentence him or her to imprisonment for the remainder of the term of community service imposed.

Sec. 5.25 Probation Officers

- A. The Hualapai Tribal Court, with the approval of the Tribal Council, may appoint probation officers and other persons as may be required to carry out the probationary functions of the Tribal Court.
- B. Probation Officers may be assigned, among others, the following duties:
 - 1. Make preliminary inquiries, social studies, and such other investigations as the Tribal Court may direct, keep written records of such investigations or studies, and make reports to the Tribal Court;
 - 2. Upon the placement of any person on probation, explain to the person the meaning and conditions of probation;
 - 3. Keep informed concerning the conduct and condition of each person on probation and report thereon to the Tribal Court;
 - 4. Use all suitable methods to bring about improvements in the conduct or condition of persons on probation.
- C. The activities, duties and authority of Probation Officers may be further governed by rules promulgated by the Tribal Court.

Sec. 5.26 Violation of Probation

If the Tribal Court, finds after a hearing in open court that a person has violated the terms of probation, said person may be ordered to serve part or all of the term of the original sentence. If the cause for violation involves the commission of a separate offense which violates any federal or Tribal law, the probation violator, if convicted, may be sentenced in

accordance with the penalties prescribed for that particular violation. Such sentence may be imposed upon the violator in addition to reinstitution of the original suspended sentence and shall run consecutively to the original sentence.

Sec. 5.27 Early Release from Imprisonment

Any person committed to a term of imprisonment by the Tribal Court, who has without misconduct served three-fourths of the sentence imposed, shall be eligible for early release from imprisonment. Early release shall be granted only by a Judge of the Hualapai Tribal Court upon such terms and conditions as the Judge deems appropriate. The Tribal Court may order that the remainder of the sentence be served under the supervision of a Probation Officer, subject to the provisions contained in Section 5.26 herein.

Sec. 5.28 Deposit and Disposition of Fines

Except where Tribal law expressly requires another disposition of fines collected, all money fines imposed upon conviction of a criminal offense shall be applied to Tribal Court expenses. The fines assessed shall be paid by the Tribal Court Administrator to the Tribe for deposit as "Tribal Court Funds" to the credit of the Hualapai Indian Tribe. The Tribal Treasurer shall withdraw such funds in accordance with existing regulations. The Tribal Treasurer and the Tribal Court Administrator shall keep an account of all such deposits and withdrawals for the inspection of any person interested. Except where Tribal law provides otherwise, whenever such funds exceed the amount necessary with a reasonable reserve for the payment of court expenses.

Sec. 5.29 Failure to Appear

In any criminal case, if the defendant fails to appear for any proceeding and the defendant is not then in custody, the Tribal Court shall immediately issue a warrant for the arrest of the defendant. In addition, if the defendant has posted a cash or property bond or if, in connection with the case, any property of the defendant has been seized, failure of the defendant to appear before the Tribal Court as required by Tribal law or by any notice or order of the Tribal Court shall result in forfeiture of the posted or seized property or cash bond, and disposition of such cash or property as provided by Tribal law.

Sec. 5.30 Fugitive from Justice

- A. Authority to Extradite. Any person within the boundaries of the Hualapai Reservation who is named in an arrest warrant issued by any state or duly constituted tribal court of any federally recognized Indian tribe may be extradited to that jurisdiction.
- B. Commencement of Action. A copy of the warrant of arrest under signature and seal of the issuing off-reservation court may be presented to the Hualapai Tribe's Office of the Prosecutor, who shall prepare a tribal extradition order

request based on the warrant information. Tribal prosecutors shall present the request for tribal extradition to the Tribal Court.

- C. Preliminary Determination on Warrant. The Tribal Court shall promptly examine the warrant and the request for tribal extradition, and shall consider any relevant information as may be presented to the court by any person. The Tribal Court shall make a preliminary determination on the apparent validity of the warrant.

Sec. 5.31 Fugitive Warrant of Arrest

After preliminary determination by the Tribal Court on the validity of the off-reservation warrant, the Tribal Court shall issue a fugitive warrant of arrest for the person named on the off-reservation warrant. The person named in the warrant shall be brought before the court for a extradition hearing within seventy-two hours after being arrested.

- A. Issues at Hearing. The Tribal Court shall conduct a hearing to determine the validity of the off-reservation warrant, and to determine whether the person arrested on the tribal fugitive warrant is the same person named on the off-reservation warrant. The Tribal Court shall consider any other relevant circumstances and information that may be presented at the time of hearing. Upon determination that the warrant from the off-reservation jurisdiction is valid and the person in custody is the same person named on the off-reservation warrant, and after considering all other relevant information presented, the court shall issue an order directing that the person be released to lawful authorities presenting the off-reservation warrant.
- B. Notification; Authorization, and Removal of the Alleged Offender. If the Tribal Court executes an order for extradition, either the Hualapai Office of the Prosecutor or the tribal police shall notify the off-reservation jurisdiction that the person named in their warrant is in custody and that he/she may be picked up within forty-eight hours. If the person named in the off-reservation warrant is not picked up or transferred to the off-reservation jurisdiction within forty-eight hours, the person in custody shall be released from custody. The person named in the off-reservation warrant cannot be taken into custody for the same charge except upon the issuance of a new warrant by the jurisdiction that originally sought the extradition.
- C. Reciprocity. In no case shall a warrant for arrest from an off-reservation jurisdiction be honored by the Tribal Court if that jurisdiction, by its laws, rules or practices prohibits or refuses to provide reciprocal extradition of persons who may be subject to warrants of arrest issued by the Tribal Court.

Sec. 5.32 Confiscated Contraband and Abandoned Property

- A. The disposition of all property, confiscated as contraband or seized as

evidence shall be determined at a hearing before the Tribal Court.

- B. The Tribal Court shall, upon satisfactory proof of ownership, order such property to be delivered to the rightful owner, unless such property is required as evidence. Where the property is required as evidence, it shall not be returned until final judgment in the case is entered. In no case shall property be returned where possession of such property is unlawful. Such property may be declared property of the Hualapai Indian Tribe and may be destroyed.
- C. Except as otherwise provided by Tribal law, the Tribal Court shall not return any property confiscated pursuant to a conviction of:
 - 1. Carrying a concealed weapon; or
 - 2. An offense involving the use of any weapon or instrument in the commission of such offense.
- D. Any property not claimed by the owner when delivered or any property, for which an owner has not been determined within six months after a Tribal Court hearing, shall become the property of the tribe.
- E. Property delivered to the custody of the Tribal Court by a private person shall become the property of such person if it is not claimed within 30 days after the hearing.
- F. Any property declared to be the property of the United States shall be dealt with as directed by federal law.
- G. The Administrator of the Hualapai Tribal Court shall keep written records of all transfers and dispositions of property taken into the custody of the Tribal Court.

Sec. 5.33 Eligible Age for Criminal Prosecution

After a hearing and at the discretion of the Hualapai Tribal Court, any person who was 14 years of age at the time the person allegedly committed the offense can be tried as an adult and convicted for any criminal offense enumerated in Chapter 6 of this Code or elsewhere under Tribal law.

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 entitle 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 unlawfully 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.

CHAPTER 7 DOMESTIC VIOLENCE

Sec. 7.1 Policy and Purpose

Domestic violence is a serious crime and a crime, which is not in any way culturally sanctioned. This statute intends to promulgate responsible Hualapai Tribal response to domestic violence, which communicates the intent of the tribe that domestic violence represents an aberration and danger to the mental, physical and cultural well being of people on the Hualapai Reservation. It is also the intent of the tribe that victims of domestic violence receive the maximum assistance and protection under the law and that perpetrators are held accountable for their conduct.

Sec. 7.2 Definitions

- A. "Abuse" means 1) intentionally or recklessly or negligently causing or attempting to cause physical harm or mental anguish to another person, or 2) threatening or placing another person in reasonable apprehension of imminent serious physical injury.
- B. "Counseling" means services provided by social services or other authorized programs that provide services for, but not limited to domestic violence, alcohol and drug rehabilitation, parenting, and mental health education.
- C. "Court" means the Hualapai Tribal Court.
- D. "Domestic Violence" means abuse, mental anguish, physical harm, bodily injury, assault, or the infliction of reasonable fear of bodily injury, between family or household members, or sexual assault of one family or household member by another. All crimes involving threat, violence, assault and physical or sexual abuse against adults, children, elderly or others enumerated in the Hualapai Tribal Criminal Code may be charged as domestic violence.
- E. "Domestic Violence Shelter" means a location, which provides emergency housing on a 24-hour basis for victims of sexual assault, domestic violence, or both. Confidentiality and protection of the location is encouraged.
- F. "Family or Household Member" means spouses, former spouses, common-law spouses, domestic partners, parents, grandparents, children, siblings, half siblings, cousins, aunts, uncles, adult persons or emancipated minors presently residing together or who have a child in common regardless of whether they have been married at any time.
- G. "Mandatory Arrest" means a peace officer shall arrest, with or without a warrant if there is probable cause to believe the person to be arrested has

committed an offense of Domestic Violence as defined by this Chapter. The victim need not sign a complaint for an arrest to occur. An arrest must be made even if such arrest may be against the expressed wishes of the victim.

- H. "Probable Cause" means the reasonable belief, based on the officer's observations and statements made by the parties involved and witnesses, if any, that the person arrested committed an act of Domestic Violence.
- I. "Mental Anguish" means causing a person psychological or emotional damage by physical or verbal intimidation, threatening, verbal abuse, physical abuse, harassment, stalking, or any contact that is detrimental to the psychological and mental well-being of that person or any other family or household member, characterized by behavioral change or physical symptoms.
- J. "Order of Protection" means a Court order granted for the protection of victims of domestic violence.
- K. "Physical Harm" means the impairment of physical condition and includes but shall not be limited to any skin bruising, pressure sores, bleeding, failure to thrive, malnutrition, dehydration, burns, fracture of any bone, subdural hematoma, soft tissue swelling, injury to any internal organ or any physical condition which imperils health or welfare.
- L. "Perpetrator" means a person who is alleged to have committed or has been convicted of committing an act of abuse or domestic violence on his or her family or household member.
- M. "Police officer," or "peace police" means a law enforcement officer of the Hualapai Tribal Police Department or other law enforcement officer having legal jurisdiction.
- N. "Primary, Physical Aggressor" means the person(s) who has caused or has threatened to cause significant physical or emotional harm to another in his or her family or household, as compared to other party(s) involved. This is regardless of which party was the first aggressor. In determining whether one person is a primary physical aggressor, consideration shall include but is not limited to:
 - 1. Prior history of domestic violence;
 - 2. The relative severity of the injuries inflicted on each person;
 - 3. The likelihood of future injury to each person;
 - 4. Whether one of the persons acted in self-defense; and
 - 5. Relative ability to inflict harm between the parties involved.

- O. "Victim" means family or household member(s) who has been subjected to domestic violence.

Sec 7.3 Crime Involving Domestic Violence – Defined

- A. The purpose of this ordinance is to clarify that domestic violence is a separate crime punishable separate and apart from the underlying crime, and to acknowledge that when the following crimes against a family or household member, a finding of such shall trigger the application of this ordinance. The crime of domestic violence occurs when a family or household member commits one or more of the following offenses against another family or household member:
1. Arson;
 2. Assault Offenses (Battery, Aggravated Assault, Simple Assault, and Intimidation);
 3. Burglary, Breaking and Entering;
 4. Destruction of Property, Damage, Vandalism of Property
 5. Homicide Offenses (Murder and Non-negligent Manslaughter, Negligent Manslaughter, and Justifiable Homicide);
 6. Kidnapping, Abduction;
 7. Sex Offenses, Forcible (Forcible Rape, Forcible Sodomy, Sexual Assault with an Object, and Forcible Fondling);
 8. Stolen Property Offenses;
 9. Weapon Law Violations;
 10. Disorderly Conduct;
 11. Family Offenses, Non-Violent;
 12. Stalking;
 13. Trespass of Real Property;
 14. Intoxication;
 15. Harassment;
 16. Home Invasion
- B. Committing the above stated offenses should not diminish the seriousness of domestic violence or take precedence over the crime of domestic violence since the intent of this Code is to prevent further acts of domestic violence. The commission of one of the above-

referenced crimes against a family or household member shall trigger the application of this ordinance, even if the criminal complaint is also charged as one of these offenses. The purpose of this Code is to differentiate between these crimes committed against non-family and non-household members and those against family and household members, which shall be subject to the provisions of this Code.

- C. The use of alcohol in the committing of domestic violence or any crime related to domestic violence shall not diminish the seriousness of domestic violence or take precedence over the crime of domestic violence. The fact that the perpetrator was under the influence at the time of the offense shall not be utilized by law enforcement prosecution or the Court to mitigate the severity of the violence. Voluntary intoxication, which is available as a legal defense only in cases involving specific intent crimes, shall not be available as a defense to a perpetrator, nor shall it be utilized to lessen the consequences to the perpetrator.

Sec. 7.4 Penalties

- A. Criminal Penalties should be guided by the seriousness of the offense.

- 1. First Offense:

- a. Any person who commits an act of domestic violence defined by this Chapter shall be deemed guilty of the offense of domestic violence. A person convicted of a first offense of domestic violence may be imprisoned for a term not to exceed six months and may be fined an amount not less than \$200 or more than \$1,000, or both such imprisonment and fine, with costs and restitution to the victim. Mandatory counseling shall be part of sentencing as provided in Section 7.5 of this Chapter, as well as restitution when appropriate.

- b. The Court may suspend imposition of fines and imprisonment for the first offense and place defendant on probation for not less than three months nor more than one year. When a sentence is suspended there must be complete and total compliance with the orders of the Court requiring completion of the domestic violence program and counseling as ordered.

- 2. Second Offense: A person convicted of a second offense of domestic violence within five years may be imprisoned for a term of not less than 60 days or more than one year and fined an amount not less than \$500 or more than \$3,000, or both such imprisonment and fine. Mandatory counseling shall be part of sentencing as

provided in Section 7.5 of this Chapter, as well as restitution when appropriate.

3. **Third and Subsequent Offenses:** A person convicted of a third or subsequent offense of domestic violence within five years of the last conviction may be imprisoned for a term of not less than one year and fined an amount not less than \$1,000 or more than \$5,000, or both such imprisonment and fine. Mandatory counseling shall be part of sentencing as provided in Section 7.5 of this Chapter as well as restitution when appropriate. A convicted person under this section 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.
4. For second and subsequent convictions, upon complete and total compliance with the orders of the Court requiring completion of the domestic violence program and/or counseling as ordered, the Court may suspend up to half of the imposition of fines and imprisonment for domestic violence offense(s). Provided: the perpetrator is placed on probation for not less than one year. Failure to comply with terms of probation shall result in the completion of the original sentence.
5. In cases of failure to comply with the Court's orders of counseling under this Section, the Court shall find the person in contempt and shall impose a sentence no greater than the original sentence for the offense and again require the perpetrator to complete the entire counseling program upon release from jail.
6. Failure to attend counseling, violation of an order for protection, commission of any crime during the order for protection period, or violation of any condition of sentencing will result in a violation of probation and upon a finding of such shall result in the imposition of a sentence no greater than the original sentence and require the perpetrator to complete the entire domestic violence program again.
7. Prosecution for the offense of domestic violence shall not preclude prosecution for any other offense arising from the same circumstances.
8. A person convicted of domestic violence shall not be released from custody for community service or to attend funeral or wake services unless said services are for a member of the person's immediate family. Immediate family as used in the foregoing Subsection A 7 shall mean husband, wife, son, daughter, brother, sister, father, mother or grandparent.

- B. Civil Penalties - A person who is found guilty of domestic violence may be liable for a civil penalty not to exceed \$5,000, to be determined by the Court after a thorough review of the evidence and circumstances. In addition, restitution shall be required when appropriate.
- C. Other Offenses; Entering Tribal Jurisdiction and Committing Domestic Violence.
 - 1. A person who enters the Tribal jurisdiction and commits an act of domestic violence and thereby causes injury to a family or household member, shall be considered to be in violation of Section 7.3 of this Chapter.
 - 2. A person who causes a family or household member to enter Tribal jurisdiction as a result of domestic violence commits an act of domestic violence and shall be considered to be in violation of Section 7.3 of this Chapter.
- D. Other Conditions in Addition to Penalties.
 - 1. In addition to the penalties above, the Court shall impose any condition it deems necessary to prevent further domestic violence, including but not limited, to restricting the defendant's ability to have contact with the victim and other family or household members and the requirement that defendant make periodic reports to the Court for the duration of the sentence and probation.
 - 2. A Peace Officer may remove any weapons or firearms that are in plain view or otherwise discovered during the domestic violence related investigation or are in the possession and control of the perpetrator. Such weapons may be subject of the forfeiture proceedings.
- E. Pre-sentencing evaluation - Prior to sentencing a person convicted under this Chapter for a domestic violence offense, the Court shall order a domestic violence evaluation or other personal evaluation deemed necessary upon motion of either party.

Sec. 7.5 Court Ordered Treatment and Counseling

- A. Alcohol and substance abuse. If alcohol, drugs, or other substance abuse, by perpetrator or victim, is a primary factor in the domestic violence arrest, a mandatory chemical dependency evaluation shall be conducted and complete cooperation with recommendations for treatment shall be considered by the Court.
- B. Mandatory Counseling.

1. A person convicted of domestic violence shall be ordered to participate in appropriate counseling, which may include domestic abuse, substance abuse, or family counseling.
2. The Court shall provide that qualified personnel will talk with the victim and discuss the availability of domestic violence services and groups.

C. Substance Abuse by Victim: Referral to Social Services

1. If a peace officer has reason to believe that the victim of domestic violence has abused alcohol, drugs or other substances, and such abuse contributed in part to a domestic violence incident which has occurred in the presence of a child(ren) under the care and control of such victim, the peace officer shall report the circumstances of the incident to Tribal Social Services within 24 hours.
2. Once Tribal Social Services receives a report as provided in Subsection C 1, Tribal Social Services shall commence an investigation of the home environment of the victim and the child(ren) within 48 hours and shall take appropriate action as provided in the Juvenile Code.

D. Religious Consideration - Persons who practice a traditional Indian religion or any other religion may participate in additional counseling or ceremonies at their own expense, as appropriate to their sentence.

E. Cost for counseling or other treatment - The Court may order the person convicted of domestic violence to pay any cost for counseling or other treatment ordered pursuant to this Section.

F. Follow-up Assessment

1. A follow-up assessment shall be done at the completion of the mandated counseling.
2. A treatment provider shall do the assessment and shall forward a written copy of the findings and recommendations to the Court.
3. All treatment records will be sealed by the Court and may be reviewed only with written permission of the Judge.

Sec. 7.6 Procedure for Arrest and Disposition

A. Police Department

1. If probable cause exists as described in this Chapter, the officer shall arrest the perpetrator of domestic violence whether or not the victim

signs a complaint and whether or not the arrest is against the expressed wishes of the victim.

2. Whenever a police officer investigates an allegation of domestic violence, whether or not an arrest is made, the officer shall make a written incident report of the alleged abuse and submit that report to the Office of the Tribal Prosecutor within 24 hours.
3. If a peace officer receives complaints of domestic violence from two or more persons, circumstances shall be evaluated to determine if there was a primary physical aggressor. If the officer determines that one person was a primary physical aggressor, the officer may arrest the person who has committed domestic violence.

B. Office of the Tribal Prosecutor

1. The Office of the Tribal Prosecutor shall evaluate the complaint based upon all available facts. A case shall not be dismissed solely on the grounds that the victim may be an uncooperative witness.
2. The Office of the Tribal Prosecutor shall make reasonable efforts to notify a victim of an alleged crime involving, domestic violence when the prosecutor has decided to decline prosecution of the crime, or dismiss the criminal charges filed against the defendant.

C. Court

1. When a defendant is arrested, automatic orders of protection will be issued as provided in Section 7.9 of this Chapter.
2. Anyone immediately arrested under this Chapter shall be held in the custody of the Hualapai Tribal Police Department or the Bureau of Indian Affairs for a period not less than 24 hours as a mandatory "cooling off" period, regardless of when arraignment occurs.
3. Prior to release of the defendant, the Court shall provide for information to the victim regarding the availability of domestic violence services and groups, or refer the victim to appropriate service providers.
4. Because of the serious nature of domestic violence:
 - a. Disposition of cases shall not be delayed or dismissed because of concurrent dissolution of marriage proceedings or other civil actions;

- b. Any requirement that the victim's location be disclosed shall be waived and communication to victim regarding the domestic violence case shall be conducted through the victim's advocate or the Court;
- c. Docket sheets of criminal actions arising from acts of domestic violence shall be identified by any reasonable means.

Sec. 7.7 Duties of Peace Officers

- A. **Primary duty of officers.** The primary duty of officers when responding to a domestic violence situation is to enforce the laws and ensure victim safety.
- B. **Notification to victim.** If the victim is present when the officer arrests a person for domestic violence, the officer shall advise the victim of reasonable means to prevent further abuse, the availability of a shelter and other services in the tribe, and give the victim immediate notice of any legal rights and remedies available in accordance with policies and protocols adopted in accordance with Section 7.9 of this Chapter.
 - 1. The victim shall be furnished with a copy of the following statement:
If you are a victim of domestic violence, the Office of the Tribal Prosecutor will be notified of the incident and they shall determine whether to file charges against your abuser. An emergency order of protection will be issued against your abuser at the time of the arrest or at your request. You also have the right to go to Court and file a petition requesting any or all of the following temporary orders for relief.
 - 2. An order restraining your abuser from abusing, harassing, stalking, threatening, annoying, telephoning or otherwise contacting you and committing other acts of domestic violence.
 - 3. An order directing your abuser to leave your household and to stay away with no contact.
 - 4. An order preventing your abuser from removing any property from your household except for clothing and other such personal effects which may only be removed when the abuser is accompanied by a peace officer.
 - 5. An order awarding you custody or visitation of a minor child or children.
 - 6. An order specifying arrangements for visitation by your abuser, including required supervised visitation.

7. An order restraining your abuser from harassing or interfering with minor children in your custody.
 8. An order directing the party not granted custody to pay support of minor children or to pay support of the other party if there is already a legal obligation to do so, and
 9. An order protecting other family and household members.
- C. **Protection of the Victim.** A peace officer responding to an allegation of domestic violence shall use all reasonable means to protect the victim and prevent further violence, including but not limited to:
1. Taking action necessary to provide for the safety of the victim and any family or household member.
 2. Transporting or obtaining transportation for the victim or any minor child (or children) to a temporary shelter.
 3. Assisting the victim and any minor child (children) in obtaining immediate medical treatment, including obtaining transportation to a medical facility.
- D. **Notification of Release of a Perpetrator.** When a perpetrator is scheduled to be released from custody, the Police Department and/or Tribal Prosecutor shall make reasonable efforts to notify the victim prior to, or upon release of, the perpetrator from custody.

Sec. 7.8 Special Court Rules

In addition to the Rules of Court generally applicable to such proceedings, the Court is authorized to take the following actions in a proceeding, involving alleged domestic violence offenses.

- A. **Conditions of Release:** The Court shall, at the earliest stage of the proceedings, impose release conditions restraining the accused from committing further acts of violence against the alleged victim or any other person regardless of whether the Court orders bond release, recognizance release, or denies bond.
- B. **Arraignment:** At the arraignment, any Domestic Violence Victim Advocate may accompany the alleged victim to the hearing and may accompany the victim to all other subsequent hearings.
- C. **Admissibility of Victim's Allegations:** Any written statement made by the alleged victim under oath and signed by the victim describing the alleged acts

of domestic violence shall not be considered inadmissible solely because of an hearsay objection, but shall be subject to ordinary judicial analysis for admissibility of evidence in the Tribal Court.

- D. Victim - Impact Statement: When offered to the court, input from the victim shall be considered when determining the sentence to be imposed.
- E. Conviction: Upon conviction, the perpetrator shall be ordered to participate in an appropriate counseling program.
- F. Failure to Comply with Court Order: Failure to comply with a court order requiring a perpetrator to attend and cooperate in evaluation and/or undergo treatment as described in a treatment plan shall constitute contempt of court punishable as such. The Court may also order the imposition of any sentence that has been suspended.

Sec. 7.9 Civil Orders of Protection

Any person may seek relief under this Section by filing a petition, as a civil action, with the Court alleging that the person has been a victim of domestic violence committed by the Respondent. The person may petition for relief on behalf of himself or herself and on behalf of minors within the family or household members.

- A. Availability of Civil Petition for Orders of Protection in General.
 - 1. A civil petition to obtain an Order of Protection under this Section may be filed by:
 - a. Any person claiming to be the victim of domestic violence.
 - b. Any family member or household member of a person claimed to be the victim of domestic violence on behalf of the alleged victim.
 - c. A police officer/peace officer.
 - d. A Victim Advocate.
 - e. The Tribal Prosecutor.
 - 2. A Petition shall briefly describe the incident(s) of domestic violence and shall be a verified petition or supported by an affidavit made under oath stating the specific facts and circumstances justifying the requested order.
 - a. No filing fees shall be required for filing a petition nor shall a bond be required to obtain relief under this Section.

- b. The Petitioner, or the victim on whose behalf a petition has been filed is not required to file for annulment, separation, or divorce as a prerequisite to obtaining an order of protection.
- c. Standard petition forms with instructions for completion shall be available upon request from the Court Administrator.
- d. Mutual restraining orders of protection are permitted as determined by the Court.
- e. An order for protection does not preclude the rights of any party or child which are to be adjudicated at subsequent hearings in the proceeding.
- f. An order for protection may be revoked, modified, or extended.
- g. An order for protection may be presented in a proceeding, for the modification of an existing order, judgment or decree.

B. Procedure for Issuance of an Order of Protection in General

- 1. The order shall include the immediate granting of an ex parte order of protection based on the specific facts stated under oath and the Court has reasonable cause to believe that the Petitioner, or the person on whose behalf the petition is filed, is the victim of an act of domestic violence committed by the Respondent.
- 2. Within five days of the issuance of an ex parte order excluding holidays and weekends, a hearing shall be held to determine whether the order should be vacated, extended for an additional period of time, made permanent, or modified in any respect with reasonable notice to the Respondent.
- 3. If the Court does not find sufficient reasonable cause to grant an ex parte order, the Court shall serve notice to appear upon both parties and hold a hearing on the Petition for an Order of Protection within five days after the filing of the Petition, excluding holidays and weekends.
- 4. An Order of Protection granted pursuant to this Section shall be forwarded by the Court to the Police Department within 24 hours of issuance. In the case of an emergency Order for Protection, it shall be filed immediately upon issuance. The Police Department shall make available to each officer information as to the existence and status of every Order for Protection issued under this Section.

C. Contents of an Order of Protection in General

- 1. An Order of Protection shall include provisions:

- a. Restraining the Respondent from committing any acts of domestic violence.
 - b. Restraining the Respondent from harassing, stalking, threatening, telephoning, or otherwise contacting, the Petitioner, directly or indirectly, or engaging in any other conduct that would place any named family or household members in reasonable fear of bodily injury.
 - c. Prohibiting the use, attempted use, or threatened use of physical force that would reasonably be expected to cause bodily injury.
 - d. Restraining Respondent from receiving, possession or transporting a firearm or ammunition.
 - e. Restraining one or both parties from transferring, removing, encumbering, mortgaging, concealing, disposing, altering or property except as authorized by the Court, and requiring that an accounting be made to the Court for all authorized transfers, encumbrances, disposition, and expenditures.
 - f. Notifying the parties involved that the knowing violation of any provision of the order may constitute contempt of court punishable by fines, imprisonment, or both.
2. An order of Protection may include any other relief the Court deems appropriate, including but not limited to:
 - a. Excluding the Respondent from the residence of the victim (whether or not the Respondent and the victim share the residence), school, place of employment, or a specified place frequented by the Petitioner and any named family or household member.
 - b. Awarding temporary child custody, temporary child support, or establishing temporary visitation rights of the minor children of the parties, with the primary consideration of the least disruption of the children, including but not limited to health, safety, education, and normal routines of the children.
 - c. If visitation is granted there shall be set rules for exchange of children for visitation, including but not limited to times, places, persons, and the non-custodial parent may be required to post a bond as determined by the Court.
 - d. Ordering temporary possession and use of the parties' property.

- e. Ordering the Respondent to make timely payments on existing debts of the Respondent, including mortgage or rental payments and necessary utilities in order to maintain the Petitioner in their residence.
- f. Ordering other lawful relief as the Court deems necessary for the protection of the victim of domestic violence, including orders or directives to the Police Department or other appropriate departments and programs.

D. Duration and Amendments to Orders of Protection in General

- 1. An Order of Protection shall be enforced until further order of the Court but not to exceed 180 days and may be subject to amendment for extension at the discretion of the Court or at the request of one of the parties.
- 2. The Court may, in its discretion, conduct a review of the Order of Protection at the request of the parties.

E. Emergency Orders of Protection

- 1. During the hours that the Court is closed, the Court shall provide for the availability of a judge or other authorized personnel who shall authorize the issuance of emergency and temporary orders for protection by any appropriate and effective method.
- 2. If an officer, for any reason, cannot make an arrest under Section 7.6 of this Chapter, but states there is probable cause to believe a person is in immediate and present danger of domestic violence, the judge or other person authorized to issue emergency Orders for Protection may issue an ex parte Order of Protection if such authorized person finds that the officer's grounds are reasonable.

F. Violation of Order of Protection

- 1. In addition to any other penalties available under law or equity, a person, who knowingly violates, or a person who aides and abets another person to knowingly violate an Order of Protection is guilty of an offense and shall be sentenced to a maximum of six months imprisonment, or fined an amount not to exceed \$4,000 or both.
- 2. A person who enters Tribal jurisdiction with the intent to engage in conduct that violates the portion of a protection order shall be punished as provided in Subsection F 1 above.

3. A person in violation of a valid protection order issued by any court who causes a family or household member to enter Tribal jurisdiction shall be punished as provided in Subsection F 1.

Sec. 7.10 Reporting of Domestic Violence

- A. **Reporting Requirements.** Any physician, physician's assistant, nurse, community health representative, social worker, dentist, school teacher, adult services worker, peace officer, substance abuse counselor, or domestic violence program worker who has reasonable basis to believe that a person has been a victim of domestic violence shall report in accordance with Subsection B of this Section.
- B. **Report to Law Enforcement.** The report required by Subsection A. of this Section shall be made orally and immediately by telephone or otherwise to a peace officer.
- C. **Immunity for Reporting.** Except for malicious acts as described under Subsection D of this Section, a person making a report pursuant to this Section in good faith shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed and shall have the same immunity with respect to participation in any Court proceeding resulting from such a report.
- D. **Penalties for Failure to Report or False Reports**
 1. Any person who knowingly fails to make a report required under this Section is guilty of an offense and shall be imprisoned for a term of not more than 30 days and shall be fined an amount not less than \$100 nor more than \$300 or both.
 2. A person who knowingly and intentionally makes a false report or who coerces another person to make a false report of Domestic Violence is guilty of an offense and shall be sentenced to jail not to exceed 30 days, or fined an amount not to exceed \$500 or both.
 3. A person not subject to the criminal jurisdiction of the Hualapai Tribal Court, but who violates either Subsections 1, 2, or 3 above, is liable for a civil offense and shall be fined not more than \$1,000.

Sec. 7.11 Disclosure of Domestic Violence Shelters

Any person who knowingly publishes, disseminates or otherwise discloses the location of any domestic violence shelter or any place designated as a domestic violence shelter as defined in Section 7.2 without proper authorization is guilty of a crime and shall be sentenced to jail not less than five days or more than 30 days or fined an amount not less than \$100 or to exceed \$500, or both.

Sec. 7.12 Non-Indians

- A. All individuals involved as the perpetrator of domestic violence against tribal members, are subject to the mandatory arrest provisions of Section 7.6. If it is later determined by an official means a non-Indian person has been arrested, the non-Indian person may be released to the proper jurisdiction.
- B. A non-Indian person may choose to accept the civil jurisdiction of the Tribal Court to defend a charge of Domestic Violence.
- C. Upon conviction, proceedings for removal and exclusion of the non-Indian perpetrator from Tribal jurisdiction shall be initiated by the Tribe with a finding that exclusion is a proper remedy to ensure the safety of the victim(s).
- D. Civil Penalties. A non-Indian person not subject to the criminal jurisdiction of the Criminal Court but who is found responsible of domestic violence is liable for a civil penalty not to exceed \$5,000.00, to be determined by the Court after a thorough review of the evidence and circumstances. In addition, restitution shall be required when appropriate.

Sec. 7.13 Severability

If any part or parts, or the application of any part of this Chapter is held invalid, such holding shall not affect the validity of the remaining parts of the Chapter.

CHAPTER 8 CIVIL CONTEMPT

Sec. 8.1 Contempt of Court Defined

The following acts and omissions constitute contempt of court:

- 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 disrupt its proceedings or to impair respect due to authority; or
- B. Behavior of like character committed in the presence of a 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 case or upon inquest or other proceeding authorized by law; or
- C. Any breach of the peace, noise or other disturbance directly tending to interrupt the proceeding of a court; or
- D. Willful disobedience of process or an order lawfully issued by a court; or
- E. Resistance willfully offered to the lawful order or process of a court; or
- F. The unlawful refusal to be sworn as a witness or, when so sworn, refusal to answer a material question; or
- G. The publication of a false or grossly inaccurate report of a proceeding of a court.

Sec. 8.2 Contempt in Presence of Court: Summary Punishment

When a contempt is committed in the immediate view and presence of the Court, it may be punished summarily and immediately by a fine not to exceed \$500.00, or imprisonment in a detention facility for a term of not more than 30 days, or both. An order shall be entered by the Judge describing the actions constituting the contempt which took place in the Judge's immediate view and presence, and determining that the person proceeded against is in contempt of court.

Sec. 8.3 Procedure in Other Cases

In cases other than those described in 8.2 above, a contempt proceeding shall be commenced by the presentation to the Judge of an affidavit setting forth the facts constituting the contempt. The Court may either (1) issue an order against the person charged to show cause why he should not be held in contempt, and fixing a date and time for hearing, or (2) immediately issue a warrant of arrest to bring such person to before the Court. The Court

may release the person charged on his personal recognizance, may order bail or may order detention. If, after a hearing on a contempt charge, the Court determines that the person charged is guilty of contempt, the Court may sentence the person to pay a fine not to exceed \$500, to serve a term of imprisonment in a detention facility for a period not to exceed 30 days, or both, for each act of contempt.

Sec. 8.4 Damages to Injured Party

If any loss to a party in an action, suit or proceeding prejudicial to his rights therein have been caused by the contempt, or if the contempt has otherwise caused harm to any person or to the Tribe, the Court, in addition to the punishment imposed for the contempt, may give judgment against the party committing the contempt sufficient to compensate the aggrieved person or the Tribe, including costs and disbursements expended as a result of the contempt.

Sec. 8.5 Imprisonment until Act Performed

When the contempt consists of the omission or refusal to perform an act which is yet in the power of the person committing the contempt to perform, such person may be imprisoned until he performs such act.

Sec. 8.6 Additional Proceedings not Precluded

Nothing contained in this Chapter shall be deemed to prevent a person proceeded against under the provisions of this Chapter from also being charged, in either a criminal or civil proceeding, with the commission of an offense under Chapter 6 of this Code or otherwise pursuant to Tribal law.

CHAPTER 9

TRESPASS, EXCLUSION AND EXPULSION

Sec. 9.1 Who may be Excluded or Expelled

Any non-member of the Tribe may be excluded or removed from the Reservation pursuant to the provisions of this Chapter.

Sec. 9.2 Trespass; Grounds for Exclusion or Expulsion

The commission of any of the following acts by a non-member of the Tribe constitutes a trespass punishable, in addition to any other sanction imposed under applicable federal or tribal law, by exclusion or expulsion from the Reservation:

- A. Entering an area of the Reservation for which a permit is required under any tribal law, without first obtaining the requisite permit.
- B. Failure or refusal to pay any taxes, rents, fees, or other charges due the tribe after reasonable notice and opportunity to pay.
- C. The commission of any offense defined under tribal, state or federal law, including violation of any provision of the Hualapai Environmental Review Code and/or any of its subtitles.
- D. Unauthorized taking of any property from the Reservation.
- E. Any other act causing physical loss or damage of any nature to tribal property or to the property of any tribal member.
- F. Any other action which constitutes a threat to the health, welfare, security, or property of the tribe or any tribal member.

Sec. 9.3 Initiation of Expulsion or Exclusion Proceeding by Petition

An expulsion or exclusion proceeding shall be initiated by the filing of a written petition with the Tribal Court by any Tribal Prosecutor or the Hualapai Tribal Council. The petition shall state in plain terms the reason(s) for the proposed exclusion or expulsion.

Sec. 9.4 Notice of Proposed Expulsion or Exclusion; Service

Upon receipt of an expulsion or exclusion petition, the Clerk of the Tribal Court shall issue a notice of proposed expulsion or exclusion, stating the date, time and place at which the non-member may appear before the Tribal Court to show cause why he/she should not be excluded or expelled from the Reservation. The notice shall also state the time and manner in which the non-member may re-enter the Reservation only for the purpose of attending the

hearing. The Clerk shall cause the notice, along with a copy of the petition, to be served on the non-member pursuant to the provisions of Section 4.5 of this Code.

Sec. 9.5 Timing of Hearing

The hearing shall take place not less than five days after the completion of service of the notice and petition; PROVIDED, that if a Judge of the Tribal Court shall have reasonable cause to believe that an emergency exists, and the notice so states, the hearing may be held a minimum of 24 hours after completion of service.

Sec. 9.6 Hearing to Determine Expulsion or Exclusion

The hearing to determine whether the non-member shall be expelled or excluded from the Reservation shall be conducted as provided in Section 4.12 of this Code. The non-member shall be given an opportunity to present his/her defense at such hearing and may, at his/her own cost, be represented by counsel.

Sec. 9.7 Order of the Court

- A. At the conclusion of the hearing, or after the time set for the hearing in the event the non-member fails to appear or obtain a continuance thereof, the Court shall issue an order:
 - 1. Excluding or expelling the non-member from the Reservation, or
 - 2. Permitting the non-member to enter and/or remain upon the Reservation on such conditions as the court sees fit to impose.
- B. The order of expulsion or exclusion shall remain in force until revoked by the Tribal Court unless the order specifically provides otherwise.

Sec. 9.8 Enforcement of Orders of Exclusion or Expulsion

If any non-member ordered excluded or expelled from the Reservation does not promptly obey the order, a Judge of the Tribal Court may order (a) immediate physical removal of such person from the Reservation, or (b) that the non-member be brought before the Court for a civil contempt hearing under the provisions of Chapter 8 of this Code.

Sec. 9.9 Physical Removal of Non-members: Emergency

In cases involving immediate danger to the life, health, welfare, security, or property of the tribe or any of its members, or where any delay would result in irreparable damage, a Judge of the Court may, by written order, authorize any Peace Officer to remove a non-member or any of his/her property from the Reservation, either before or after the non-member has been ordered excluded or expelled from the Reservation as provided in Section 9.7 above. The Peace Officer executing such emergency removal order shall use only so

much force as deemed necessary by the Peace Officer to effect the removal. If service of the notice of proposed expulsion or exclusion has not already been made as provided for in Section 9.4 above, the Court shall cause the Peace Officer to serve the notice upon the non-member at the time of removal or as soon after removal as possible.

CHAPTER 10
TRIBAL COURT OF APPEALS; PROCEDURE

Sec. 10.1 Composition

The Tribal Court of Appeals shall consist of one or more judges selected in sequential order from a list of available Court of Appeals Judges compiled by the Tribal Court. The list of Court of Appeals Judges shall be renewed every two years and shall include at least three names. The Court of Appeals shall always consist of an odd number of Judges. No Judge shall sit on a Court of Appeals if he presided over the original proceedings or if disqualified under Section 2.10 of this Code.

Sec. 10.2 Jurisdiction

The Tribal Court of Appeals shall have appellate jurisdiction over all appeals from:

- A. A final judgment imposed by the Tribal Court in any criminal case;
- B. A final judgment or order of the Tribal Court in any civil case;
- C. A final judgment or order of the Juvenile Court;

Sec. 10.3 Right of Appeal

Any party to a civil action or defendant in a criminal action dissatisfied with a final judgment or order of the Tribal Court may appeal therefrom to the Tribal Court of Appeals.

Sec. 10.4 How Taken

- A. Appeals may be taken from any judgment or order of the Tribal Court or Juvenile Court by:
 - 1. Filing written notice of appeal within five days after the date of the action appealed.
 - 2. Posting with the Clerk of the Court an administrative fee of \$50 to cover costs and disbursements.
 - 3. In criminal cases, posting with the Clerk of the Court a satisfactory bond not exceeding twice the amount of the fine imposed or in case of a jail sentence the cash equivalent thereof; PROVIDED, however, that in the discretion of the Judge a cash bond in a lesser amount may be furnished in lieu thereof.
 - 4. In civil cases, posting with the Clerk of the Court a satisfactory bond

equal to twice the amount of the judgment, including costs, when the judgment is for money, or twice the value of the property, including costs, when the judgment is for the return of property. A cash deposit for the amount of the judgment or the value of property, plus costs, may be made in lieu of a bond.

- B. The court may waive the payment of any fees by the appellant in a criminal case who is unable to pay said fees without undue hardship.

Sec. 10.5 Content of Notice of Appeal; Written Response; Service

- A. The Notice of Appeal shall include the following:
 - 1. The name(s), address(es) and telephone numbers of the party(ies) taking the appeal and their counsel or advocate(s);
 - 2. The name of the court rendering the adverse ruling and the date the ruling was rendered;
 - 3. A concise statement of the adverse ruling or alleged errors made by the court;
 - 4. The nature of the relief being sought; and
 - 5. A concise statement of the ground for reversal or modification.
- B. The appellant(s) shall cause to be mailed a copy of the Notice of Appeal to the opposing party(ies) on the day it is filed.
- C. Any appellee may file with the Court a brief written response joining the position of the appellant(s) or challenging the jurisdiction of the Tribal Court of Appeals within 10 days after the Notice of Appeal is filed, and shall mail any such written response to the appellant(s) on the day filed.

Sec. 10.6 Action of Clerk of Court

Upon receiving a Notice of Appeal in any matter, the Clerk of the Court shall:

- A. At the time the Notice of Appeal is filed, provide to all parties a copy of all rules of appellate procedure then in force; and
- B. Within fifteen days of the filing of a Notice of Appeal, and in accordance with applicable appellate rules, transmit to the Court of Appeals a copy of the Notice of Appeal along with the complete record of the lower court proceeding, certified as accurate by the judge who presided over the matter.

Sec. 10.7 Scope of Appellate Review Generally

The Court of Appeals shall review the interpretation and application of the law and procedure by the Tribal Court to the facts as found to exist in the original proceeding, and shall only review the findings of facts of the Tribal Court when they are determined to be arbitrary or capricious.

Sec. 10.8 Review of Findings of Fact

- A. Findings of fact shall be presumed to be without reversible error. The presumption may be overcome only by a sworn written statement presented to the Court at the time of the filing of the Notice of Appeal which establishes, on the basis of the statement, any one or more of the following:
 - 1. That a witness ready and willing to testify at the time of the trial on behalf of the appellant was not allowed by the trial Judge to take the witness stand and to testify and that such testimony would have materially altered the judgment of the Trial Court
 - 2. That the Tribal Judge refused to admit documentary or other physical evidence, and that such evidence would have materially altered the judgment of the Trial Court
 - 3. That, after the trial, the appellant discovered material evidence which, with reasonable diligence, could not have been discovered and produced at the trial, and that such evidence would have materially altered the judgment of the Court.
- B. In the event the Court of Appeals finds the presumption is overcome pursuant to this Section, it shall remand the case to the Tribal Court for the limited purpose of hearing only the excluded or new evidence and any evidence in rebuttal presented by any other party to the proceeding.

Sec. 10.9 Review of Tribal Court Procedure and Conclusions of Law

- A. The Court of Appeals may review the Tribal Court's procedure to determine whether the rights of the appellant(s) were materially affected by any procedural errors of the Court, and may review conclusions of law of the Tribal Court to determine their appropriateness based on the Tribal Court's factual findings and whether the judgment or order appealed from is supported by the facts and applicable law.
- B. If the Court of Appeals finds reversible error in the Tribal Court's procedure or conclusions of law, it may modify the decision under review, reverse the decision in whole or in part, order a new trial, or take any other action as the merits of the case and the interests of justice require.

Sec. 10.10 Rules Governing Appeals

Rules promulgated by the Tribal Court of Appeals shall govern all additional matters of appellate procedure and substance not specifically addressed in this Chapter.

CHAPTER 11 LAW ENFORCEMENT

Sec. 11.1 Tribal Police Department

The Tribal Council may establish a Tribal Police Department, consisting of such peace officers and support personnel as may be needed. The Tribal Police Department shall be responsible for maintaining law and order on the Hualapai Reservation, and shall operate according to rules adopted by the Tribal Council, including any memoranda of agreement between the Bureau of Indian Affairs and the Hualapai Tribe, as may be confirmed, amended or superceded by other such agreements and/or Tribal law.

Sec. 11.2 Tribal Rangers as Authorized Officers

In addition to the powers and authority granted to Peace Officers, Tribal law also imposes certain responsibilities for the maintenance of law and order on the Reservation on rangers employed or commissioned by the Hualapai Tribe. As such, Tribal rangers may be deputized with some powers and duties, and subject to the limitations, described in this Chapter and elsewhere under Tribal law.

Sec. 11.3 Commissioning

Tribal Peace Officers may be authorized by another jurisdiction to aid in effective law enforcement on or near the Reservation. Law enforcement officers from other jurisdictions may be commissioned to aid in the enforcement of this Law and Order Code and/or other Tribal law.

Sec. 11.4 Additional Powers and Duties of Peace Officers

Subject to other provisions of Tribal law, every Peace Officer has the following powers and duties:

- A. To report and investigate all violations of any law or regulation which a Peace Officer is charged with upholding;
- B. To detain and/or arrest all persons for violations of laws and/or regulations which a Peace Officer is charged with upholding, when there exists sufficient grounds to do so;
- C. To lend assistance to other officers;
- D. To prevent, whenever possible, violations of Tribal law which a Peace Officer is charged with upholding;

- E. To inform himself or herself as to the provisions of this Law and Order Code and all other Tribal laws which a Peace Officer is charged with upholding, and to attend such training sessions as his supervisors may direct;
- F. To obey all applicable Tribal and Departmental regulations; and
- G. To otherwise maintain or assist in the maintenance of law and order on the Hualapai Indian Reservation.

Sec. 11.5 Limitations on Authority and Action

Peace Officers shall execute their powers and duties set forth in Section 11.4 above and elsewhere under Tribal law in a manner that:

- A. Is consistent with and does not violate any provision of the Tribal Constitution;
- B. Involves no unnecessary force or violence;
- C. Conforms to good law enforcement practices and procedures.

Sec. 11.6 Offenses by Peace Officers

Any Peace Officer who uses excessive force or violence, commits a trespass by entering a dwelling without a warrant or probable cause, or otherwise violates the Constitutional or other rights of a person without justification or defense under Tribal law may be subject to civil and/or criminal charges provided for in this Law and Order Code.

Sec. 11.7 Offenses Against Peace Officers

Any person who commits an offense identified in Chapter 6 of this Code upon an Peace Officer which interferes with the Officer's official duties shall be subject to a minimum mandatory period of incarceration of 30 days in addition to any other penalties or remedies which may be assessed by the Court under applicable Tribal law.

Sec. 11.8 Lawful Concealed Weapon

Peace Officers are authorized to carry concealed weapons in the performance of their official duties.

CHAPTER 12 DOMESTIC RELATIONS

GENERAL PROVISIONS; MARRIAGE UNDER TRIBAL LAW

Sec. 12.1 Jurisdiction of Tribal Court over Marriage and Domestic Relations Proceedings

The Hualapai Tribal Court has jurisdiction over all matters involving marriages, including licensing, determinations of marital status, separation of married persons, dissolution of marriage, division of marital property, spousal and child support, in cases where at least one party to the marriage is a member of the Hualapai Tribe domiciled within the Hualapai Indian Reservation at the time of the commencement of the proceeding, and child custody matters subject to the provisions of Section 12.32 below.

Sec. 12.2 Recognized Marriages

Hualapai Tribal Law recognizes as valid marriage between a man and a woman under Tribal law or the laws of any state or country.

Sec. 12.3 Marriage Defined

Marriage is a personal relationship arising out of a civil contract, to which the consent of the parties, capable of consenting, is necessary, as well as solemnization, which occurs, after issuance of a marriage license, when a ceremony is performed by a duly authorized official under the law of any state, by any recognized clergyman, or any Judge.

Sec. 12.4 Who may Marry

Both parties must be unmarried, be of marriageable age, and not be closely related.

Sec. 12.5 Age

Unmarried persons 18 years of age or older can be issued a marriage license. A license may also be issued to an unmarried female under the age of 18 where she has become pregnant to marry the father of the child or expected child with the written consent of her parent(s) or guardian(s). If the father is also a minor, the consent of his parent(s) or guardian(s) shall also be obtained.

Sec. 12.6 Incest Prohibited

The marriage between parents and children, including grandparents and grandchildren of every degree, between brothers and sisters of the one-half as well as the whole blood, between whole blood first cousins, between uncles and nieces, and between aunts and nephews, are incestuous and prohibited as well as void.

Sec. 12.7 Marriage Licenses; Issuance

- A. Any person eligible under Sections 12.4 to 12.7 above may obtain a marriage license from the Judge or Clerk of the Tribal Court.
- B. The Judge or Clerk shall require the applicants to fill out a form to ascertain that the applicants are sober, mentally competent, unmarried, of marriageable age, and are not closely related as defined in Section 12.7 above, and to pay an administrative fee fixed by the Tribal Court for the issuance of marriage licenses.
- C. The Judge or Clerk shall record all licenses issued in a book kept for that purpose.
- D. The certificate of marriage shall be signed by two witnesses of lawful age present at the performance of the marriage ceremony.

Sec. 12.8 Return of Marriage Licenses

All licenses issued by the Hualapai Tribal Court must be returned to the Judge or Clerk within 30 days, recorded in the marriage license docket and forwarded to the appropriate county to record the marriage and return it to the parties.

ANNULMENT, LEGAL SEPARATION AND DISSOLUTION OF MARRIAGE

Sec. 12.9 Pleadings in Domestic Relations Cases; Form

- A. Proceedings under this Chapter, other than marriage, shall be instituted by the filing of a written Petition with the Clerk of the Court. Any responsive pleading shall be denominated a Response.
- B. Proceedings for annulment, legal separation or dissolution of marriage shall be entitled "In re Marriage of _____ and _____."
- C. Proceedings for child custody and/or support shall be entitled "In re (Custody) (Support) of _____."

Sec. 12.10 Filing Fees

Except as otherwise provided herein, an administrative fee of \$50 must be posted with the Clerk at the time a Petition is filed initiating a domestic relations proceeding, which fee shall not be refunded if the Petition is withdrawn or dismissed. If the Response in any domestic relations matter contains a cross-complaint against the petitioner, the respondent may be required to post a fee of like amount.

Sec. 12.11 Legal Separation or Dissolution: Pleadings; Contents; Defense; Joinder of Parties

- A. A petition in a proceeding for legal separation or dissolution of marriage shall allege that the marriage is irretrievably broken and shall set forth:
1. The age, occupation and address of each party and his or her length of domicile within the Hualapai Indian Reservation;
 2. The date of the marriage and the place at which it was performed, or the factual bases for the assertion of traditional or common law marriage;
 3. The names, ages and addresses of all living children, natural or adopted, common to the parties and whether the wife is pregnant;.
 4. The details of any agreements between the parties as to support, custody and visitation of the children and maintenance of a spouse; and
 5. The relief sought.
- B. Either or both parties to the marriage may initiate the proceeding.
- C. The only defense to a Petition for the legal separation or dissolution of marriage shall be that the marriage is not irretrievably broken.
- D. The Court may join additional parties necessary for the exercise of its authority.

Sec. 12.12 Irretrievable Breakdown; Finding

- A. If both of the parties by petition or otherwise have stated under oath or affirmation that the marriage is irretrievably broken, or one of the parties has so stated and the other has not denied it, the Court, after hearing, shall make a finding whether or not the marriage is irretrievably broken.
- B. If one of the parties has denied under oath or affirmation that the marriage is irretrievably broken, the Court shall, upon hearing consider all relevant factors as to the prospect of reconciliation, and shall either:
1. Make a finding whether or not the marriage is irretrievably broken; or
 2. Continue the matter for further hearing, not more than 60 days later. The Court, at the request of either party, or on its own motion may order a conciliation conference. At the adjourned

hearing the Court shall make a finding whether or not the marriage is irretrievably broken.

- C. A finding that the marriage is irretrievably broken is a determination that there is no reasonable prospect of reconciliation.

Sec. 12.13 Decree of Legal Separation; Findings Necessary

The Court shall enter a Decree of Legal Separation if it finds each of the following:

- A. That one of the parties at the time the action commenced was domiciled within the Hualapai Reservation.
- B. That the marriage is irretrievably broken.
- C. That the other party does not object to a decree of legal separation. If the other party objects to a decree of legal separation, the Court shall, in the event one of the parties meets the required domicile for dissolution of marriage direct that the pleadings be amended to seek dissolution of the marriage.
- D. That, to the extent it has jurisdiction to do so, the Court has considered, approved or made provision for child custody, the support of any natural or adopted child common to the parties of the marriage entitled to support, the maintenance of either spouse and the disposition of the property, pursuant to the provisions of this Chapter.

Sec. 12.14 Decree of Dissolution of Marriage; Findings Necessary

The Court shall enter a Decree of Dissolution of Marriage if it finds each of the following:

- A. That one of the parties, at the time the action was commenced was domiciled within the Hualapai Indian Reservation for 90 days.
- B. That the marriage is irretrievably broken.
- C. That, to the extent it has jurisdiction to do so, the Court has considered, approved, and made provision for child custody, the support of any, natural or adopted, child common to the parties of the marriage entitled to support, the maintenance of either spouse and the disposition of property, pursuant to the provisions of this Chapter.

Sec. 12.15 Annulment: Contents of Petition; Grounds

- A. A Petition for Annulment shall set forth the information required by Subsections 1, 2, 3 and 5 of Section 12.14 A above, and shall state the

grounds upon which the annulment is sought.

- B. An annulment may be granted where, at the time of the marriage, there existed an impediment rendering the marriage contract void, such as that one or both of the parties was then married to another or was of improper age, or on the grounds of fraud or improper consent, unless such party freely cohabits with the other after attaining the age of consent or after discovery of the fraud.

Sec. 12.16 Decree: Effect

A Decree of Annulment, Legal Separation or Dissolution shall not be awarded to one of the parties, but shall provide that it affects the status previously existing between the parties in the manner decreed.

Sec. 12.17 Decree; Finality; Restoration of Maiden Name

- A. A Decree of Annulment, Legal Separation or Dissolution is final when entered, subject to the right of appeal pursuant to the provisions of Chapter 10 of this Code. An appeal from a Decree of Dissolution that does not challenge the finding that the marriage is irretrievably broken does not delay the finality of that provision of the decree which dissolves the marriage beyond the time for appealing from that provision, and either of the parties may remarry pending appeal. An order directing payment of money for support or maintenance of the spouse or the minor child or children, shall not be suspended or the execution thereof stayed pending the appeal.
- B. The court may upon hearing within six months after the entry of a Decree of Legal Separation, convert the decree to a Decree of Dissolution of Marriage.
- C. The Court shall, upon motion of either party after expiration of six months from the entry of a Decree of Legal Separation, convert the decree to a Decree of Dissolution of Marriage.
- D. Upon request by a wife whose marriage is annulled or dissolved, the Court shall order her maiden name or a former name restored.

PROPERTY DIVISION, MAINTENANCE AND SUPPORT

Sec. 12.18 Property Ownership

- A. All property, including personal effects and use rights in property, owned or claimed by a spouse before marriage, and that acquired after marriage by gift, devise or descent, as well as the increase, rents, issues and profits from such property, shall belong to that spouse.
- B. All property purchased or otherwise acquired as provided in Subsection

A above during the marriage, solely used by one spouse, shall belong to that spouse.

- C. All property purchased or otherwise acquired other than as provided in Subsection A above, which is mainly used by one spouse, shall belong to that spouse.
- D. All property which is used by both parties and any children of the marriage is referred to as marital property. If both parties are Hualapai Tribal Members, upon legal separation or dissolution such property shall be awarded to the spouse with custody of the children; if the party awarded custody of children of the marriage is a non-member, the Court may, in its discretion, award such property to such spouse until all children reach the age of 18.
- E. All other property shall be, as equally as possible, divided between the parties, and property with indebtedness attached to it shall be paid by the spouse who receives the property.

Sec. 12.19 Disposition of Property

In a proceeding for legal separation or dissolution of marriage, or in a proceeding for disposition of property following dissolution of marriage by a court which previously lacked personal jurisdiction over one absent spouse or previously lacked jurisdiction to dispose of the property, the Court shall assign each spouse's sole and separate property to him. It shall also divide the marital property and other property held in common equitably, though not necessarily in kind, without regard to marital misconduct. Nothing in this Section shall prevent the Court from considering excessive or abnormal expenditures, destruction, concealment or fraudulent disposition of marital property or other property held in common.

Sec. 12.20 Maintenance Computation Factors

- A. In a proceeding for legal separation or dissolution of marriage, or a proceeding for maintenance following dissolution of marriage by a court which lacked personal jurisdiction over an absent spouse, the Court may grant a maintenance order for either spouse only if it finds that the spouse seeking maintenance:
 - 1. Lacks sufficient property, including property apportioned to him or to provide for his reasonable needs; and
 - 2. Is unable to support himself or herself through appropriate employment or is the custodian of a child whose age or condition is such that the custodian should not be required to seek employment outside the home.
- B. The maintenance order shall be in such amounts and for such periods of

time as the Court deems just, without regard to marital misconduct, and after considering all relevant factors, including:

1. The financial resources of the party seeking maintenance, including marital property apportioned to him and his ability to meet his needs independently.
2. The time necessary to acquire sufficient education or training to enable the party seeking maintenance to find appropriate employment.
3. The standard of living established during the marriage.
4. The duration of the marriage.
5. The age and the physical and emotional condition of the spouse seeking maintenance.
6. The ability of the spouse from whom maintenance is sought to meet his needs while meeting those of the spouse seeking maintenance.
7. Excessive or abnormal expenditures, destruction, concealment or fraudulent disposition of marital property or other property held in common.

Sec. 12.21 Child Support; Factors

- A. In a proceeding for legal separation, dissolution of marriage, maintenance or child support, the Court may order either or both parents owing a duty of support to a child, born to or adopted by the parents, to pay an amount reasonable and necessary for his support, without regard to marital misconduct after considering all relevant factors, including:
1. The financial resources and needs of the child.
 2. The financial resources and needs of the custodial parent.
 3. The standard of living the child would have enjoyed had the marriage not been dissolved.
 4. The physical and emotional condition of the child, and his educational needs.
 5. Excessive and abnormal expenditures, destruction, concealment or fraudulent disposition of community property, joint tenancy or other property held in common.

- B. In the case of a mentally or physically disabled child, if the court, after considering the factors set forth in Subsection A above, deems it appropriate, the Court may order support to continue past the age of emancipation and to be paid to the custodial parent, guardian or child.

Sec. 12.22 Temporary Order or Preliminary Injunction; Effect

- A. In a proceeding for legal separation, dissolution of marriage, maintenance or child support, either party may move for temporary maintenance or temporary support of a child, natural or adopted, common to the parties entitled to support. The motion shall be accompanied by an affidavit setting forth the factual basis for the motion and the amounts requested.
- B. As a part of a motion for temporary maintenance or support or by independent motion accompanied by affidavit, either party may request the Court to issue a preliminary injunction for any of the following relief:
 - 1. Restraining any person from transferring, encumbering, concealing or otherwise disposing of any property except in the usual course of business or for the necessities of life, and, if so restrained, requiring him to notify the moving party of any proposed extraordinary expenditures made after the order is issued.
 - 2. Enjoining a party from molesting or disturbing the peace of the other party or of any child.
 - 3. Excluding a party from the family home or from the home of the other party upon a showing that physical or emotional harm may otherwise result.
 - 4. Enjoining a party from removing a child from the jurisdiction of the Court.
 - 5. Providing other injunctive relief proper in the circumstances.
- C. The Court may issue a temporary restraining order without requiring notice to the other party only if it finds on the basis of the moving affidavit or other evidence that irreparable injury will result to the moving party if no order is issued until the time for responding has elapsed. No bond shall be required unless the Court deems it appropriate.
- D. On the basis of the showing made, and in conformity with Sections 12.23 and 12.24 above, the Court may issue a preliminary injunction and an order for temporary maintenance or support in amounts and on terms just and proper in the circumstances.

E. A temporary order or preliminary injunction:

1. Does not prejudice the rights of the parties or any child which are to be adjudicated at the subsequent hearings in the proceedings.
2. May be revoked or modified before final decree on showing by affidavit of the facts necessary to revocation or modification of a final decree.
3. Terminates when the final decree is entered or when the Petition for legal separation or dissolution of marriage is dismissed.

Sec. 12.23 Separation Agreement; Effect

- A. To promote amicable settlement of disputes between parties to a marriage attendant upon their separation or the dissolution of their marriage, the parties may enter into a written separation agreement containing provisions for disposition of any property owned by either of them, maintenance of either of them, and support, custody and visitation of their children.
- B. In a proceeding for dissolution of marriage or for legal separation, the terms of the separation agreement, except those providing for the support, custody and visitation of children, are binding upon the Court unless it finds, after considering the economic circumstances of the parties and any other relevant evidence produced by the parties, on their own motion or on request of the Court, that the separation agreement is unfair.
- C. If the Court finds the separation agreement unfair as to disposition of property or maintenance, it may request the parties to submit a revised separation agreement or may make orders for the disposition of property or maintenance.
- D. If the Court finds that the separation agreement is not unfair as to disposition of property or maintenance, and that it is reasonable as to support, custody and visitation of children, the provisions of the separation agreement shall be set forth or incorporated by reference in the Decree of Legal Separation or Dissolution and the parties shall be ordered to perform them. If the separation agreement provides that its terms shall not be set forth in the decree, the decree shall identify the separation agreement as incorporated by reference and state that the Court has found the terms as to property disposition and maintenance not unfair and the terms as to support, custody and visitation of children reasonable.
- E. Terms of the agreement set forth or incorporated by reference in the decree of divorce shall be enforceable by all remedies available for enforcement of a judgment, including contempt.

- F. Except for terms concerning the maintenance of either party and the support, custody or visitation of children, entry of the decree shall thereafter preclude the modification of the terms of the decree and the property settlement agreement, if any, set forth or incorporated by reference therein.

Sec. 12.24 Payment of Maintenance or Support to Courts; Records

- A. Upon its own motion or upon motion of either party, the Court may order at any time that maintenance or support payments be made to the Clerk of Court for remittance to the person entitled to receive the payments.
- B. The Clerk of Court shall maintain records listing the amount of payments, the date payments are required to be made, and the names and addresses of the parties affected by the order.
- C. The parties affected by the order shall inform the Clerk of Court of any change of address.
- D. If the person obligated to pay support has left or is beyond the jurisdiction of the Court, any party may institute any other proceeding available under Tribal law for enforcement of the duties of support and maintenance.

Sec. 12.25 Assignments

In the event a person obligated to pay child support is behind in payments for at least two months, the Court may order the person obligated to pay child support to make an assignment of a part of his periodic earnings or any trust income to the person entitled to receive the payments. In determining the amount which should be subject to assignment for the payment of child support, the Court shall make every effort to ensure a sufficient amount remains available to the person who is subject to the assignment order for their own support and livelihood. The assignment is binding on the employer, trustee, or other payor of the funds two weeks after service upon such person of notice that the assignment has been made. The payor shall withhold the earnings or trust income payable to the person obligated to support the amount specified in the assignment and shall transmit the payments to the Clerk of the court. The payor may deduct from each payment a sum not exceeding one dollar as reimbursements for costs. An employer shall not discharge or otherwise discipline an employee as a result of a wage or salary assignment authorized by this Section.

Sec. 12.26 Modification and Termination of Provisions for Maintenance, Support and Property Disposition

- A. Except as otherwise provided in Subsection F of Section 12.26 above, the provisions of any decree respecting maintenance or support may be modified only as to installments accruing subsequent to the motion for modification and only upon a showing of changed circumstances which are substantial and continuing. The provisions as to property disposition

may not be revoked or modified, unless the Court find the existence of conditions that justify the reopening of a judgment under Tribal law.

- B. Unless otherwise agreed in writing or expressly provided in the decree, the obligation to pay future maintenance is terminated upon the death of either party or the remarriage of the party receiving maintenance.
- C. Unless otherwise agreed in writing or expressly provided in the decree, provisions for the support of the minor child are not terminated by the death of a parent obligated to support the child. When a parent obligated to pay support dies, the amount of support may be modified, revoked or commuted to a lump sum payment to the extent just and appropriate in the circumstances.

CHILD CUSTODY AND VISITATION

Sec. 12.27 Separate Trials When Custody or Visitation is an Issue

- A. In all cases in which custody or visitation is a contested issue, the Court shall first hear all other issues including maintenance and child support. The contested issue of custody or visitation shall not be heard at any hearing involving other issues even upon agreement of attorneys.
- B. After all other issues have been decided and the amount of maintenance and child support established by the Court, then the issues of custody or visitation may be heard.

Sec. 12.28 Representation of Child by Counsel; Fees

The Court may appoint an attorney or any other person to represent the interests of a minor or dependent child with respect to his support, custody and visitation. The court may enter an order for costs, fees and disbursements in favor of the child's representative. The order may be made against either or both parents.

Sec. 12.29 Jurisdiction

- A. The Hualapai Tribal Court is vested with jurisdiction to decide child custody matters by initial determination or by modification of the decree, if:
 - 1. The child is an enrolled member of the Hualapai Tribe or is eligible for membership; or
 - 2. The child is domiciled within the Hualapai Indian Reservation at the time of commencement of the proceeding or within six months before commencement of the proceedings and the child is absent from the Reservation because of his removal or retention by a person claiming custody or for any other reason, and a parent or

persons acting as parent continues to live within the Reservation;
or

3. It is in the best interest of the child that the Tribal Court assume jurisdiction because the child and his parents, or the child and at least one contestant, have a significant connection with the Hualapai Tribe, and there is available to the Court substantial evidence concerning the child's present or future care, protection, training and personal relationships; or
4. The child is physically present within the Reservation and has been abandoned or it is necessary in an emergency to protect him because he has been subjected to or threatened with mistreatment or abuse or is neglected or dependent.

- B. Physical presence of the child, while desirable, is not a prerequisite for jurisdiction to determine his custody.

Sec. 12.30 Commencement of Child Custody Proceeding; Notice; Intervention

- A. A child custody proceeding is commenced in the Tribal Court:

1. By a parent, by filing a Petition:
 - a. For the dissolution or legal separation; or
 - b. For custody of the child; or
2. By a person other than a parent, by filing a Petition for custody of the child, but only if the child is not in the physical custody of one of his parents.

- B. Notice of a child custody proceeding shall be given to the child's parent, guardian, and custodian, who may appear, be heard, and file a responsive pleading. The Court, upon a showing of good cause, may permit intervention of other interested parties.

Sec. 12.31 Best Interest of Child; Modification of Decree

- A. The Court shall determine custody, either originally or upon petition for modification, in accordance with the best interests of the child. The Court may consider all relevant factors, including:

1. The wishes of the child's parent or parents as to his custody.
2. The interaction and interrelationship of the child with his parent

or parents, his siblings, and any other person who may significantly affect the child's best interest.

3. The child's adjustment to his home, school and community.
 4. The mental and physical health of all individuals involved.
- B. No motion to modify a custody decree may be made earlier than one year after its date, unless the Court permits it to be made on the basis of affidavits that there is reason to believe the child's present environment may endanger his physical, mental, or emotional health, safety or welfare.
- C. Fees of attorneys or lay advocate and costs shall be assessed against a party seeking modification if the court finds that the modification action is vexatious and constitutes harassment.

Sec. 12.32 Temporary Orders

- A. A party to a custody proceeding may move for a temporary custody order. This motion must be supported by pleadings as provided in Section 12.36. The Court may award temporary custody under the standards of Section 12.34 after a hearing, or, if there is no objection, solely on the basis of the pleadings.
- B. If a proceeding for dissolution of marriage or legal separation is dismissed, any temporary custody order is vacated unless a parent or the child's custodian moves that the proceeding continue as a custody proceeding and the Court finds, after a hearing, that the circumstances of the parents and the best interests of the child require that a custody decree is issued.
- C. If a custody proceeding commenced in the absence of a petition for dissolution of marriage or legal separation is dismissed, any temporary custody order thereby is vacated.

Sec. 12.33 Affidavit, Contents

A party seeking a temporary custody order or modification of a custody decree shall submit an affidavit or verified petition setting forth detailed facts supporting the requested order or modification and shall give notice, together with a copy of his affidavit or verified petition, to other parties to the proceeding, who may file opposing affidavits. The Court shall deny the motion unless it finds that adequate cause for hearing the motion is established by the pleadings, in which case, it shall set a date for hearing on why the requested order of modification should not be granted

Sec. 12.34 Interviews by Court; Professional Assistance

- A. The Court may interview the child in chambers to ascertain the child's

wishes as to his custodian and as to visitation.

- B. The Court may seek the advice of professional personnel, whether or not employed by the Court on a regular basis. The advice given shall be in writing and shall be made available by the court to counsel, upon request, under such terms as the Court determines. Counsel may examine as a witness any professional personnel consulted by the Court unless such right is waived.

Sec. 12.35 Investigations and Reports

- A. In contested custody proceedings, and in other custody proceedings if a parent or the child's custodian so requests, the Court may order an investigation and report concerning custodial arrangements for the child. The investigation and report may be made by a social service agency, the staff of the Juvenile Court or any other person or agency appointed by the Court.
- B. In preparing his report concerning a child, the investigator may consult any person who may have information about the child or his potential custodial arrangements.
- C. The Court shall mail the investigator's report to counsel of the parties at least 10 days prior to the hearing. The investigator shall make available to counsel of the parties the names and addresses of all persons whom the investigator has consulted. Any party to the proceedings may call for examination of the investigator and any person whom he has consulted.

Sec. 12.36 Custody Hearings; Priority; Costs; Record

- A. Custody proceedings shall receive priority in being set for hearing.
- B. The Court may authorize the payment of necessary travel and other expenses incurred by any person whose presence at the hearing the Court deems necessary to determine the best interest of the child.
- C. The Court, without a jury, shall determine questions of law and fact. If it finds that a public hearing may be detrimental to the child's best interest, the Court may exclude the public from a custody hearing, but may admit any person who has a direct and legitimate interest in the particular case or a legitimate educational or research interest in the work of the Court.
- D. If the Court finds that to protect the child's welfare, the record of any interview, report, investigation, or testimony in a custody proceeding should be kept secret, the Court may then make an appropriate order sealing the record.

Sec. 12.37 Visitation Rights; Exception

- A. A parent not granted custody of the child is entitled to reasonable visitation rights unless the Court finds, after a hearing, that visitation would endanger the child's physical, mental or emotional health, safety or welfare.
- B. The Court may modify an order granting or denying visitation rights whenever modification would serve the best interest of the child, but the Court shall not restrict a parent's visitation rights unless it finds that the visitation would endanger the child's physical, mental, or emotional health, safety or welfare.

Sec. 12.38 Judicial Supervision

- A. Except as otherwise agreed by the parties in writing, the custodian may determine the child's upbringing, including his education, health and care, unless, upon motion by the noncustodial parent, the Court, after hearing, finds that in the absence of a specific limitation of the custodian's authority, the child's physical health would be endangered or his emotional development significantly impaired.
- B. If both parents or all contestants agree to the order, or if the Court finds that the child's physical health would be endangered or his emotional development significantly impaired, the Court may order a social service agency to exercise continuing supervision over the case to assure that the custodial or visitation terms of the decree are carried out.

FAMILY CONCILIATION

Sec. 12.39 Family Conciliation Division

The Hualapai Tribal Court may establish a Family Conciliation Division to provide means for the reconciliation of spouses and the amicable settlement of domestic and family controversies in order to promote the public welfare by preserving, promoting and protecting family life and the institution of matrimony, and to protect the rights of children.

Sec. 12.40 Investigations

The Chief Judge of the Hualapai Tribal Court may appoint a member of the Tribal Court staff or any other person to carry out the following duties:

- A. Investigate the facts upon which to base warrants, subpoenas, or orders in actions or proceedings filed in or transferred to the Family Conciliation Division pursuant to this Chapter.
- B. Hold conciliation conferences with parties to proceedings under this

Chapter and report the results of such proceedings to the Judge of the Tribal Court.

- C. Provide such supervision in connection with the exercise of the powers and duties of the Family Conciliation Division as the Chief Judge of the Tribal Court may direct.

Sec. 12.41 Petition for Conciliation or for Transfer of Action to Family Conciliation Division

Prior to the filing of any action for legal separation or dissolution of marriage, either spouse, or both spouses, may file a Conciliation Petition for the purpose of preserving the marriage by effecting a conciliation between the parties or for amicable settlement of the controversy between the spouses so as to avoid further litigation over the issues involved. In any case, when action for legal separation or dissolution of marriage has been filed, either party thereto may by petition filed therein have the matter transferred to the Family Conciliation Division.

Sec. 12.42 Conciliation Petition; Contents

The Conciliation Petition shall:

- A. Allege that a controversy exists between the spouses and request the aid of the Family Conciliation Division to effect a reconciliation or an amicable settlement of the controversy.
- B. State the name and age of each minor child whose welfare may be affected by the controversy.
- C. State the name and address of the petitioner or petitioners.
- D. If the petition is presented by one spouse only, name the other spouse as respondent and state the address of that spouse.
- E. Name as a respondent any other person who has any relation to the controversy and state the address of the person if known to the petitioner.
- F. State such other information as the Family Conciliation Division may by rule require.

Sec. 12.43 Forms

The Clerk of the Tribal Court may provide, at the expense of the tribe, blank forms for Conciliation Petitions. The Family Conciliation Division shall assist any person in the preparation and presentation of any such petition when requested to do so.

Sec. 12.44 Fees

The Tribal court may fix a fee to be charged for filing a Conciliation Petition.

Sec. 12.45 Conciliation Conference: Time; Place; Notice, Citation; Witnesses

The Tribal Court shall fix a reasonable time and place for a conciliation conference, to be held within 30 days of the date of the filing of the Conciliation Petition unless the Court for good cause orders the conference to be held at a different time. The Court shall cause notice of the filing of the petition and of the time and place of the conference as it deems necessary to be given to the respondent. The Court, may when it so deems necessary, issue a citation to any respondent requiring him to appear at the time and place stated in the citation, and may require the attendance of witnesses as in other actions pursuant to the provisions of Sections 3.10 and 3.11 of this Code.

Sec. 12.46 Time and Place of Conciliation Conferences

Conciliation conferences may be held at any time and place within the Reservation, and may be held in chambers or otherwise, except that the time and place for the conference shall not be different from the time and place provided by law for the trial of civil actions, if any party, prior to the hearing, objects to any different time or place.

Sec. 12.47 Conduct of Conference

- A. Conciliation conferences shall be conducted informally by the Family Conciliation Division as a meeting or series of meetings to affect a reconciliation of the spouses or an amicable adjustment or settlement of the issues.
- B. At the conclusion of the conferences, the Family Conciliation Division shall report the results to the Judge of the Tribal Court and, may on request of one or both of the parties, hold further conferences or hearings in accordance with the provisions of this Chapter.
- C. To facilitate and promote the purposes of this Chapter, the Family Conciliation Division may, with the consent of both of the parties to the action, recommend or invoke the aid of appropriate resources such as physicians, psychiatrists, social agencies, or other individuals or agencies including clergymen of the religious denominations to which the parties belong or may request, but no reports of any such individual or agency available to the Court shall be filed with or become a part of the record of the case. Any such aid shall not be at the expense of the Court or the Tribe the Tribal Council authorizes such aid.
- D. Conferences or hearings conducted before the Family Conciliation Division or before the Tribal Court for the purpose of effecting a

reconciliation of the spouses or an amicable adjustment or settlement of issues shall be held in private and the Court shall exclude all persons except the officers of the Court, the parties, their counsel, and witnesses. Conferences or hearings may be held with each party and his counsel separately, and, in the discretion of the Judge, or other persons conducting the hearing or conference, counsel for one party may be excluded when the adverse party is present. All communications, verbal or written, from the parties to the Judge or other person conducting the proceedings under this Chapter, shall be deemed confidential communications and shall not be disclosed without consent of the party making such communication.

Sec. 12.18 Orders; Duration of Effectiveness; Reconciliation Agreement

- A. The Family Conciliation Division shall have full power to make, alter, modify, and enforce all orders for custody of children, restraining orders, preliminary injunctions, and orders affecting possession of property, as may appear just and equitable, but such orders shall not be effective for more than 60 days from the filing of a Conciliation Petition, unless the parties mutually consent to a continuation of such time.
- B. Any reconciliation agreement between the parties may be reduced to writing, and with the consent of the parties an order of the Family Conciliation Division or the Tribal Court may be entered requiring the parties to comply fully therewith.

Sec. 12.49 Stay of Right to File Other Domestic Relations Proceedings Pending Conciliation

- A. During a period beginning upon the filing of a Conciliation Petition and continuing until 60 days after the filing of the petition, neither spouse shall file any action for legal separation or dissolution, and upon the filing of a Conciliation Petition or Petition to transfer proceedings, any proceedings then pending in the Tribal Court shall be stayed and the case transferred to the Family Conciliation Division for conference, hearing and further disposition as provided in this Chapter; provided, however, that all restraining, support, maintenance or custody orders previously issued by the Tribal Court shall remain in full force and effect until vacated or modified or until they expire by their own terms.
- B. If, however, after the expiration of such period, the controversy between the spouses has not been terminated, either spouse may institute proceedings for legal separation or dissolution of marriage by filing with the Clerk of the Tribal Court the appropriate pleadings pursuant to Sections 12.11 and 12.14 above. The provisions of this Chapter may be used in regard to post-dissolution problems, concerning the maintenance,

support, visitation, contempt, or for modification based on changed conditions, in the discretion of the Tribal Court and Family Conciliation Division.

CHAPTER 13 JUVENILE COURT AND PROCEDURE

Sec. 13.1 Tribal Juvenile Court

The establishment of the branch of the Hualapai Tribal Court known as the Tribal Juvenile Court is hereby reaffirmed.

Sec. 13.2 Juvenile Court Judges

The Chief Judge of the Hualapai Tribal Court shall assign one or more Judges to sit on the Tribal Juvenile Court.

Sec. 13.3 Jurisdiction

The Tribal Juvenile Court shall have original jurisdiction of all persons under the age of 18, within the jurisdiction of the Hualapai Tribe in all cases:

- A. Concerning any child who is alleged to have violated any Tribal law, subject to this Code;
- B. Concerning a child who is dependent, incorrigible, or neglected, as those terms are defined in Section 13.5, Subsections F, K and M.
- C. To determine the custody of any child or appoint a guardian of any child who comes within the purview of the Court's jurisdiction under other provisions of this Section.
- D. To determine the legal parent-child relationship, including termination of residual parental rights and duties, as to a child who comes within the purview of the Court's jurisdiction under other provisions of this Section
- E. For judicial consent to the marriage, employment or enlistment of a child in the armed forces, and to emergency medical or surgical treatment of a child who comes within the purview of the Court's jurisdiction under other provisions of this Section.
- F. For the treatment or commitment of a mentally defective or mentally ill child who comes within the purview of the Court's jurisdiction under other provisions of this Section.

Sec. 13.4 Transfer of Jurisdiction

- A. Exercise of jurisdiction over a child on probation or under protective supervision or of a child who is otherwise under the continuing jurisdiction of

the Court, may be transferred by the Court to any other court with jurisdiction, if the receiving Court consents.

- B. In the event a child reaches the age of majority of 18 years after a case is initiated in the Tribal Juvenile Court but before final disposition of that case, the case shall not be dismissed, but:
 - 1. The Juvenile Court may retain jurisdiction over the matter through final disposition; or
 - 2. The Juvenile Court may transfer the matter to the Hualapai Tribal Court for final disposition.

Sec. 13.5 Definitions

As used in this Chapter, the following terms shall have the following meanings:

- A. "Adjudication" means a finding by the Court on the facts alleged in the petition and incorporated in an order.
- B. "Adult" means a person who is an enrolled member of the Hualapai Tribe, or any other person subject to the jurisdiction of the Hualapai Tribe, who is 18 years of age or older.
- C. "Child" means a person who is an enrolled member of the Hualapai Tribe, or any other person subject to the jurisdiction of the Hualapai Tribe, who is under 18 years of age.
- D. "Court" means the Tribal Juvenile Court.
- E. "Delinquent child" is a child who is adjudicated to have committed a delinquent act.
- F. "Dependent child" is a child who is:
 - 1. Homeless or destitute or without proper support or care through no fault of the parent or guardian.
 - 2. Lacks proper care by reason of the mental or physical condition of the parent, guardian or custodian.
 - 3. Under the age of eight years who is found to have committed an act that would result in adjudication as a delinquent or incorrigible child if committed by an older child.

- G. "Deprivation of custody" means transfer to legal custody by the Court from a parent or a previous legal custodian to another person, agency, or institution.
- H. "Detention" means the temporary care of children who require secure custody, in physically restricting facilities pending court disposition or transfer to another jurisdiction.
- I. "Guardian" means a guardian of the person and not a guardian of the property.
- J. "Guardianship" means the duty and authority to make important decisions in matters having a permanent effect on the life and development of the minor and to be concerned about his general welfare. It includes, among other things the authority to consent to marriage, enlistment in the armed forces, and major medical, surgical, or psychiatric treatment. "Guardianship" also includes legal custody, if legal custody is not vested in another person, agency, or institution.
- K. "Incorrigible child" is a child adjudicated as one who refuses to obey the reasonable and proper orders or directions of the parent, guardian or custodian, and who is beyond the control of such person, or any child who is habitually truant from school, or who is a runaway from their home or parent, guardian or custodian or who habitually so departs himself or herself as to injure or endanger the health, safety or welfare of himself or herself or others.
- L. "Legal Custody" means a relationship embodying the following rights and duties: the right to physical custody of a child; the right and duty to protect, train and discipline the child, the duty to provide the child with food, clothing, shelter, education, and ordinary medical care; the right to determine where and with whom the child shall live; and the right in an emergency, to authorize surgery or other extraordinary care. Legal custody is subject to residual parental rights and responsibilities and to the rights and responsibilities of the guardian of the person.
- M. "Neglected child" is a child who is:
1. Abandoned by their parents, guardian or custodian;
 2. Subjected to mistreatment or abuse by a parent, guardian or custodian;
 3. Lacks parental care by reason of the fault or habits of the parent, guardian or custodian;
 4. Refused proper or necessary subsistence, education, medical or surgical care or other care necessary to the child's health, safety and welfare or well-being by the parent, guardian or custodian;

5. Refused the special care made necessary by the child's mental condition by the parent, guardian or custodian;
 6. Engaged in an occupation or in a situation or environment dangerous to life or limb or injurious to the health, safety or welfare of him or others.
- N. "Probation" means a legal status created by court order following an adjudication involving violations of law by the child, whereby the child is permitted to remain in his home under prescribed conditions and under supervision by a probation officer designated by the Court, subject to return to the Court for further proceedings due to violation of any of the conditions prescribed.
- O. "Protective supervision" means a legal status created by court order in proceedings not involving violations of law by the child, whereby the child is permitted to remain in his home, and supervision and assistance to correct the neglect or dependency is provided by a probation officer or other agency designated by the Court.
- P. "Residual parental right and duties" means those rights and duties remaining with the parent after legal custody or guardianship of the person, or both, have been vested in another person or agency, including, but not limited to, the responsibility for support, the right to consent to adoption, the right to determine the child's religious affiliation, and the right to reasonable visitation unless restricted by the court. If no guardian has been appointed, "residual parental rights and duties" also include the right to consent to marriage, enlistment in the armed forces, and major medical, surgical or psychiatric treatment.
- Q. "Shelter" means the temporary care of children in physically unrestricted facilities pending court disposition or transfer to another jurisdiction.
- R. "Termination of parental rights" means the permanent elimination of all parental rights and duties, including residual parental rights and duties, by court order.

Sec. 13.6 Responsible Adults: Jurisdiction; Liability for Acts of Child

- A. In any case over which the Juvenile Court asserts jurisdiction under Section 13.3, the Juvenile Court also has jurisdiction over any and all adults responsible for a child alleged to have committed an offense, including the child's parent(s), guardian(s) or caretaker(s).
- B. In any case in which the Juvenile Court finds a child guilty of committing an offense defined by Tribal law, the Juvenile Court may impose sentence,

consistent with other provisions of Tribal law, against any and all adults responsible for the child, including parent(s), guardian(s) and/or caretaker(s), as well as the child, including fines, restitution to the aggrieved party, community service, or the requirement of family counseling.

Sec. 13.7 Duties and Powers of Juvenile Judges

In carrying out duties and powers specifically enumerated in this Chapter, Judges of the Juvenile Court shall have the same powers and duties as Judges of the Hualapai Tribal Court.

Sec. 13.8 Cooperation with other Agencies

The Tribal Juvenile Court is authorized to cooperate fully with any community, state, federal public or nonprofit agency to carry out the purposes of this Chapter, and is authorized to participate in any training programs or other programs which will improve the Juvenile Court system and carry out the purposes of this Chapter, subject to approval by the Hualapai Tribal Council of any expenditure of funds.

Sec. 13.9 Utilization of Social Services

The Juvenile Court in the exercise of its duties and in the exercise of any duties to be performed by officers under its supervision or control shall utilize such social services as may be furnished by the federal, tribal or state governments to the end that the Court may be economically administered without unnecessary duplication or expense.

Sec. 13.10 Placement of Children

The Tribal Juvenile Court may contract, on behalf of the Tribe, with agencies or departments of the Tribe, the federal government, or any state or any municipality thereof.

Sec. 13.11 Proceedings Involving Children Commenced by Petition; Exception

- A. Proceedings involving children shall be commenced by petition.
- B. The petition shall set forth with particularity the facts which are alleged to bring the person within the jurisdiction of the Court. The petition shall further state:
 - 1. the name, age and residence of the child; and
 - 2. the names and residences of the child's parents; and/or
 - 3. the name(s) and residence(s) of the child's guardian(s), if any; or

4. the name and address of the nearest known relative, if no parent or guardian is known; and
 5. the name and residence of the person having physical custody of the child.
- C. If any of the facts herein required to be stated are not known by the petitioner, the petition shall so state.
 - D. The petition may be prepared and filed by any Tribal Prosecutor.
 - E. In the case of violations of motor vehicle laws, other than those defined as offenses under Chapter 6 of this Code, a petition shall not be required, and the issuance of a citation or summons shall be sufficient to invoke the jurisdiction of the court.

Sec. 13.12 Determination of Status as Child

- A. Any person may, and every Authorized Officer shall, give the Court any and all information in his or her possession that a person is or appears to be a child within the jurisdiction of the Court.
- B. Whenever such information is received, the Court may require a preliminary inquiry to be made under the direction of the Court to determine whether the person is a child within the meaning and purposes of this Chapter and, if so, whether the interest of the public or the interest of the child require further action to be taken.
- C. On the basis of the information received and the preliminary inquiry, if one is made, the Court may direct that the petition be filed; or the Court may make such informal adjustment of the case as is practicable, provided that:
 1. the facts are admitted and establish prima facie jurisdiction;
 2. consent is obtained from the parents or other custodian of the child; and
 3. consent is also obtained from the child if the child is of sufficient age and understanding.
- D. Efforts to effect an informal adjustment may be continued no longer than 90 days without review by a Judge.

Sec. 13.13 Examination

The Court may order that a child be examined by a physician, surgeon, psychiatrist or

psychologist and may place the child in a hospital or other facility for such examination. However, the child shall not be held in such hospital or facility longer than 72 hours, excluding weekends and holidays, unless necessary for treatment of physical injuries, without a hearing before the Court. After due notice and a hearing set for the specific purpose, the Court may order a medical examination of a parent or guardian whose ability to care for a child is at issue, if the Court finds from the evidence presented at hearing that the parent's or guardian's physical, mental or emotional condition may be a factor in causing the neglect, dependency or delinquency of the child.

Sec. 13.14 Speedy Trial

Every case involving a child which is initiated in the Tribal Juvenile Court shall be decided within 60 days from the submission thereof to the presiding Judge, unless extraordinary circumstances exist which warrant an extension of that time period.

Sec. 13.15 No Additional Criminal Prosecution

When a petition has been filed under this Chapter, the child or children involved shall not thereafter be subject to criminal prosecution based on the facts giving rise to the petition, except as otherwise provided in this Chapter.

Sec. 13.16 Summons and Service of Process

- A. After a petition is filed and after such further investigation as the Court may direct, the Court shall promptly issue summons for hearing the case. No summons is required as to any person who appears voluntarily or who files a written waiver of service with the Tribal Court Administrator at or prior to the hearing.
- B. The summons shall contain the name of the Court, the title of the proceedings and (except for a published summons) a brief statement of the substance of the allegations in the petition. A published summons shall simply state that a proceeding concerning the child is pending in the Juvenile Court and an adjudication will be made. The summons shall require the person or persons who have physical custody of the child to appear personally and bring the child before the Court at a time and place stated. If the persons so summoned are not the parent(s) or guardian(s) of the child, then summons shall also be issued to the parent(s) or guardian(s) as the case may be notifying them of the status of the case and of the time and place set for the hearing.
- C. Summons may be issued to any person within the jurisdiction of the Hualapai Tribal Court requiring the appearance of any other person whose presence the Court deems necessary.
- D. If it appears to the Court that the welfare of the child or of the public requires that the child be taken into custody, the Court may at any time after a petition

is filed, make an order providing for detention or shelter.

- E. Upon the sworn testimony or signed statement of a physician, the Court may order emergency medical or surgical treatment which is immediately necessary for a child concerning whom a petition has been filed pending the service of summons upon his parents, guardian or custodian.
- F. A parent or guardian shall be entitled to the issuance of compulsory process for the attendance of witnesses on his or her own behalf or on behalf of the child. A guardian ad litem or a probation officer shall be entitled to compulsory process for the attendance of witnesses on behalf of the child.
- G. The Court may authorize the payment of necessary travel expenses incurred by persons summoned or otherwise required to appear at the hearing of a case under this Chapter, not to exceed the amount allowed to witnesses for travel in the Tribal Court.
- H. Service of process shall be made by a Peace Officer but, upon request of the Court, such service may be made by any other person appointed by the Court. Service of process within the Hualapai Reservation may be made by delivering a copy thereof to the person summoned; however, parents who are living together at their usual place of abode may be served by delivery of two copies of the summons to either. If personal service of process is impractical under the circumstances, the Court may order service by registered mail with return receipt requested to be signed by the addressee only, to be addressed to the last known address of the person to be served. Service shall be complete upon return of the signed receipt to the court.
- I. If the parent(s) or guardian(s) required to be summoned cannot be found within the Reservation, the child's presence within the Reservation shall confer jurisdiction on the Juvenile Court in proceedings in under this Chapter as to any absent parent or guardian, provided that due notice has been given in one of the following manners:
 - 1. If the address of the parent(s) or guardian(s) is known, by sending him or her a copy of the summons by registered mail with a return receipt requested to be signed by the addressee only, or by personal service outside the Reservation. Service by mail shall be complete upon return to the Court of the signed receipt.
 - 2. If the address or whereabouts of the parent(s) or guardian(s) outside the Reservation cannot after diligent inquiry be ascertained, by publishing a summons in a newspaper having general circulation within and around the Reservation. The summons shall be published

once a week for three successive weeks. Service shall be deemed complete on the day of the last publication.

- J. In the case of personal service, service must be completed not less than 72 hours before the time set for the appearance of the person served. In the case of service by mail or publication outside the Reservation, service must be completed not less than five days before the time set for appearance of the person served.

Sec. 13.17 Search and Arrest Warrants

- A. If a summons can not be served, or, if it appears to the Court that the person served will not obey the summons, that serving the summons will be ineffectual, or that the welfare of the child requires that the child be brought immediately into custody of the Court, a warrant may be issued for the arrest of the parent, the guardian, the custodian, or the child, and any such warrant may be served anywhere within the jurisdiction of the Hualapai Tribal Court.
- B. If it appears to the Court upon an affidavit sworn to by an Peace Officer, Tribal Prosecutor, or any other person, and upon the examination of other witnesses if required by the Judge, that there is probable cause to believe that a child is being detained or ill-treated in any place within the jurisdiction of the Court, the Court may issue a warrant authorizing a peace officer to search for the child. Upon serving such warrant upon the person in possession of the premises specified in the warrant, the officer making the search may enter the house or premises by force if necessary in order to remove the child. The officer must thereupon take the child into custody in accordance with Section 13.18 below.

Sec. 13.18 Arrest and Detention of Children

- A. A child may be taken into custody by any Peace Officer pursuant to a warrant issued under Section 13.17 above.
- B. A child may be taken into custody by a Peace Officer without a warrant:
 - 1. When in the presence of the officer the child has violated state, federal or Tribal law;
 - 2. When there are reasonable grounds to believe that the child has committed an act which, if committed by an adult, would be a felony;
 - 3. When the child is seriously endangered in the child's surroundings, and immediate removal appears to be necessary for the child's protection;

4. When there are reasonable grounds to believe that the child has committed an act, which, if committed by an adult, would be a breach of peace;
 5. When the child violates curfew by being found loitering or lingering upon any of the streets, alleys or public places within the Hualapai Indian Reservation between the hours of 10:00 p.m. and 5:00 a.m.;
 6. Unaccompanied by a parent, guardian or adult relative, except when the child is attending any church, school or duly organized children's function; or
 7. When there are reasonable grounds to believe that the child requires immediate care or medical attention.
- C. When an officer takes a child into custody, the officer shall immediately notify the parents, guardian, or custodian.
- D. A child shall not be detained by an officer any longer than is reasonably necessary to obtain the child's name, age, residence and other information, and to contact and obtain the appearance of the child's parent, guardian or custodian. A peace officer who arrests a child may forthwith notify a probation officer. No child shall be held in detention for more than 48 hours unless a petition alleging delinquent conduct has been filed and no child shall be held longer than 48 hours after the filing of said petition unless so ordered by the Court after a hearing.
- E. The officer or other person who takes a child to a detention facility shall promptly file with the court a brief written report stating the occurrences or facts which bring the child within the jurisdiction of the Tribal Juvenile Court and giving the reason why the child was not released.
- F. After an investigation by a duly authorized officer of the Court, the Judge with or without a hearing shall, upon written promise to bring the child to the Court at a set time or without restriction, order the release of the child to the child's parents, guardian, or custodian if it is found that the child can be safely left in their care. If it is found after a hearing for that purpose that it is not safe to release the child, the Judge may order that the child be held in an appropriate facility, subject to further order of the Court.

Sec. 13.19 Investigation

- A. After adjudication that a child is delinquent, dependent, neglected or incorrigible, the Court may require that a social investigation be made and that a report be submitted to the Court in writing in all cases under this Chapter in which a petition has been filed.

- B. The investigation shall cover the child's home environment history and associations, the present conditions of the child and family, and recommendations as to the child's future care. In cases involving the duty of support the study shall include such matters as earnings, assets, financial obligations and employment.

Sec. 13.20 Hearings

- A. Hearings in children's cases shall take place before the Court without a jury and may be conducted in an informal manner. The general public shall be excluded and only such persons as the Court finds have a direct and legitimate interest in the case or in the work of the Court shall be admitted. At the discretion of the Court, the child may be separately interviewed at any time. The hearing may be continued from time to time to a date specified in the order.
- B. The record of the proceedings shall be kept in accordance with the practice in other cases before the Hualapai Tribal Court, unless the Court otherwise directs.
- C. Neither the record in the Juvenile Court nor any evidence given therein shall be admissible as evidence against the child in any proceeding in any other court. No child shall be charged with crime nor be convicted in any Tribal Court except as provided in this Chapter. Upon reaching the age of 18, a child's record shall be sealed or destroyed upon the child's request.
- D. Any party, including the Tribe, shall have a right to be represented by a counselor in any proceeding under this Chapter. Prior to any hearings the Court shall inform the parents, guardians, or custodian, and the child when it is appropriate to do so, that they have a right to be represented by a counselor. The counselor may be a professional attorney or lay advocate permitted to appear before the Hualapai Tribal Court.
- E. The hearing shall consist of four portions:
 - 1. Initial hearing, including plea,
 - 2. Presentation of evidence regarding allegations in the petition,
 - 3. Adjudication hearing, and
 - 4. Disposition.
- F. Findings of fact by the Judge as to allegations in the petition shall be based on the standard requiring proof of each material allegation beyond a reasonable

doubt and shall be made upon the evidence admissible under the rules applicable to the trial of a criminal case in the Hualapai Tribal Court.

- G. In the disposition portion of the hearings any relevant and material information shall be admissible.
- H. Parties adversely affected by a final disposition shall be informed of their right to appeal under the provisions of Chapter 10 of this Code.
- I. When more than one child is involved in a home situation which may be found to constitute neglect or dependency, or when more than one child is alleged to be involved in the same violation, the proceedings may be consolidated, except that separate hearings may be held with respect to disposition.

Sec. 13.21 Amendment of Petition

When it appears during the course of any proceedings in a child's case that evidence presented points to material facts not alleged in the petition, the Court may proceed to consider the additional matters raised by the evidence. The Court, on motion of any interested party or on its own motion, shall direct that the petition be amended to conform to the evidence. If the amendment results in a substantial departure from the facts originally alleged, the Court shall grant such continuance as justice may require, subject to Section 13.14.

Sec. 13.22 New Hearing

A parent, guardian, custodian, or next of kin of any child whose status has been adjudicated under this Chapter, or any adult affected by a child's proceeding hereunder, may at any time petition the Court for a new hearing on the ground that new evidence which was not known and could not with due diligence have been made available at the original hearing and which might affect the decree, has been discovered. If it appears to the Court that there is such new evidence which might affect its decree, it shall order a new hearing and enter such decree and make disposition of the case as is warranted by all the facts and circumstances and the best interest of the child.

Sec. 13.23 Disposition of Cases

After adjudication of the allegations in the petition, the Court may issue a Disposition Order which includes any of the following:

- A. Require the child to submit to periodic counseling; and/or
- B. Place the child on probation or under protective supervision in the child's own home upon conditions determined by the Court; and/or

- C. Place the child in the legal custody of a relative or other suitable person, with or without probation or protective supervision; and/or
- D. Place the child in an approved boarding school or similar facility, for care, and for work; provided that the person, agency or associate operating the facility has been approved by the Court and has otherwise complied with all tribal, federal and, if applicable, state and local laws; and/or
- E. Order that the child, or the child's parent, guardian or custodian be required to make restitution for damage or loss caused by wrongful acts; and/or
- F. Arrange for employment or work programs, to enable children to fulfill their obligations under Subsection F of this Section, and for other purposes when deemed desirable by the Court; and/or
- G. In cases of violation of traffic laws, the Court may, in addition to any other disposition, restrain the child from driving for such periods of time as the Court deems necessary, and may take possession of the child's driving license; and/or
- H. Order that the child be examined or treated by a physician surgeon, psychiatrist, or psychologist, or that the child receive other special care, and for such purpose may place the child in a hospital or other suitable facility; and/or
- I. Appoint a guardian for the child where it appears necessary to do so in the interest of the child, and may appoint a public or private institution or agency in which legal custody of the child is vested, as such guardian.

Sec. 13.24 Primary Consideration - Welfare of the Child

In placing a child under the guardianship or legal custody of an individual or of a private agency or institution, the court shall give primary consideration to the welfare of the child, but whenever practicable may take into consideration the religious preferences of the child and of the child's parents.

Sec. 13.25 Establishment of Conditions by Court

In support of a disposition order under Section 13.23 above, the Court may impose reasonable conditions to be complied with by the parents, the child, custodian, or any other person who has been made a part to the proceedings including, but not limited to, restriction on visitation by the parents or one parent, restrictions on the child's associates, occupation and/or other activities, and/or requirements to be observed by the parents or custodian.

Sec. 13.26 Hospitalization of Child

With respect to a child within the jurisdiction of the Court under Section 13.3 above, the court may order hospitalization in an authorized hospital if the Court finds, upon due notice to the parents or guardian and a special hearing conducted in accordance with applicable Tribal law, that the child is (a) mentally ill, and (b) because of the illness is likely to injure himself or herself or others if allowed to remain at liberty, or is in need of custody, care or treatment in the mental hospital.

Sec. 13.27 Commitment of Mentally Deficient Child

The Court may make an order committing a child within its jurisdiction to an appropriate facility if the child has been found mentally deficient.

Sec. 13.28 Termination of Parental Rights

The Court may terminate all parental rights, provided it complies with provisions of Section 13.31 below.

Sec. 13.29 Other Disposition of Cases

The Court may make any reasonable orders which are for the best interest of the child or are required for the protection of the public. The court may combine several modes of disposition where they are compatible.

Sec. 13.30 Periodic Review of Cases

An order under this Chapter for the placement of a child with an individual or any agency shall include a date certain for a review of the case by the Court, with a new date to be set upon each review. The maximum period of time between judgment and the first review and between successive reviews shall be six months.

Sec. 13.31 Judgments and Orders

- A. For purposes of implementing the orders made and filed in a proceeding under this Chapter, the Juvenile Court's jurisdiction over a child shall continue, unless sooner terminated or transferred, until the child reaches the age of 18 years and, if this occurs prior to final disposition of the proceeding, the Court may retain jurisdiction or transfer jurisdiction to the Hualapai Tribal Court.
- B. The Court may modify or set aside any order or decree made by it; but no modification of an order placing a child on probation shall be made upon an alleged violation of the terms of probation, until there has been a hearing after due notice to all persons concerned.

- C. Notice and a hearing shall also be required in any case in which the effect of modifying or setting aside any order may be to deprive a parent of the legal custody of a child, to place the child in an institution or agency, or to transfer the child from one institution or agency to another, except that transfer from one foster home to another may be effected without notice and hearing.
- D. Adjudication by the Juvenile Court that a child is within its jurisdiction under Section 13.3 of this Chapter shall not be deemed conviction of a crime.

Sec. 13.32 Custody of Children

- A. Before depriving any parent of the custody of his or her child, the Court shall give due consideration to the preferred right of parents to the custody of their children and shall not transfer custody to another person, agency or institution unless the Court finds from all the circumstances in the case that the welfare of the child or the public requires that the child be taken from the child's parents.
- B. The rights of one parent may be terminated without affecting the rights of the other parent.
- C. The rights of the parent or parents may be terminated if the Court finds one of the following:
 - 1. That the parent is unfit and incompetent by reason of conduct or condition seriously detrimental to the child.
 - 2. That the parent has abandoned the child. It shall be prima facie evidence of abandonment that the parent, although having legal custody of the child, has surrendered physical custody of the child, and for a period of one year following such surrender has not by some affirmative act manifested to the child or to the person having the physical custody of the child an intention to resume physical custody or to make arrangements for the care of the child.
 - 3. That after a trial period, during which the child was kept in their own home under protective supervision or probation, or during which the child was returned to live in their own house, the parent substantially and continuously or repeatedly refused or failed to give the child proper parental care and protection.
- D. A termination of parental rights may be ordered only after a hearing is held specifically on the question of terminating the rights of the parent. A parent must be advised as to his or her right to the assistance of counsel at the parent's own expense. No such hearing shall be held earlier than 10 days after service of summons is completed. The summons shall contain a statement

that the rights of the parent may be terminated in the proceeding.

- E. Every order terminating the right of a parent shall recite the facts upon which the Court based its jurisdiction over the child and shall include the findings upon which the order is based.
- F. Upon the entry of an order terminating the rights of the parent, the Court may:
 - 1. place the child for adoption pursuant to applicable law; or
 - 2. make any other disposition of the child authorized under Section 13.23 above.
- G. Nothing contained in this Section shall preclude a parent from surrendering permanent legal custody voluntarily by instrument in writing, duly acknowledged, for purposes of adoption, and in accordance with applicable law.
- H. A parent, guardian, custodian or next of kin of a child whose legal custody has been transferred by the Court to an individual, agency, or institution, may petition the court for restoration of custody or other modification or revocation of the order, on the ground that a change of circumstances has occurred which requires such modification or revocation in the best interest of the child. The Court shall make preliminary investigation, and may dismiss the petition if it finds that the alleged change of circumstances, if proved, would not affect the Court's prior order. If the Court finds that a further examination of the facts should be made, or if the Court on its own motion determines that an order should be reviewed, it shall conduct a hearing upon due notice to all persons concerned and may thereupon enter an order continuing, modifying, or terminating the prior order.
- I. An agency granted legal custody shall have the right to determine where and with whom the child shall live, provided that placement of the child does not remove the child from the Hualapai Reservation without approval of the Juvenile Court. An individual granted legal custody shall exercise the rights and responsibility involved in legal custody personally, unless otherwise authorized by the Court.

Sec. 13.33 Support of Children

- A. When legal custody of a child is vested by the Court in an individual or agency other than his or her parents, the Court may in the same or any subsequent proceeding inquire into the ability of the parents to support the child and to pay any medical, psychiatric, or psychological examination or treatment provided under order of the Court. The Court may, after due notice and a hearing on the matter, require the parents to pay the whole or part of

such support and expenses, depending on their financial resources and other demands on their funds. The amounts so required to be paid shall be paid at such intervals as the Court may direct, and unless otherwise ordered, payment shall be made to the Administrator of the Tribal Juvenile Court for transmission to the person or agency having legal custody of the child or to whom compensation is due.

- B. No Court order issued under the preceding Subsection against a parent shall be entered, unless summons has been served or a voluntary appearance is made or a waiver of service given. The summons shall specify that a hearing with respect to the financial support of the child will be held.
- C. An order entered under this Section against the parent may be enforced by contempt proceedings, and shall also have the effect of a legal judgment. In addition to other remedies, the Court may issue an order to any employer, trustee, financial agency, or other person within the jurisdiction of the Tribe, indebted to the parent, to withhold and pay over to the Tribal Court Administrator, monies due or to become due. No property of the parents, or either of them, shall be exempt from execution to enforce collection of the amounts ordered to be paid by the Court under this Section.
- D. If the Court finds that the parents are unable to pay for full or partial support, examination, treatment and other expenses of the child and that no other provision for the payment of such support and expenses has been made, or if the parents have failed to make such payments, the Court shall request the Hualapai Tribe or any other public agency with funds available for such purposes to pay for such support and other expenses and, if such department or agency consents, it shall be so ordered by the Court.
- E. Payment for child support may be made to an agency in whom the Court vests legal custody, provided that the agency shall make periodic reports to the Court concerning the care and treatment the child is receiving and his response to such treatment. Such reports shall be made at such intervals as the Court may direct, and shall be made with respect to each child at least every six months. The agency shall also afford an opportunity for a representative of the Court to visit the child as frequently as the court deems necessary.

Sec. 13.34 Appeals; Effect

- A. Appeals from final orders of the Tribal Juvenile Court may be made to the Tribal Court of Appeals pursuant to the provisions of Chapter 10 of this Code.
- B. Unless otherwise ordered by the Juvenile Court or by the Court of Appeals, the pendency of an appeal shall not stay the order or decree appealed from in a child's case. Where the order or decree appealed from directs a change of legal custody of a child, the appeal shall be heard and decided at the earliest

practicable time. The name of the child shall not appear on the record of appeal.

Sec. 13.35 Fees

- A. There shall be no fee for filing a petition under Subsections A or B of Section 13.3.
- B. The Court may charge an administrative fee to be paid upon the filing of a petition to address any other matter under this Chapter.
- C. No Peace Officer, prosecutor, or Court official shall charge a fee for the service of process or for attendance in Court in any proceeding under this Chapter.
- D. Witness fees shall be payable in accordance with provisions for witnesses in tribal courts.

Sec. 13.36 Records

The Juvenile Court shall keep such records as required by Tribal law or otherwise by the Judge. Records in children's cases shall not be deemed criminal records and shall not be open to public inspection; but the Court may, in its discretion, authorize inspection by persons having a legitimate interest in the proceedings and by persons conducting pertinent research studies.

Sec. 13.37 Detention

- A. Age – No child under the age of 8 years of age shall be delivered, admitted, or committed to any place of detention.
- B. Use of adult facilities prohibited – No child under the jurisdiction of the Juvenile Court shall be delivered, admitted, or committed to a detention facility operated for the confinement of adults, unless the Juvenile Court has transferred concurrently transferred jurisdiction to Adult Court.
- C. Temporary – No child may be detained by law enforcement for longer than 6 hours from the time of initial contact. After 6 hours the child must be released, or transportation commence to place the child in a juvenile detention facility.

Sec. 13.38 Juvenile Detention Facility

- A. Establishment – The Tribe may designate, establish, and, and/or operate a facility for the purpose of providing secure confinement and rehabilitation of youth.

- B. **Management** – The Tribal Court shall be responsible for the oversight and supervision of the operation of any juvenile detention facility established by the Tribe.
- C. **Annual Inspection** – The Tribal Court shall inspect and approve, on an annual basis, the operation of any Tribally established juvenile detention facility. The inspection shall consider the nature and condition of the physical plant, the level and training of staff, and the delivery of a comprehensive package of programs and services designed to promote wellness and rehabilitation.
- D. **Purpose** – The purpose of any juvenile detention facility shall be to provide education, training, and rehabilitation services in a residential facility that is safe and secure for the children, the staff, and the community.

CHAPTER 14

MENTAL HEALTH; GUARDIANSHIP

Sec. 14.1 Definitions

- A. “Guardian” is a person appointed to take care of another person or the property of another.
- B. “Ward” is a person over whom or over whose property a guardian is appointed.

Sec. 14.2 Qualifications of Guardians

To be appointed a guardian by the Hualapai Tribal Court for a minor member of the Tribe or for a mentally incompetent member, a person must be:

- A. At least 21 years of age.
- B. Qualified to administer the financial and personal affairs of his or her ward in a satisfactory manner.

Sec. 14.3 Petition for Guardianship; Notice; Hearing

When it is represented to the Hualapai Tribal Court by the verified petition of any health services provider, relative, guardian or friend, that any member of the Hualapai Tribe is insane, or from any cause mentally incompetent to manage his or her property, the Hualapai Tribal Court must set a hearing and serve notice of the hearing on alleged insane or incompetent person of the time and place of hearing not less than five days before the time of such hearing, and the alleged insane or incompetent person, if able to attend, must be brought before the Court. If after a full hearing and examination of the petition it appears to the Court that the alleged insane or incompetent person is incapable of taking care of himself or herself and managing his or her property, the Court shall appoint a guardian for the subject person and the person’s estate. The Court may, in its discretion, exclude all non-participants from the hearing.

Sec. 14.4 Duties

Every guardian appointed under Section 14.3 above shall provide care and assume custody of the ward and the management of all the ward’s estate, until such time as the guardian is legally discharged.

Sec. 14.5 Restoration

- A. Any person who has been declared insane, or the guardian or any relative of such insane person, may apply by petition to the Hualapai Tribal Court for

restoration of his or her capacity. The petition shall be verified and shall state that such person is sane and all of the person's legal rights restored. Upon receiving the petition, the Court shall set a hearing and serve notice of the time and place of the hearing on the guardian of the petitioner, if there is a guardian, and to his or her husband or wife, if there is one, and to his father or mother.

- B. The guardian or relative of the petitioner, or in the discretion of the Hualapai Court, any other person, may contest the right of the petitioner to the relief demanded. Witnesses may be required to appear and testify as in other cases, and may be called and examined by the Court. If the Court finds that the petitioner is of sound mind and capable of taking care of his or her affairs and property, the Court shall restore the person to full legal capacity, and the guardianship of such person, if such person is not a minor, shall cease.

Sec. 14.6 Mental Health; Emergency and Involuntary Court-ordered Admissions

- A. A member presents a clear and present danger of harm to himself/herself if, as a result of mental illness, he/she has:
 - 1. acted in a manner demonstrating that, without the care or supervision of others, he/she will be unable to satisfy his/her need for nourishment, personal or medical care, shelter, self-protection or safety, resulting in the reasonable probability of death, serious bodily injury or physical debilitation; or
 - 2. attempted or threatened suicide; or
 - 3. attempted or threatened mutilation; or
 - 4. inflicted, threatened or attempted to inflict serious bodily harm on any other person and there is a reasonable probability that he/she will do so unless he/she is admitted to a mental health facility.
- B. An application for emergency admission may be made by any tribal police officer, any physician, psychologist, marriage and family therapist, social worker or registered nurse, based upon personal observation of the person that there is probable cause to believe that the person is mentally ill and because of that illness, is likely to harm himself or others if allowed his/her liberty. Such officials may take the allegedly mentally ill person into custody to apply for emergency admission of the person for evaluation, observation and treatment and may transport or arrange for transportation to a mental health facility or hospital for that purpose.
- C. Not more than 72 hours after an allegedly mentally ill person is brought to such a mental hospital or facility for evaluation, observation and treatment,

the psychologist, psychiatrist or physician must either release the person or, if good cause exists for detaining the person further, apply for a court order by filing a petition with the Tribal Court.

CHAPTER 15

ANIMAL CONTROL

Sec. 15.1 Definitions

- A. "Animal" means any living creature belonging to the Kingdom Animalia excluding humans and insects.
- B. "Animal Control Officer" means the person or persons designated by the Hualapai Tribal Council as responsible for the enforcement of this Chapter and any regulations promulgated therefore.
- C. "At Large" means any animal not under the physical restraint of a person capable of controlling the animal; or not confined in an enclosed and controlled area; or not on the owner's premises, under the voice control of the owner at all times.
- D. "Attack" means a violent or aggressive physical contact or violent or aggressive behavior confines the movement of a person or domestic animal. An attack on a domestic animal must include biting or an attempt to bite.
- E. "Bite" means any puncture, scratch, laceration or break in the skin of a human being by the teeth of a dog or any other animal.
- F. "Collar" means a band, chain, harness or suitable device worn around the neck or body of a dog to which a license tag may be attached.
- G. "Dog" means a member of the Canis Familiars species.
- H. "Euthanize" means to put an animal to death painlessly.
- I. "Feral" means an untamed or wild animal or an animal once a pet that has returned to an untamed state.
- J. "Licensed Animal" means a dog having a current and valid license as defined in this article.
- K. "Licensing Authority" means the Hualapai Tribe.
- L. "Livestock" means any domesticated animal raised for home use or for profit including but not limited to cattle, sheep, goats, swine, horses, mules and asses.
- M. "Public Health Advisor" means a person with specialized training in the identification and control of zoonotic diseases in animals, such as rabies,

which might infect humans and other animals. This individual may be the US PHS IHS Environmental Health Officer, a licensed veterinarian, or a designee of the Hualapai Tribe.

- N. "Spayed/Neutered" means any animal that has been surgically and permanently altered so as not to be able to reproduce.
- O. "Owner" means any person or legal entity having a possessory property right in an animal or one that harbors, cares for, exercises control over, or knowingly permits any animal to remain on premises occupied by them. An animal shall be deemed to be harbor if it is fed or sheltered for six consecutive days or more.
- P. "Pet or Companion Animal" means any animal kept for pleasure rather than utility; an animal of species that has been bred and raised to live in or about the habitation of humans and is dependent on people for food and shelter.
- Q. "Public Nuisance" means any animal or animals that unreasonable annoy humans, endanger the life or health of other animals or persons, or substantially interfere with the rights of citizens, other than their owners, to the enjoyment of live or property. The term "public nuisance animals" shall mean and include, but not limited to, any animal that:
 - 1. Is repeatedly found to be at large;
 - 2. Damages the property of anyone other than its owner;
 - 3. Molests or intimidates pedestrians or people passing by;
 - 4. Chases vehicles;
 - 5. Excessively makes disturbing noises including but not limited to, continued and repeated howling, barking, whining or other utterances causing unreasonable annoyance, disturbance or discomfort to neighbors or others in close proximity to the remises where the animal is kept or harbored.
 - 6. Is offensive or dangerous to the public health, safety, or welfare by virtue of the number or type of animal maintained.
 - 7. Attacks other domestic animals, or has been found by animal control officer to be a public nuisance animal by virtue of being a menace to the public health, safety, or welfare.

- R. "Quarantine" means confinement of an animal to a limited, enclosed area in order to restrict exposure of that animal to other animals and humans, and to facilitate observation of the animal for signs of zoonotic diseases.
- S. "Rabies Quarantine Area" means any area in which a state of emergency has been declared by the IHS Environmental Health Officer in conjunction with the animal control officer to exist due to the occurrence of rabies in animals in or adjacent to this area.
- T. "Restraint" means secured by a leash or lead under the control of a responsible person and obedient to the person's commands, or within the real property limits and the voice control of its owner or responsible person, or the vehicle of its owner with no access to exit of its own will.
- U. "Stray" means any animal not having a known or identifiable owner.
- V. "Unwanted Animals" means any animal or cat that is no longer wanted by their owners.
- W. "Vaccination" means an anti-viral vaccination using a type of vaccine approved by the State Veterinarian and administered by a licensed veterinarian.
- X. "Vicious Animal" means any animal that has a propensity to attack, to cause injury to or to otherwise endanger the safety of human beings or other animals without provocation, or that has been so declared after a hearing before the Hualapai Tribal Court.

Sec. 15.2 General Animal Control

- A. Any person owning, keeping, harboring, or having custody of a dog within the boundaries of the Hualapai Indian Reservation must obtain a license from the Hualapai Tribe.
- B. No animal will be licensed without proof of current vaccinations and immunizations. Dogs and cats four months of age and old must be vaccinated for rabies.
- C. Licenses must be renewed annually through the Hualapai Tribe. The fee may be waived if the owner can provide proof that the animal has been spayed/neutered.
- D. Animals shall wear the license securely attached around their necks or bodies at all times. The license tag shall be attached to a collar, harness, or other device and shall be worn with the rabies tag.

- E. Any animal not wearing a license or tag will be subject to impoundment by the tribal police or animal control officer, and will be released to the owner only after proof of licensing and payment of impoundment fees are provided.
- F. No person shall keep any animal known to be vicious, aggressive, or prone to biting or injuring human beings unless such animal is securely kept so as to prevent injury to people. The owner of such animal must post "beware of dog" or "Beware of Aggressive Animal on Premises" signs.
- G. Animals involved in more than one biting incident that are not kept secured will be picked up and euthanized by the animal control officer in the interest of public safety.
- H. Following the adoption of this code, dogs will be limited to two per residence. Those currently owning more than two dogs will be excused from this requirement for the life of the current dog(s), but those animals must be licensed through the Hualapai Tribe. This does not apply to those living in tribal housing, where a two pet limit is already in effect. Excess animals may be confiscated and humanely destroyed by an animal control officer.

Sec. 15.3 Rabies Control

Prevention of human and pet rabies depends on the following: maintaining appropriate vaccinations for dogs, cats and other susceptible animals, stray animal control, and leash law enforcement; providing public education to reduce exposures to wild and stray animals and providing appropriate response to animal bites and possible rabies exposures.

- A. All domesticated animals four months of age and older of a species susceptible to rabies must have a rabies vaccination from a licensed veterinarian.
 - 1. Any at large animal without an identifiable owner and proof of rabies vaccination will be picked up and euthanized by the animal control officer.
- B. Any animal involved in a biting incident shall be confined and quarantined as follows:
 - 1. Any dog or cat (vaccinated or unvaccinated) that bites a person must be confined for a 10-day observation. Any other animal susceptible to rabies will be confinement/quarantine for a period to be determined through consultation with the State Veterinarian.
 - a. If the animal does not die or develop clinical signs of rabies infection during the quarantine period, the animal did not have rabies virus in its saliva and the time of the exposure and there

- is no further risk to the bite victim. The animal will be released to the owner.
- b. If an animal develops signs of rabies infection while under quarantine, the animal will be humanely euthanized and the head submitted for rabies testing.
 - c. If an animal dies during the 10-day quarantine, the head will be submitted for testing.
 - d. If the animal is determined to be infected with rabies, a rabies quarantine area may be identified by the IHS Environmental Health Officer and the animal control officer.
2. Animals that do not have identifiable owners will be quarantined for the 10-day period to determine if symptoms of rabies are present or if rabies testing is needed. If the animal owner is not identified by the end of the quarantine period, the animal will be euthanized.
 3. The 10-day quarantine period starts on the day of the bite or exposure. Animals should not be vaccinated against rabies during this period, but must be vaccinated immediately following the quarantine if they do not have proof of rabies vaccination.
 4. Any animal currently vaccinated and licensed pursuant to this Section that bites any person in a provoked incident (as determined by the IHS Environmental Health Officer or animal control officer) may be quarantined at home by its owner if the animal is under conditions prescribed and approved by the animal control officer or IHS environmental health officer. The animal control officer will quarantine animals implicated in non-provoked biting incidents.
 5. Any wild animal that bites any person or domestic animal shall be considered potentially rabid. Such animals should be captured and the head submitted for rabies testing, if possible.
 6. The owner of an animal quarantined for observation as a result of a bite incident shall be charged a daily impoundment fee and board for the minimum of ten days. If an animal bites a person and the animal control officer compels quarantine of the animal, the owner may voluntarily deliver the biting animal to the quarantine area. Failure to deliver the biting animal to the quarantine area will require the animal control officer or Tribal police to pick up the animal. The owner will be responsible for all fees assessed during the animal quarantine period. If such animal is not redeemed by the owner within three days

after the quarantine period ends, it shall be deemed abandoned and the animal may be euthanized by the animal control officer.

7. Any person having direct knowledge of an animal bite incident must report the incident immediately to the animal control officer or the Hualapai Police Department.
8. Any animal impounded or quarantined under the provisions of this chapter will be humanely treated in a clean safe location, supplied with adequate fresh water and food, and shelter from the elements.
9. In a rabies quarantine area, no animal shall be permitted to roam at large. Animals shall be confined within the boundaries of his owner's property or on a least and under the direct control of an able bodied person when off the owner's property.

Sec. 15.4 Animal Care

- A. No owner shall fail to provide his or her animals with sufficient wholesome food, water in sufficient quantities, proper air, shelter space and protection from the weather, and preventative veterinary care and treatment.
- B. No person shall beat, cruelly ill-treat, overload, overwork or otherwise abuse an animal. No person shall cause, instigate or permit any dogfights, cockfights, or any other purposeful antagonistic behavior between animals.
- C. No person shall own or harbor any animal for the purpose of fighting, or train, badger or bait any animal for the purpose of fighting, or for the purpose of causing or encouraging unprovoked attacks upon human beings or other animals.
- D. No owner of an animal shall abandon such animal(s).
- E. Any person who, as the operator of a motor vehicle, strikes a domestic animal shall stop at once and render such assistance as may be possible and shall immediately report such injury or death to the appropriate law enforcement agency.

Sec. 15.5 Public Nuisance

No person shall allow any animal(s) to unreasonably annoy humans, endanger the life or health of other animals or persons, or substantially interfere with the rights of citizens, other than their owner, to the enjoyment of life or property.

Sec. 15.6 Running at Large

- A. No person owning, keeping, possessing, harboring, or maintaining an animal shall allow said animal to be at large. An animal is not deemed to be at large:
 - 1. While it is in the owner's yard and under voice control by the owner.
 - 2. While it is tethered and restrained by leash, chain, rope or cord of sufficient strength to control its actions and which limits the animal to its owner's property.
 - 3. While the dog is confined by an enclosure of sufficient height and strength to contain it.
- B. The animal control officer may apprehend any animal running at large that has no tags contrary to the provisions of this Chapter.
- C. When it is necessary for the protection of person or property, any duly authorized police officer or animal control officer who has reasonable cause to believe that an animal at large is a vicious animal and who reasonably believes that the animal cannot be safely captured and restrained may take appropriate steps to capture or destroy the vicious animal in a humane manner.
- D. Any animal control officer or police officer shall have the right to enter upon private property when it becomes necessary to do so in order to apprehend any animal that has been running at large. Such entrance upon private property shall be in reasonable pursuit of such animal(s) and not include entry into a domicile or enclosure that confines an animal unless it is at the invitation of the occupant.

Sec. 15.7 Disturbing the Peace

All animals shall be kept and maintained in such a manner as not to disturb the peace, comfort or health of any person residing within the community. It shall be unlawful for any person to keep or maintain an animal that is in the habit of barking, howling or otherwise disturbing the peace and quiet of any person residing within the community.

Sec. 15.8 Control of Vicious Animals

Once an animal is declared vicious, the following steps will be required to continue ownership of such an animal. Leash and muzzle. No person shall permit a vicious animal to go outside its pen unless such an animal is securely leashed with a leash no longer than six feet in length. No person shall permit a vicious animal to be kept on a chain, rope or other type of leash outside confinement unless a person is in physical control of the leash. Such animals may not be leashed to inanimate objects such as trees, posts, building, etc. In

addition, a device sufficient to prevent such an animal from biting persons or other animals must muzzle all vicious animals on a leash outside the animal's pen. At all times, animals must be provided with a adequate water, food, and shelter.

Sec. 15.9 Fees, Policies and Procedures

The Hualapai Tribal Council will review annually, fees for licensing and will develop policies and procedures regarding animal control.

CHAPTER 16

HEIRSHIP AND PROBATE

Sec. 16.1 Purpose

The purpose of this Chapter is to provide an orderly and harmonious distribution of a deceased person's property and payment of his debts.

Sec. 16.2 Court Proceedings or Family Settlement Agreement

- A. The Tribal Court shall have jurisdiction over all cases involving the descent and distribution of:
 - 1. All property, wherever located, of a deceased person who was a member of the Hualapai Tribe; and
 - 2. A deceased person's property found within the Hualapai Indian Reservation, in which the deceased person, if living, would otherwise have been subject to the jurisdiction of the Hualapai Tribe.
- B. The Tribal Court shall either approve a Family Settlement Agreement, as defined in this Chapter, or accept commencement of proceedings for administration. The latter shall occur only if the family is unable to reach an agreement regarding the deceased person's property and a petition for appointment of an administrator must so state.
- C. The Family Settlement Agreement procedure shall not apply if the deceased declared a bona fide will.

Sec. 16.3 Family Settlement Meeting

- A. A family settlement conference shall be held as soon as custom and practice will allow after the death. The deceased person's spouse, children and/or parents who may have an interest in the deceased person's property, shall meet to determine:
 - 1. What bills the deceased person owed and how these should be paid;
 - 2. What other claims there may be against the deceased person and how these shall be satisfied;
 - 3. What property the deceased person had that was solely his or used primarily by him, and how that property should be divided;
 - 4. A designation of any marital property, if the deceased person was

married, and its award to the wife or husband of the deceased person;

5. What property the deceased person willed away and the recipient of that property;
 6. Use rights to Tribal land, and who should receive that property; and
 7. Any other matters which by custom or tradition should be handled.
- B. At least ten (10) days before the scheduled date and time of the meeting, notice of the meeting shall be posted at one or more locations within the Hualapai Indian Reservation where public notices are commonly posted, and mailed, via registered mail, return receipt requested, to any person not located within the Reservation claiming a relationship to the deceased person and interest in the deceased person's property.

Sec. 16.4 Determination of Heirs

Unless the deceased person left a written will providing otherwise, the custom of the Hualapai Tribe as to inheritance shall be followed in the family settlement meeting and/or by the Court.

Sec. 16.5 Family Settlement Agreement

The family settlement agreement, if one can be reached, shall be completed on an approved form and filed with the Court for the Court's approval no later than 10 days after completion.

Sec. 16.6 Petition for Probate of Will or Administration of an Estate

The petition for probate of a will or for administration of an estate in which there is no will shall contain the following information:

- A. The name and social security number of the deceased person and all other names used by him;
- B. The date and place of death of the deceased person, and his age at the time of death;
- C. A statement that the deceased person was a Tribal member, or left property within the Hualapai Indian Reservation and was otherwise subject to the jurisdiction of the Tribe, stating the place of his last residence and that he had unrestricted property within the jurisdiction of the Tribe other than allotment or other Tribal trust property;
- D. A detailed statement of the assets of the estate, including items distributed

according to custom and to whom, along with the approximate value of each;

- E. The names of all heirs, including the widow or widower, with their ages, relationship to the deceased person, and addresses; provided, however, that if any heirs are unknown, the petition shall so state;
- F. A statement that the deceased person's will is filed with the petition and offered for probate, or that the deceased person left no written will;
- G. The name, age, residence and relationship to the deceased person of the executor named in the will or, in the absence of a will, the person applying for appointment as administrator of the estate; and
- H. A statement that the action is brought within three years of the death, and that the surviving family has been unable to reach a family settlement agreement.

Sec. 16.7 Fees

The Court may require the petitioner or the appointed executor or administrator to pay a fee, which shall not exceed one percent of the value of the estate.

Sec. 16.8 Who may be Executor or Administrator

Every executor or administrator must be over the age of 18 years. The following order of priority shall apply in appointing an administrator in a case where the deceased person left no written will:

- A. The surviving spouse or some competent person whom the surviving spouse may request to have appointed;
- B. The children of the deceased person;
- C. Other relatives entitled to share in the distribution of the estate;
- D. Any creditor.

Sec. 16.9 Duties of Executors and Administrators

- A. Every executor or administrator appointed by the Court is an officer of the Court and subject to the direction and orders of the Court. The failure of the executor or administrator to obey any order of the Court with respect to the estate is contempt of court subject to punishment as provided in Section 6.41 and Chapter 8 of this Code.
- B. The executor or administrator of an estate is a trustee for the benefit of the heirs and creditors of the estate. He has no right to use any of the property or

money of the estate as his own even if he is one of the heirs, shall be personally liable for his handling of the estate, and may be required to reimburse the estate for any loss to the estate due to carelessness or failure to account.

- C. The Court may require any administrator or executor to post a bond to ensure faithful performance of all duties designated in this Chapter.
- D. The court may issue an order authorizing and directing the executor or administrator to arrange the sale of property when necessary and good cause exists before determination and division of the property. All sales of property shall be for fair market value.
- E. Within five days after appointment, an executor or administrator must post a notice at one or more locations within the Hualapai Indian Reservation where public notices are commonly posted, and mail such notice, via registered mail, return receipt requested, to any known creditors, which provides notice of the appointment; of the probate of the will or administration of the estate; and provides that any creditor must make submit a written claim to the executor, administrator or the Court within 30 days of the date of the notice.
- F. Within 45 days after appointment, the executor or administrator shall file with the court an inventory of all property of the estate.

Sec. 16.10 Persons Entitled to Distribution of an Estate in the Absence of a Will

After setting aside marital property for the surviving spouse of a deceased person, and after the payment of all expenses of administration, funeral expenses and debts of the deceased person, the Court shall apply the custom of the Tribe as to inheritance of any remaining assets of the estate.

Sec. 16.11 Settlement of Estates

- A. Within 90 days after appointment, or within any extension of time thereof as the Court for good cause may grant, the executor or administrator shall file, and serve upon all creditors, a final report setting forth the following:
 - 1. The names and addresses of all heirs, including any proper additions or corrections to the original petition;
 - 2. A list of all assets of the deceased person, including any proper additions or corrections to the original petition;
 - 3. A statement that all debts, funeral expenses and other expenses of administration and last sickness have been paid, or describing satisfactory arrangements for payment, including the attachment of

proof of notice of such arrangements to creditors;

4. The proposed distribution of remaining assets to heirs.

- B. The executor or administrator shall attach to the report the written consents to the distribution by all heirs as far as it is possible to obtain them.
- C. Upon receipt of the final report, the Court shall set a date for hearing to approve the final report and issue a notice to all interested parties. Notice shall be published by posting at one or more locations within the Hualapai Indian Reservation where public notices are commonly posted; by publication in a newspaper of local circulation; and/or by mailing a copy of the notice, along with a copy of the final report, to each of the proposed heirs at his or her last known address.
- D. The hearing shall be scheduled to take place at least 15 days after the first date of publication of the notice.
- E. The cost of publishing the notice of the hearing shall be considered an expense of administration of the estate, and shall be paid out of assets of the estate.
- F. The executor or administrator, and his attorney or advocate, if any, shall appear in Court at the time and place set for the hearing. At the hearing, the Court shall hear all interested parties and render a decision as to a fair distribution of the assets of the estate.
- G. Any heir or other interested party who objects to the final report may file with the Court a written response to the report at any time prior to the date set for hearing. Court shall treat the hearing as a trial, and may follow the trial procedures for civil actions set forth in this Code; provided, however, that no case under this Section shall be tried to a jury.
- H. If no one appears to oppose the final report, the Court may sign an order approving the report without a hearing.

Sec. 16.12 Small Estates

- A. In the event that the total value of the estate is less than \$5,000 and the heirs of the deceased person are either a surviving spouse, or children, or parents, the estate may be settled as provided above, except that it will not be necessary to publish notices in any newspaper.
- B. The total value of the estate shall be determined by calculating the value of all personal property of the deceased person, not including use rights to Tribal land or dwellings thereon, less any claims of creditors, expenses of last

sickness and funeral costs.

Sec. 16.13 Probate of Wills

- A. If there is a written will and it is not contested, it may be admitted to probate.
- B. The validity of the will may be determined after giving notice and reasonable opportunity to appear in the proceedings to all heirs, creditors and other interested persons. A will shall be deemed valid if:
 - 1. The person making the will was of sound mind, understood the nature of his act when he made the will, and was not subject to duress or undue influence;
 - 2. The will is in writing and signed by the person making the will in the presence of two witnesses who also signed the will.
- C. If the Court finds that the will was validly executed, it shall order the property distributed to the persons named in the will or to their heirs.
- D. Any provision in a will which attempts to pass Tribal or allotted land or use rights therein to another person is void; PROVIDED, however, that the Court may authorize a surviving spouse with minor children of the deceased person to utilize such land, together with dwellings thereon, if they constitute the family residence, until such time as all minor children of the deceased person reach the age of 18 years.
- E. In the event of a will contest, the case will be tried according to the provisions of this Code setting forth procedures for civil trials, provided, however, that no case under this Section will be tried to a jury.

Sec. 16.14 Final Settlement Order; Effect

- A. The order or decree of the Court approving the Family Settlement Agreement or the final report of an executor or administrator shall be considered final and binding on all claimants against the estate, subject to the provisions of Subsection B below.
- B. At any time within one year from the date of the final order or decree, any heir, creditor or other person interested in an estate may file a motion to set aside the final order or decree and to permit the person so petitioning to file objections to the final report and have his objections or claims heard by the Court. The petition must be supported by a statement signed and proved by the petitioner that the petitioner had no notice of the final settlement of the estate or that his failure to appear during the probate of the will or administration of the estate was due to excusable neglect or mistake and that

he has a valid interest in the estate and good grounds for his objections.

Sec. 16.15 Appeals

An appeal from a final order or decree of the Court issued under this Chapter may be taken as provided in Chapter 10 of this Code.

CHAPTER 17
CIVIL TRAFFIC CONTROL AND OPERATION OF VEHICLES

GENERAL PROVISIONS

Sec. 17.1 General

It is the policy of the Hualapai Indian Tribe (or "the Tribe") to provide an environment where those who reside within the Hualapai Indian Reservation and/or engage in business or other activities within the reservation and/or visit or travel through the Reservation may be secure in their person and property. Toward this end, it is necessary to provide civil fines for conduct constituting civil traffic offenses. The offenses specified in Chapter 17, and those provided for in other Ordinances of the Tribal Council, constitute forbidden civil conduct against the Hualapai Indian Tribe. Persons committing such offenses may be tried and fined by the Courts of the Tribe as delineated by this Code; provided, however, that such jurisdiction, whether or not exercised, shall not affect the power or authority of any other courts, including those of the United States, which may have jurisdiction.

Sec. 17.2 Definitions

- A. "Authorized emergency vehicle" means any of the following:
 - 1. A fire department vehicle.
 - 2. A police vehicle.
 - 3. An ambulance, fire truck, rescue vehicle or other emergency vehicle that is designated or authorized by a local authority.
- B. "Business district" means the territory contiguous to and including a highway if there are buildings in use for business or industrial purposes within any 600 feet along the highway, including commercial and public buildings that occupy at least 300 feet of frontage on one side or three hundred feet collectively on both sides of the highway.
- C. "Cancellation" means the annulment or termination of a driver license because of an error or defect or because the licensee is no longer entitled to the license.
- D. "Controlled access highway" means a highway, street or roadway to or from which owners or occupants of abutting lands and other persons have no legal right of access except at such points only and in the manner determined by the Tribe or other governmental entity, agency, department or office that has authority over the highway, street or roadway for that purpose.

E. "Cross-Walk" means:

1. That part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highways measured from the curbs or, in the absence of curbs, from the edges of the traversable roadway.
2. Any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

F. "Gross weight" means the weight of a vehicle without the load plus the weight of any load thereon.

G. "Highway" means any highway, road, street, lane, roadway, trail, or path which members of the public are entitled to use, regardless of its surface or the agency responsible for its maintenance.

H. "Intersection" means the area embraced within the prolongation or connection of the lateral curb lines, or if none, the lateral boundary lines of the roadways of two highways that join one another at, or approximately at, right angles, or the area within which vehicles traveling on different highways joining at any angle may come in conflict. If a highway includes two roadways 30 or more feet apart, each crossing of each roadway of the divided highway by an intersecting highway is a separate intersection. If the intersecting highway also includes two roadways 30 or more feet apart, each crossing of two roadways of the highways is a separate intersection.

I. "Judgment" means a final judgment and any of the following:

1. The finding by a court that an individual is responsible for a civil traffic violation.
2. An individual's admission of responsibility for a civil traffic violation.
3. The voluntary or involuntary forfeiture of deposit in connection with a civil traffic violation.
4. A default judgment entered by a court pursuant to Section 17.313.

J. "Laned road" means a roadway which is divided into two or more clearly marked lanes for vehicular traffic.

K. "License" means any license, temporary instruction permit or temporary license issued under the laws of a state, an Indian tribe, the United States government, or any foreign or domestic nation or country that pertain to the

licensing of persons to operate motor vehicles.

- L. "Motor vehicle" means a self-propelled vehicle, including a motorcycle.
- M. "Motorcycle" means a motor vehicle that has a seat or saddle for the use of the operator and that is designed to travel on not more than three wheels in contact with the ground but excluding a tractor and a moped.
- N. "Operator" means a person who drives a motor vehicle on a highway, who is in actual physical control of a motor vehicle on a highway or who is exercising control over or steering a vehicle being towed by a motor vehicle.
- O. "Owner" means:
 - 1. A person who holds the legal title of a vehicle.
 - 2. If a vehicle is the subject of an agreement for the conditional sale or lease with the right of purchase on performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, the conditional vendee or lessee.
- P. "Park, if prohibited" means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading.
- Q. "Peace officer" means an officer duly authorized to direct or regulate traffic or issue citations for violations of traffic regulations with the Hualapai Indian Reservation.
- R. "Pedestrian" means any person afoot. A person who uses a manual or motorized wheelchair is considered a pedestrian unless the manual wheelchair qualifies as a bicycle.
- S. "Railroad" means a carrier of persons or property on cars operated on stationary rails.
- T. "Railroad sign or signal" means a sign, signal or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.
- U. "Reservation" means the Hualapai Indian Reservation.
- V. "Roadway" means that portion of a highway that is improved, designed or ordinarily used for vehicular travel, exclusive of the berm or shoulder. If a highway includes two or more separate roadways, roadway refers to any such

roadway separately but not to all such roadways collectively.

- W. "School bus" means a motor vehicle that is designed for carrying more than 10 passengers and that is either:
1. Owned by any public or governmental agency or other institution and operated for the transportation of children to or from home or school on a regularly scheduled basis, or
 2. Privately owned and operated for compensation for the transportation of children to or from home or school on a regularly scheduled basis.
- X. "Sidewalk" means that portion of a street that is between the curb lines or the lateral lines of a roadway and the adjacent property lines and that is intended for the use of pedestrians.
- Y. "State" means a state of the United States and the District of Columbia.
- Z. "Stop, if required" means complete cessation from movement.
- AA. "Stop, stopping or standing, if prohibited" means any stopping or standing of an occupied or unoccupied vehicle, except when necessary to avoid conflict with other traffic or in compliance with directions of a peace officer or traffic control sign or signal.
- BB. "Street" or "highway" means the entire width between the boundary lines of every way if a part of the way is open to the use of the public for purposes of vehicular traffic.
- CC. "Suspension" means that the driver license and driver's privilege to drive a motor vehicle on the public highways of any state are temporarily withdrawn during the period of the suspension and until application for reinstatement is made, or, as the context requires, that the privilege to drive a motor vehicle within the territory of the Hualapai Tribe is temporarily withdrawn by an order of any Hualapai Court.
- DD. "Through highway" means a highway or portion thereof at the entrances to which vehicular traffic from intersecting highways is required by law to stop before entering or crossing.
- EE. "Traffic" means pedestrians, ridden or herded animals, vehicles, and other conveyances either singly or together while using any highway for purposes of travel.
- FF. "Traffic-control device" means any sign, signal marking or device placed or erected by or under the authority of the Tribal Council or the State of Arizona

for the purpose of controlling, directing, regulating, warning or guiding traffic. The terms "sign", regulating, warning or guiding traffic. The terms "sign," "marking," and "device" may be used interchangeably in Chapter 17.

- GG. "Traffic-control signal" means a device whether manually, electrically or mechanically operated, by which traffic is alternately directed to stop and to proceed.
- HH. "Truck" means every motor vehicle designed, used or maintained primarily for the transportation of property.
- II. "Vehicle" means a device in, on or by which a person or property is or may be transported or drawn on a public highway, excluding devices moved by human power or used exclusively on stationary rails or tracks.

Sec. 17.3 Authority

The Hualapai Indian Tribe, in the exercise of the mandates set forth in the Constitution of the Hualapai Indian Tribe of the Hualapai Indian Reservation, Arizona (ratified February 14, 1991 and approved by the Secretary of the Interior on March 13, 1991) to govern itself under its own laws, to ensure the political integrity of the Tribe, to maintain peace and order through the establishment and administration of justice, and to preserve, secure and exercise all the inherent sovereign rights and powers of an Indian tribe, establishes Chapter 17 of the Hualapai Law and Order Code in order to regulate the use of all modes of transportation in the interests of public safety and the preservation of natural resources.

Sec. 17.4 Reservation of Authority

The Hualapai Indian Tribe explicitly reserves the right, power and authority to repeal or modify any portion of Chapter 17, and to enact new or additional laws and regulations regarding matters of transportation arising hereunder.

Sec. 17.5 Jurisdiction

The legislative, regulatory and judicial jurisdiction of the Hualapai Indian Tribe shall extend to all lands within the boundaries of the Hualapai Indian Reservation. Except as prohibited by federal statute, the Hualapai Tribe shall have jurisdiction over all persons and all activities occurring within the boundaries of the reservation notwithstanding the issuance of any right-of-way. Nothing in Chapter 17 shall be construed to limit the ability of the tribe to exercise its jurisdiction based upon its inherent sovereignty as an Indian tribe.

PROCEDURES FOR CIVIL TRAFFIC VIOLATIONS

Sec. 17.6 Traffic Violations; Civil Matters

A violation of Tribal law shall be treated as a civil matter unless the law provides for a different classification as a criminal offense.

Sec. 17.7 Commencement of Action

- A. A civil traffic violation case is commenced by issuance of a uniform traffic complaint as provided in this Chapter.
- B. A civil traffic violation case shall be commenced either:
 - 1. Within 30 days of the alleged violation.
 - 2. Within 180 days of the alleged violation if the alleged violation is under investigation in conjunction with a traffic accident.

Sec. 17.8 Service of Uniform Traffic Complaint

- A. A traffic complaint may be served by delivering a copy of the uniform traffic complaint to the person charged with the violation or by any means authorized by the rules of civil procedure.
- B. The original complaint shall be filed with the Hualapai Tribal Court within 10 court days of the time the complaint was issued. A peace officer may issue the traffic complaint.
- C. If it is necessary to issue a summons and complaint, the summons and complaint may be sent by regular mail to the address provided on the complaint. Service of the summons and complaint is complete upon mailing.

Sec. 17.9 Authority to Detain Persons

A peace officer may stop and detain a person as is reasonably necessary to investigate an actual or suspected violation of this Chapter and to serve a copy of the traffic complaint for an alleged civil violation of this Chapter.

Sec. 17.10 Traffic Complaint; Proceedings

- A. A person served with a civil traffic complaint shall:
 - 1. Appear at the time and place stated in the complaint, or may appear before the time, if so authorized by the Court, and on the directions contained in the complaint.

2. Admit or deny the allegations in the complaint.

- B. Allegations not denied at the time of appearance are deemed admitted.
- C. If the allegations are admitted, the court shall enter judgment for the Tribe and shall impose a civil penalty. The person may admit the allegations with an explanation, and then the court shall enter judgment for the Tribe and impose a civil penalty. In determining the civil penalty, the court shall consider the explanation submitted.
- D. If the person denies the allegations of the complaint, the court shall set the matter for trial. The trial is informal and without a jury. At the trial, the Tribe is required to prove the violation charged by a preponderance of the evidence. Technical Rules of evidence do not apply, except for statutory provisions relating to privileged communications. The trial shall be recorded. If the court finds in favor of the person, the court shall enter an order dismissing the allegation. If the court finds in favor of the Tribe, the court shall enter judgment for the Tribe and impose a civil penalty.

Sec. 17.11 Fines

- A. It is a civil offense for a person to violate any of the provisions of this Chapter. Except as otherwise expressly provided in this Section, offenses under this Section will be subject to the procedures and dispositions prescribed for civil offenses in Chapter 4 of this Code.
- B. A person who commits a first offense under the provisions of this Chapter for which another fine is not therein provided may be fined in an amount not to exceed \$500.00.
- C. Whenever by this Chapter the court is authorized to suspend or revoke driving privileges or operating privileges, the privilege which is suspended or revoked is that of operating a motor vehicle within the Hualapai Indian Reservation.

Sec. 17.12 Maximum Civil Penalty

A person who commits a subsequent offense under the provisions of this Chapter committed within one year after a previous offense committed under this Chapter for which another fine is not therein provided may be fined in an amount not to exceed \$1,000.

Sec. 17.13 Appeal

A party may appeal the judgment of the court. The appeal shall be in the same manner as provided for appeal of other civil judgments.

Sec. 17.14 Failure to Pay Civil Penalty

- A. A person shall pay all civil penalties within 30 days from entry of judgment, except that if payment within thirty days will place an undue economic burden on the person, the court may extend the time for payment or may provide for installment payments. If the civil penalty is not paid or an installment payment is not made when due, the court may declare the entire civil penalty due.
- B. If the civil penalty is not paid or an installment payment is not made when due, each judge of the Hualapai Court shall have the discretion to report any unpaid penalty or unsatisfied civil judgment resulting from a traffic complaint to one or more credit reporting agencies for inclusion in the person's credit report until it is paid.
- C. Nothing in this Section impairs the ability of the court *sua sponte* to initiate proceedings under the Court's inherent powers of contempt.

Sec. 17.15 Traffic Violation Charge; Juveniles

- A. The Hualapai Court shall not dispose of a moving traffic violation charge arising from the issuance of a traffic complaint to a juvenile under 18 years of age unless a parent or guardian of the juvenile appears in court with the juvenile at the time of the disposition of the charge.
- B. If unusual circumstances prevent the appearance of the parent or guardian, the Court may waive the appearance and shall send written notice to the parent or guardian advising the parent or guardian of the charge and its disposition.
- C. A traffic complaint filed against a juvenile is not considered a delinquency matter arising under Chapter 13 of the Hualapai Law and Order Code. Proceedings under this Chapter against a juvenile who attains the age of majority prior to disposition of the traffic complaint are not affected thereby.

Sec. 17.16 Grant of Privilege to Drive

- A. Pursuant to authority in Section 17.2, the Tribe hereby grants to all persons the privilege to operate a motor vehicle within the Hualapai Indian Reservation, subject to the provisions of Chapter 17.
- B. The Tribe explicitly reserves the right to suspend, rescind, modify, restrict or otherwise limit the privilege granted in Subsection A of this Section.

Sec. 17.17 Violation of Promise to Appear

- A. Any person willfully violating his or her written promise to appear in court, given as provided in this Chapter, commits a civil offense regardless of the

disposition of the offense for which he or she was originally cited.

- B. A written promise to appear may be complied with by an appearance by counsel for the purposes only of entering a denial or motions, and of obtaining a trial setting, but not for entering an admission, making an offer of settlement, the conduct of a trial or the imposing of a fine.

Sec. 17.18 Form for Traffic Citations

- A. Tribal police on this Reservation shall use a uniform traffic ticket and complaint form for traffic citations.
- B. Each traffic complaint shall contain the following notice of a failure to appear as directed in this complaint:
 - 1. A default judgment will be entered against you.
 - 2. A civil penalty will be imposed.
- C. The tribal chief of police shall be responsible for the issuance of the books and shall maintain a record of every book and each citation contained therein issued and shall require and retain a receipt for every book so issued.

Sec. 17.19 Disposition and Records of Traffic Citations

- A. Original deposited with court. Every peace officer upon issuing a traffic civil offense citation to an alleged violator of any provision of the motor vehicle offenses of this Reservation shall deposit the original of the traffic citation with the court.
- B. Upon a deposit of the traffic citation with the Tribal Court, the charge may be disposed of only by trial in the court or other official action by the court, including the payment of a fine to the court.
- C. The Clerk of the Court shall maintain or cause to be maintained in connection with every traffic citation issued by a peace officer, a record of the disposition of the charge by the court.

Sec. 17.20 Reserved

Sec. 17.21 Illegal Cancellation of Traffic Citation; Audit of Citation Records

- A. Any person who cancels any traffic civil offense citation in any manner other than as provided in this Chapter commits a civil offense.

- B. Every record of traffic civil offense citations required in this Chapter shall be audited annually by the Chief of Police.

Sec. 17.22 Certification of Uniform Traffic Complaint Forms

- A. Uniform traffic complaint forms need not be sworn to if they contain a form of certification by the issuing officer in substance as follows: "I hereby certify that I have reasonable grounds to believe and do believe that the person named herein committed the civil traffic violation described herein contrary to law."
- B. A false certification under the provisions of Subsection A of this Section is perjury and is subject to civil or criminal penalties, as defined by law.

Sec. 17.23 Amendments

Whenever appropriate Sections of the Uniform Act regulating traffic or highways of the State of Arizona (Chapter 6, Title 28 Ariz. Rev. Stats.), are amended, the corresponding provisions of this Chapter shall be amended ipso facto thereby unless the Tribal Council specifically determines otherwise; provided that, the provisions of this Chapter shall not be so amended to the extent that said Sections of the Arizona Revised Statutes prescribe criminal penalties.

Sec. 17.24 Operators to Comply with Uniform Motor Vehicles Safety Responsibility Act

Any person who operates a motor vehicle upon a highway within the Reservation shall comply with the current requirements of the Uniform Motor Vehicle Safety Responsibility Act of the state within which the vehicle is registered; except that, any terms of said Uniform Motor Vehicle Safety Responsibility Act which prescribe criminal penalties shall not be applicable. Failure to comply with such provisions shall result in a suspension of all driving privileges and a report being forwarded to the appropriate state agency.

Sec. 17.25 Where Provisions Effective

- A. Subject to Section 17.18, the provisions of this Chapter shall apply to all vehicles operated within the exterior boundaries of the Hualapai Indian Reservation.
- B. Any and all prior traffic ordinances, rules, regulations or other directives in conflict with Chapter 17, with the exception of Chapter 6 of this code and any amendments thereto, shall be and are hereby declared null and void within the exterior boundaries of Hualapai Indian Reservation.

Sec. 17.26 Provisions of Chapter Refer to Vehicles upon the Highways; Exceptions

The provisions of this Chapter relating to operation of vehicles refer exclusively to the operation of vehicles upon highways except:

- A. Where a different place is specifically referred to in a given Section.
- B. The provisions concerning vehicle accidents, reckless driving and driving while intoxicated shall apply upon highways and elsewhere, including private property, throughout the Reservation.

Sec. 17.27 Application of Chapter to Public Employees; Exceptions

- A. The provisions of Chapter 17 applicable to the drivers of all vehicles upon the highways shall apply to the drivers of all vehicles owned or operated by the United States, the State of Arizona, the Hualapai Indian Tribe or any other political subdivision of Arizona except as provided in this Section and subject to such specific exceptions as are set forth in this Chapter with reference to authorized emergency vehicles.
- B. Unless specifically made applicable, the provisions of this Chapter shall not apply to persons, teams, motor vehicles and other equipment while actually engaged in work upon the surface of a highway, or to railroad employees working on a railroad track or tracks crossing the highway, but shall apply to such persons and vehicles when traveling to or from such work.

OBEDIENCE TO AND EFFECT OF TRAFFIC LAWS

Sec. 17.28 Obedience to Peace Officers

No person shall willfully fail or refuse to comply with any lawful order or direction of any peace officer invested by law with authority to direct, control or regulate traffic.

Sec. 17.29 Authorized Emergency Vehicles

- A. Drivers of authorized emergency vehicles are permitted to vary from requirements. The driver of any authorized emergency vehicle, when responding to an emergency call or when in the pursuit of an actual or suspected violator of law or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this Section.
- B. Exceptions enumerated. The driver of an authorized emergency vehicle may:
 - 1. Park or stand, irrespective of the provisions of Chapter 17.

2. Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation.
3. Exceed the prima facie speed limits so long as the driver does not endanger life or property.
4. Disregard regulations governing direction of movement or turning in specified direction.

C. Exemptions apply only under certain conditions. The exemptions granted by this Section to an authorized emergency vehicle shall apply only when the driver of the vehicle while in motion sounds an audible signal by bell, siren or exhaust whistle as may be reasonably necessary, and when the vehicle is equipped with at least one lighted lamp displaying a red or red and blue light or lens visible under normal atmospheric conditions from a distance of 500 feet to the front of the vehicle, except that an authorized emergency vehicle operated as a police vehicle need not be equipped with or display a red light visible from in front of the vehicle.

D. Driver responsible. The provisions of this Section shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall these provisions protect the driver from the consequences of the driver's reckless disregard for the safety of others.

Sec. 17.30 Injuring, Unlawfully Starting, Using or Preventing Use of Vehicles

A. A person is guilty of a civil offense who:

1. Willfully breaks, injures, tampers with or removes any part of a vehicle for any purpose against the will or without consent of the owner of the vehicle.
2. In any other manner willfully or maliciously interferes with or prevents the running or operation of the vehicle.
3. Without consent of the owner or person in charge of a vehicle climbs into or upon a vehicle with intent to commit any crime, malicious mischief or injury theretofore.
4. While a vehicle is stopped and unattended attempts to manipulate any levers, starting crank or other starting devices, brakes or other mechanism thereof, or set the vehicle in motion.

B. The provisions of Subsection A hereof shall not apply when any of the conduct described therein is committed in an emergency in furtherance of public safety or convenience or by or under the direction of any peace officer in the performance of the officer's duty.

Sec. 17.31 Placing or Allowing Dangerous Articles on Roadway

- A. No person shall throw or deposit upon any roadway any glass bottle, glass, nails, tacks, wire, cans or any other substance likely to injure any person, animal or vehicle upon the roadway.
- B. Any person who drops or permits to be dropped or thrown upon any roadway any destructive or injurious material shall immediately remove the same or cause it to be removed.
- C. Any person removing a wrecked or damaged vehicle from a highway shall remove any glass or other injurious substance, including but not limited to tire parts, oil, and fuel dropped or otherwise deposited upon the highway from the vehicle.

Sec. 17.32 Crossing Fire Hose

No vehicle shall be driven over any unprotected hose of a fire department when the hose is laid down on any street, or private driveway to be used at any fire or alarm of fire, without the consent of the fire department official in command.

Sec. 17.33 Reserved

REGISTRATION, LICENSING AND INSPECTION

Sec. 17.34 Registration of Motor Vehicle required; Exceptions

- A. Every owner of a motor vehicle, trailer or semi-trailer, before it is operated upon any highway in this Reservation, shall obtain a certificate of title thereto and registration therefore from the appropriate agency of the United States, state, tribe, or foreign government.
- B. This Section does not apply to:
 - 1. A farm tractor.
 - 2. A road roller or road machinery, including a power sweeper, that is temporarily operating or moved on the highway.
 - 3. An owner permitted to operate a vehicle under special provisions relating to lienholders, manufacturers, dealers and nonresidents.
 - 4. A motor vehicle that is being towed by a tow truck that has been registered and for which a permit has been obtained pursuant to state law.

5. Wheeled equipment. For the purposes of this paragraph, "wheeled equipment" means:
- a. a compressor
 - b. a forklift
 - c. a portable cement mixer
 - d. a single axle tow dolly as defined by Arizona law
 - e. a tar pot
 - f. a water trailer used for watering livestock or for agricultural or domestic purposes
 - g. a welder
 - h. any other similar item designed and used primarily for construction or building trade purposes

Sec. 17.35 Registration Violations

- A. A person is in violation of this Subchapter who:
1. Is in possession of a motor vehicle knowing or having reason to know that a manufacturer's serial number or vehicle identification number has been removed, defaced, altered or destroyed without the permission of the governmental agency in whose jurisdiction the vehicle is registered.
 2. Displays or possesses a registration card or license plate knowing it to be fictitious or to have been stolen, canceled, revoked, suspended or altered.
 3. Lends to a person or knowingly permits the use of the person's registration card or license plate by a person not entitled to the card or plate.
- B. This Section does not apply to peace officers or employees of the Tribe, the United States, the State of Arizona or a political subdivision of the State of Arizona if the violation occurs in the course of their official duties.
- C. Subsection A, Paragraph 2 of this Section does not apply to a towing company that has a vehicle in its possession as permitted by law or a business acting in

good faith and in the normal course of business and in conformance with all applicable laws.

Sec. 17.36 License Plates; Attachment

- A. A person shall display the license plate or plates as follows:
 - 1. For a motor vehicle, motorcycle, trailer or semitrailer, on the rear.
 - 2. For a vehicle for which two license plates are issued, the vehicle owner shall display one plate on the rear
- B. A person shall display all license plates as required by Subsection A until lawful use expires or is canceled or revoked. A person shall maintain each license plate so it is clearly legible. A person shall securely fasten each license plate to the vehicle as follows:
 - 1. To prevent the plate from swinging.
 - 2. At a height of at least twelve inches from the ground to the bottom of the plate.
 - 3. In a position to be clearly visible.

Sec. 17.37 Registration; Violations; Penalties

- A. Except as provided in Subsection B of this Section, a person who is the resident or nonresident owner or operator of a motor vehicle, trailer or semitrailer that is required by law to be registered and is not registered or does not display license plates assigned by the appropriate governmental agency for the current registration year and who operates or knowingly permits the vehicle to be operated on a highway within the Hualapai Reservation is subject to a civil penalty not less than \$50.00 and not more than \$250.00.
- B. On proper presentation of evidence of current registration, a person who is charged with a violation of Subsection A of this Section is subject to a civil penalty of \$50.00.
- C. The court shall not dismiss an action brought under this Section merely because the defendant has obtained the appropriate license plates or registration after violating this Section. The Court may decide not to impose a civil penalty against a defendant for a violation of this Section if the defendant was legally operating the vehicle but was not the owner of the motor vehicle, trailer or semitrailer.

Sec. 17.38 Operator's or Chauffeur's License Required

- A. No person, except those expressly exempted in this Chapter, shall drive any motor vehicle upon a highway in the Reservation unless the person has a valid license as an operator or chauffeur issued by the appropriate agency of the United States, a state or foreign government. No person shall drive a motor vehicle as a chauffeur unless the person holds a valid chauffeur's license.
- B. person holding a valid chauffeur's license need not procure an operator's license.
- C. A person licensed as an operator or chauffeur may exercise the privilege thereby granted upon all streets and highways in this reservation.

Sec. 17.39 Driver License Requirement

- A. Unless exempt pursuant to this Subchapter, a person shall not drive a motor vehicle, vehicle combination or a motorcycle on a highway within the Hualapai Reservation without an appropriate and valid driver license issued by the State of Arizona or any other state or foreign country.
- B. A person who is licensed as provided in Subsection A of this Section is granted by the Tribe the privilege to operate a motor vehicle, vehicle combination or a motorcycle on the highways within the Hualapai Reservation.

Sec. 17.40 Driver License; Exemptions

The following persons are exempt from licensing under this Chapter:

- A. Active duty military personnel while operating a military vehicle in the service of the armed forces of the United States.
- B. A person while driving or operating a farm tractor or implement of husbandry that is temporarily operated or moved on a highway.

Sec. 17.41 Restricted Licenses

It is a violation of this Subchapter for a person to operate a motor vehicle in violation of a driver license restriction.

Sec. 17.42 License to be Carried, Exhibited on Demand

Every licensee shall have an operator's or chauffeur's license in the licensee's immediate possession at all times when operating a motor vehicle and shall display same, upon demand of a peace officer. However, no person charged with violating this Section

shall be convicted if the person produces in court or the office of the tribal prosecutor an operator's or chauffeur's license theretofore issued to the licensee and valid at the time of the licensee's arrest.

Sec. 17.43 Violation of License Provisions

It is a civil offense for any person:

- A. To display or cause or permit to be displayed or have in the person's possession a canceled, revoked, suspended, fictitious or fraudulently altered operator or chauffeur's license.
- B. To lend the person's operators or chauffeur's license to any other person or knowingly permit the use thereof by another.
- C. To display or represent as one's own an operator's or chauffeur's license not issued to him or her.
- D. To display or has in his or her possession a registration card or registration number plate knowing it to be fictitious or to have been stolen, cancelled, revoked, suspended or altered.
- E. To lend or knowingly permit the use of his or her registration card or registration number plate by a person not entitled thereto.

Sec. 17.44 Permitting Unauthorized Person to Drive

- A. It is a violation of this Subchapter for a person to drive a motor vehicle on a public highway when the person's privilege to drive a motor vehicle is suspended, revoked, canceled or refused or when the person is disqualified from driving.
- B. It is a violation of this Subchapter for a person to authorize or knowingly permit a motor vehicle owned by that person or under that person's control to be driven on a highway by any other person who is not authorized under this Subchapter or in violation of this Subchapter.

Sec. 17.45 Permitting Unauthorized Minor to Drive; Liability Therefore

- A. A person who causes or knowingly permits an unlicensed child or ward or any person under the age of 18 years to drive a motor vehicle when such person is not authorized under this Chapter, or in violation of any of the provisions of this Chapter, is guilty of a civil offense.
- B. Every owner of a motor vehicle causing or knowingly permitting an unlicensed minor under the age of 18 years to drive such vehicle and any

person giving or furnishing a motor vehicle to such unlicensed minor, shall be jointly and severally liable with such minor for any damages caused by the negligence or willful misconduct of such minor in driving such vehicle.

Sec. 17.46 Employing Unlicensed Chauffeur

No person shall employ as a chauffeur of a motor vehicle a person not then licensed as provided in this Chapter.

Sec. 17.47 Inspection by Peace Officers

- A. A peace officer may at any time upon reasonable cause to believe that a vehicle is unsafe or not equipped as required by law, or that its equipment is not in proper adjustment or repair, require the driver of the vehicle to stop and submit the vehicle to an inspection and such tests with reference thereto as may be appropriate.
- B. In the event the vehicle is found to be in unsafe condition or any required part or equipment is not present or is not in proper repair and adjustment, the officer shall give written notice to the driver. The original of the notice shall be retained by the officer's department. The notice shall require that the vehicle be placed in safe condition and its equipment in proper repair and adjustment specifying the particulars with reference thereto and that a certificate of correction or adjustment of illegal or faulty equipment must be obtained within five days.

Sec. 17.48 Owners or Driver to Comply with Inspection Provisions

- A. No person driving a vehicle shall refuse to submit the vehicle to an inspection and test when required to do so by a peace officer.
- B. Every owner or driver, upon receiving a notice as provided in the previous Section, shall comply therewith and shall within five days secure the certification of adjustment provided on the notice. When the certification is completed, the notice shall be forwarded to the issuing department. In lieu of compliance with this Subsection, the vehicle shall not be operated, except as provided in Subsection C of this Section.
- C. No person shall operate any vehicle after receiving a notice with reference thereto as provided in Subsection B of this Section, except as may be necessary to return the vehicle to the residence or place of business of the owner or driver, if within a distance of 25 miles, or to a garage, until the vehicle and its equipment has been placed in proper repair and adjustment and otherwise made to conform to the requirements of this Chapter.

Sec. 17.49 Air Pollution Control Devices

- A. Any person who removes, alters, or causes the removal or alteration of a motor vehicle emission control device to decrease or diminish the effectiveness of such device is guilty of a civil offense.
- B. The provision of this Chapter shall not apply to motor vehicles that are used exclusively for competition and not operated on the public streets and highways.

Sec. 17.50 Reserved

EQUIPMENT

Sec. 17.51 Applicability of Equipment Requirements

- A. A person shall not:
 - 1. Drive or move and the owner shall not knowingly cause or permit to be driven or moved on a highway a vehicle or combination of vehicles that:
 - a. Is in an unsafe condition that endangers a person.
 - b. Does not contain those parts or is not at all times equipped with lamps and other equipment in proper condition and adjustment as required in this Chapter.
 - c. Is equipped in any manner in violation of this Chapter.
 - 2. Do an act forbidden or fail to perform an act required under this Chapter.
- B. The provisions of this Chapter with respect to equipment on vehicles do not apply to implements of husbandry, trailers used solely in the transportation of livestock, road machinery, road rollers or tractors except as made applicable by this Chapter.

Sec. 17.52 Vehicle to Comply with Chapter; Exceptions

- A. It is a civil offense for any person to drive or move or for the owner to cause or knowingly permit to be driven or moved on any highway any vehicle or combination of vehicles which is in such unsafe condition as to endanger any person, or which does not contain those parts or is not at all times equipped with lamps and other equipment in proper condition and adjustment as required in this Chapter or which is equipped in any manner in violation of

this Chapter, or for any person to do any act forbidden or fail to perform any act required under this Chapter.

- B. Nothing contained in this Chapter shall be construed to prohibit the use of additional parts and accessories on any vehicle not inconsistent with the provisions of this Chapter.
- C. The provisions of this Chapter with respect to equipment on vehicles shall not apply to implements of husbandry, road machinery, road rollers or tractors except as made applicable by this Chapter. Every tractor equipped with an electric lighting system shall at all times display a red tail lamp and either multiple-beam or single-beam head lamps.

Sec. 17.53 Special Requirements for Motorcycles and Motor-Driven Cycles

- A. The operator and any passenger of a motorcycle or motor-driven cycle shall wear a protective helmet in an appropriate manner safely secured. The operator and passenger of a motorcycle or motor-driven vehicle shall also wear protective glasses, goggles or a transparent face shield unless the motorcycle is equipped with a protective windshield. The provisions of this Subsection shall not apply to electrically powered three-wheeled vehicles or three-wheeled vehicles on which the operator and passenger ride within an enclosed cab.
- B. A motorcycle and motor-driven cycle shall be equipped with a rearview mirror, seat and footrests for the operator. Any motorcycle or motor-driven cycle operated with a passenger shall be equipped with seats, footrests and handrails for such passenger.
- C. Handlebars rising more than 15 inches above the level of the driver's seat or saddle on a motorcycle or motor-driven cycle are prohibited.

Sec. 17.54 Required Brake Equipment

The following brake equipment is required:

- A. A motor vehicle other than a motorcycle, if it is operated on a highway shall be equipped with brakes adequate to control the movement of and to stop and hold the vehicle, including two separate means of applying the brakes, each of which means is effective to apply the brakes to at least two wheels. If these two separate means of applying the brakes are connected in any way, they shall be constructed so that failure of any one part of the operating mechanism does not leave the motor vehicle without brakes on at least two wheels.
- B. A motorcycle when operated on a highway shall be equipped with at least one brake that may be operated by hand or foot.

Sec. 17.55 Horns and Audible Warning Devices

- A. Required. Every motor vehicle when operated upon a highway shall be equipped with a horn in good working order and capable of emitting sound audible under normal conditions from a distance of not less than 200 feet, but no horn or other warning device shall emit an unreasonable loud or harsh sound or a whistle. The driver of a motor vehicle shall when reasonably necessary to ensure safe operation give audible warning with his horn but shall not otherwise use the horn when upon a highway.
- B. Prohibited devices. No vehicle shall be equipped with nor shall any person use upon a vehicle any siren, whistle or bell, except as otherwise permitted in this Section.
- C. Emergency vehicle requirements. Any authorized emergency vehicle may be equipped with a siren, whistle or bell capable of emitting sound audible under normal conditions from a distance of not less than 500 feet, but the siren shall not be used except when the vehicle is operated in response to an emergency call or in the immediate pursuit of an actual or suspected violator of the law, in which latter events the driver of the vehicle shall sound the siren when reasonably necessary to warn pedestrians and other drivers of the approach thereof.

Sec. 17.56 Mufflers and Air Pollution Control Devices

- A. Every motor vehicle shall at all times be equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise, and no person shall use a muffler cutout, bypass or similar device upon a motor vehicle on a highway.
- B. The engine and power mechanism of every motor vehicle shall be so equipped and adjusted as to prevent the escape of excessive fumes or smoke.

Sec. 17.57 Mirrors

Every motor vehicle which is so constructed or loaded as to obstruct the driver's view to the rear thereof from the driver's position shall be equipped with a mirror so located as to reflect to the driver a view of the highway for a distance of at least 200 feet to the rear of the vehicle.

Sec. 17.58 Windshields Required

- A. The following vehicles shall be equipped with an adequate windshield:
 - 1. A passenger vehicle.

2. A motor truck or truck tractor, including buses, except fire trucks, fire engines or other fire apparatus, whether publicly or privately owned.

- B. This Section does not apply to an implement of husbandry or to an antique, classic or horseless carriage automobile if it was not originally equipped with a windshield.

Sec. 17.59 Rear Fender Splash Guards

- A. No person shall not operate a truck, trailer, semitrailer or bus upon a highway unless the vehicle is equipped with rear splash guards that comply with the specifications provided in this Section.

- B. The splash guards:

1. Shall be attached in a manner that prevents the splashing of mud or water on the windshield of other motor vehicles.
2. Shall extend to a length of not more than eight inches from the ground.
3. Shall be wide enough to cover the full tread or treads of the tires being protected.
4. Shall be installed close enough to the tread surface of the tire or wheel to control the side throw of the bulk of the thrown road surface material.
5. May be constructed of a flexible rubberized material.
6. Shall be attached in a manner that, regardless of movement either in the splash guards or the vehicle, the splash guards retain their general parallel relationship to the tread surface of the tire or wheel under all ordinary operating conditions.

Sec. 17.60 – 17.68 Reserved

Sec. 17.69 Windshields must be Unobstructed and Equipped with Wipers

- A. No person shall drive any motor vehicle with any sign, poster or any other substance of material upon the front windshield, side wings or side or rear windows of the vehicle which obstructs the driver's clear view of the highway or any intersecting highway.
- B. The windshield on every motor vehicle shall be equipped with a device for cleaning rain, snow or other moisture from the windshield, which device shall

be so constructed as to be controlled or operated by the driver of the vehicle.

- C. Every windshield wiper upon a motor vehicle shall be maintained in good working order.

Sec. 17.70 Lamps on Parked Vehicles

- A. When a vehicle is lawfully parked upon a street or highway during the hours between a half hour after sunset and a half hour before sunrise and in the event there is sufficient light to reveal any person or object within a distance of 500 feet upon the street or highway no lights need be displayed upon the parked vehicles.
- B. When a vehicle is parked or stopped upon a roadway or shoulder adjacent thereto, whether attended or unattended during the hours between a half hour after sunset and a half hour before sunrise and there is not sufficient light to reveal any person or object within a distance of 500 feet upon the highway, the vehicle so parked or stopped shall be equipped with one or more lamps which shall exhibit a white or amber light on the roadway side visible from a distance of 500 feet to the front of the vehicle and a red light visible from a distance of 50 feet to the rear. The foregoing provisions shall not apply to a motor-driven cycle.
- C. Any lighted headlamps upon a parked vehicle shall be depressed or dimmed.

Sec. 17.71 Lighted Lamps Required

At any time from sunset to sunrise and at any other time when there is not sufficient light to render clearly discernible persons and vehicles on the highway at a distance of 500 feet ahead, a vehicle on a highway within the Hualapai Reservation shall display lighted lamps and illuminating devices as required by this Chapter, subject to exceptions for parked vehicles as provided in this Chapter.

Sec. 17.72 Motor Vehicle Head Lamps

- A. A motor vehicle other than a motorcycle shall be equipped with at least two headlamps with at least one on each side of the front of the motor vehicle. The headlamps shall comply with requirements and limitations of this Chapter.
- B. A motorcycle shall be equipped with at least one and not more than two headlamps that comply with the requirements and limitations of this Chapter.

Sec. 17.73 Tail Lamps

- A. A motor vehicle, trailer, semitrailer and pole trailer and any other vehicle that

is being drawn at the end of a train of vehicles shall be equipped with at least one tail lamp mounted on the rear. When lighted as required by this Chapter, the tail lamp shall emit a red light plainly visible from a distance of 500 feet to the rear, except that in a case of a train of vehicles, only the tail lamp on the rearmost vehicle need actually be seen from the distance specified.

- B. Either a tail lamp or a separate lamp shall be constructed and placed in a manner that illuminates with a white light the rear license plate and renders it clearly legible from a distance of 50 feet to the rear. A tail lamp or tail lamps together with any separate lamp for illuminating the rear license plate shall be wired to provide that the tail lamp or lamps are lighted whenever the head lamps are lighted.

Sec. 17.74 Lamp or Flag on Projecting Load

- A. If the load on a vehicle extends to the rear four feet or more beyond the bed or body of the vehicle, a red light or lantern plainly visible from a distance of at least 500 feet to the sides and rear shall be displayed at the extreme rear end of the load, at the times specified in Section 17.71. The red light or lantern required by this Section is in addition to the red rear light required on every vehicle.
- B. At any other time, a red flag or cloth not less than 12 inches square shall be displayed at the extreme rear end of the load. The flag or cloth shall be displayed so that the entire area is visible to the driver of a vehicle approaching from the rear.

Sec. 17.75 Stop Lamps and Turn Signals

- A. A motor vehicle shall be equipped with the following:
 - 1. A stop lamp on the rear that emits a red or yellow light, that is actuated on application of the service or foot brake and that may be incorporated with a tail lamp.
 - 2. One or more lamps or a mechanical signal device that is capable of clearly indicating an intention to turn either to the right or to the left and that is visible from both the front and rear.
- B. A stop lamp shall be plainly visible and understandable from a distance of 100 feet to the rear both during normal sunlight and at nighttime. A turn signal lamp or lamps indicating the intention to turn shall be visible and understandable during daytime and nighttime from a distance of 100 feet both to the front and rear. The stop lamp or turn signal lamp shall:
 - 1. Be maintained at all times in good working condition.

2. Not project a glaring or dazzling or otherwise intrusive light.

Sec. 17.76 Multiple Beam Road Lighting Equipment Arrangement

Except as otherwise provided in this Chapter, the head lamps, the auxiliary driving lamp or the auxiliary passing lamp or combinations of the head lamps, driving lamp or passing lamp on a motor vehicle other than a motorcycle shall be arranged so that selection may be made between distributions of light projected to different elevations, subject to the following requirements and limitations:

- A. There shall be an uppermost distribution of light, or composite beam, so aimed and of sufficient intensity to reveal persons and vehicles at a distance of at least 350 feet ahead for all conditions of loading.
- B. There shall be a lowermost distribution of light, or composite beam, so aimed and of sufficient intensity to reveal persons and vehicles at a distance of at least 100 feet ahead, and under any condition of loading, none of the high intensity portion of the beam shall be directed to strike the eyes of an approaching driver.

Sec. 17.77 Multiple Beam Road Lighting Equipment Usage

If a motor vehicle is operated on a roadway or shoulder adjacent to a roadway during the times provided in Section 17.71, the driver shall use a distribution of light or composite beam that is directed high enough and that has sufficient intensity to reveal persons and vehicles at a safe distance in advance of the vehicle, subject to the following requirements and limitations:

- A. If a driver of a vehicle approaches an oncoming vehicle within five hundred feet, the driver shall use a distribution of light or composite beam aimed so that the glaring rays are not projected into the eyes of the oncoming driver. The lowermost distribution of light or composite beam provided in Section 17.76, Paragraph B is deemed to avoid the glare at all times, regardless of road contour and loading.
- B. If the driver of a vehicle follows another vehicle within two hundred feet to the rear, except when engaged in the act of overtaking and passing, the driver shall use a distribution of light permissible under this Chapter other than the uppermost distribution of light specified in Section 17.76, Paragraph A.

Sec. 17.78 Number of Driving Lamps Required or Permitted

- A. At all times provided in Section 17.71, at least two lighted lamps shall be displayed, one at each side at the front of a motor vehicle other than a motorcycle, except when the vehicle is parked subject to the rules governing

lights on parked vehicle.

- B. If a motor vehicle equipped with head lamps as required by this Chapter is also equipped with any auxiliary lamps, spot lamp or other lamp on the front of the motor vehicle projecting a beam of intensity greater than 300 candlepower, not more than four of any such lamps on the front of a vehicle shall be lighted at any one time when on a highway.

Sec. 17.79 Special Restrictions on Lamps

A person shall not drive or move a vehicle or equipment on a highway with a lamp or device on the vehicle that is capable of displaying a red or red and blue light or lens visible from directly in front of the center of the vehicle. Lights visible from the front of a vehicle shall be amber or white. This Section does not apply to an authorized emergency vehicle.

Sec. 17.80 Vehicle Restraints required; Exceptions; Civil Penalty

- A. Each front seat occupant of a motor vehicle that is designed for carrying 10 or fewer passengers, that is manufactured for the model year 1972 and thereafter and that is required by federal law or regulation to be equipped with an integrated lap and shoulder belt or lap belt shall either:
 - 1. Have the lap and shoulder belt properly adjusted and fastened while the vehicle is in motion.
 - 2. If only a lap belt is installed where the occupant is sitting, have the lap belt properly adjusted and fastened while the vehicle is in motion.
- B. The operator of a motor vehicle that is subject to the requirements of this Section shall require each front seat passenger under 16 years of age to comply with this Section.
- C. A peace officer shall not stop or issue a citation to a person operating a motor vehicle on a highway within the Hualapai Reservation for a violation of this Section unless the peace officer has reasonable cause to believe there is another alleged violation of a motor vehicle law of the Tribe.
- D. This Section does not apply to:
 - 1. A child subject to the requirements of Section 17.81.
 - 2. A person possessing a written statement from a physician that the person is unable for medical or psychological reasons to wear a lap and shoulder belt or a belt.
 - 3. A letter carrier of the United States postal service while the letter

carrier is performing the letter carrier's duties.

- E. A person found responsible for a civil traffic violation under this Section shall be subject to a maximum civil penalty of \$10.00 for each violation.

Sec. 17.81 Child Passenger Restraint System

- A. Except as provided in Subsection G of this Section, a person shall not operate a motor vehicle on the highways within the Hualapai Reservation when transporting a child who is under the age of five years of age unless that child is properly secured in a child passenger restraint system.
- B. For the purposes of this Section, the standards for the performance, design and installation of child passenger restraint systems for use in motor vehicles set forth in 49 Code of Federal Regulations Section 571.213 (as may be amended from time to time) shall apply within the Hualapai Indian Reservation.
- C. A person who violates this Section is subject to a maximum civil penalty of \$25.00, except that a civil penalty shall not be imposed if the person makes a sufficient showing that the motor vehicle has been subsequently equipped with a child passenger restraint system that meets the standards set forth in Subsection B of this Section. A sufficient showing may include a receipt mailed to the Hualapai Tribal Court that evidences purchase or acquisition of a child passenger restraint system.
- D. If a peace officer stops a vehicle for an apparent violation of this Section, the officer shall determine from the driver whether the unrestrained child or children in the vehicle are less than five years of age.
- E. If the information given to the officer indicates that a violation of this Section has not been committed, the officer shall not detain the vehicle any further unless some additional violation is involved. The stopping of a vehicle for an apparent or actual violation of this Section is not probable cause for the search or seizure of the vehicle unless there is probable cause for another violation of law.
- F. The requirements of this Section or evidence of a violation of this Section are not admissible as evidence in a judicial proceeding except in a judicial proceeding for a violation of this Section.
- G. This Section does not apply to any of the following:
 - 1. A person who operates a motor vehicle that was originally manufactured without passenger restraint devices.
 - 2. A person who operates a motor vehicle that is also a recreational

vehicle as defined in Subsection H of this Section.

3. A person who operates a commercial motor vehicle and who holds a current commercial driver license issued pursuant to applicable state law.
4. A person who must transport a child in an emergency to obtain necessary medical care.
5. A person who transports more than one child under five years of age in a motor vehicle that because of the restricted size of the passenger area does not provide sufficient area for the required number of child passenger restraint devices, if both of the following conditions are met:
 - a. At least one child is restrained as required by this Section.
 - b. The person has secured as many of the other children in child passenger restraint devices pursuant to this Section as is reasonable given the restricted size of the passenger area and the number of passengers being transported in the motor vehicle.

H. For the purposes of this Section a “recreational vehicle” means a vehicular type unit which is:

1. A motor home designed to provide temporary living quarters for recreational, camping or travel use and built on or permanently attached to a self-propelled motor vehicle chassis or on a chassis cab or van that is an integral part of the completed vehicle.
2. A travel trailer mounted on wheels, designed to provide temporary living quarters for recreational, camping or travel use, of a size or weight that may or may not require special highway movement permits when towed by a motorized vehicle and has a trailer area of less than 320 square feet. This Subdivision includes fifth wheel trailers.
3. A portable truck camper constructed to provide temporary living quarters for recreational, camping or travel use and consisting of a roof, floor and sides designed to be loaded onto and unloaded from the bed of a pickup truck.

Sec. 17.82 – 17.90 Reserved

SIZE, WEIGHT, AND LOAD

Sec. 17.91 Scope and Effect of Requirements; Limitations

- A. It is a civil offense for any person to drive or move or for the owner to cause or knowingly permit to be driven or moved on any highway within the Reservation and vehicle or vehicles or combination of vehicles of a size or weight exceeding the limitations of the state in which the vehicle is driven or moved.
- B. The provisions of Chapter 17 governing size shall not apply to fire apparatus, road machinery, implements of husbandry or tractors temporarily moved upon a highway or to a vehicle operated under the terms of a special permit as provided by Chapter 17.

Sec. 17.92 Permits for Excess Size and Weight

- A. The Tribal Council shall in its discretion upon application in writing and good cause being shown therefore, issue a special permit in writing authorizing the applicant to operate or move a vehicle or combination of vehicles of a size or weight of vehicle or load exceeding the maximum specified in Chapter 17 or otherwise not in conformity with the provisions of Chapter 17 upon any highway under the jurisdiction of the tribe.
- B. The application for any such permit shall specifically describe the vehicle or vehicles and load to be operated or moved and the particular highways for which permit to operate is requested, and whether the permit is requested for a single trip or for continuous operation.
- C. If the permit is issued, the Tribal Council may limit the number of trips, establish seasonal or other time limitations within which the vehicles described may be operated on the highways indicated, or otherwise limit or prescribe conditions of operation of the vehicle or vehicles when necessary to assure against undue damage to the road foundations, surfaces or structures, and may require such undertaking or other security as may be deemed necessary to compensate for any injury to any roadway or structures.
- D. Such a permit shall be carried in the vehicle or combination of vehicles to which it refers and shall be open to inspection by and peace officer or authorized agent of the tribe and no person shall violate any of the terms or conditions of the special permit.

Sec. 17.93 Tribal Officers Authorized to Stop Vehicles, Weigh and Require Removal of Excess Weight

- A. A peace officer having reason to believe that the weight of a vehicle and load is unlawful is authorized to require the driver to stop and submit to a weighing of the same by means of either portable or stationary scales and may require that the vehicle be driven to the nearest scales in the event such scales are within 10 miles.
- B. When a peace officer, upon weighing a vehicle and load as provided in Subsection A of this Section, determines that the weight is unlawful, the officer may require the driver to stop the vehicle in a suitable place and remain standing until such portion of the load is removed as may be necessary to reduce the gross weight of the vehicle to the limit as permitted under this Chapter. All material so unloaded shall be cared for by the owner or operator of the vehicle at the wish of the owner or operator.
- C. Any driver of a vehicle who fails or refuses to stop and submit the vehicle and load to a weighing, or who fails or refuses when directed by an officer upon a weighing of the vehicle to stop the vehicle and otherwise comply with the provisions of this Section is guilty of a civil offense.

Sec. 17.94 Vehicle Loads; Restrictions

- A. A person shall not drive or move a vehicle on a highway unless the vehicle is constructed or loaded in a manner to prevent any of its load from dropping, shifting, leaking, or otherwise escaping from the vehicle, except that either:
 - 1. Sand may be dropped for the purpose of securing traction.
 - 2. Water or another authorized substance may be sprinkled on a roadway in cleaning or maintaining the roadway.
- B. A person shall not operate a vehicle on a highway with a load unless the load and any covering on the load are securely fastened in a manner to prevent the covering or load from coming loose, detached or in any manner a hazard to other users of the highway.

Sec. 17.95 - 17.100 Reserved

TRAFFIC-CONTROL DEVICES

Sec. 17.101 Obedience to Devices Required; Exceptions

- A. The driver of any vehicle shall obey the instructions of any official traffic-control device, unless otherwise directed by a traffic or peace officer, subject

to the exemptions granted the driver of an authorized emergency vehicle in this Chapter.

- B. The driver of a vehicle approaching a yield sign shall, in obedience to such sign, slow down to a speed reasonable for the existing conditions and shall yield the right-of-way to any vehicle in the intersection or approaching on another highway so closely as to constitute an immediate hazard during the time such driver is moving across or within the intersection, provided that if such driver is involved in a collision with a vehicle in the intersection, after driving past a yield sign without stopping, such collision shall be deemed prima facie evidence of his failure to yield the right-of-way.

Sec. 17.102 Display of Unauthorized Signs, Signals, Marking or Devices

No person shall place, maintain or display upon or in view of any highway any unauthorized sign, signal marking or official traffic sign, signal or control device or railroad sign or signal, or which attempts to control or direct the movement of traffic or which hides from view or interferes with the effectiveness of any official traffic-control device, sign or signal, or any railroad sign or signal, and no person shall place or maintain any commercial advertising on an official traffic-control device, or sign. This shall not be deemed to prohibit the erection upon private property adjacent to highways of signs giving useful directional information and of a type that cannot be mistaken for official signs.

Sec. 17.103 Construction or Roadwork Site Warning Devices

Any contractor, firm, corporation or political subdivision performing work on roads, streets or highways shall post and maintain at the work site, until the work is completed or until such time as the governing body authorizes removal, such warning signs, signals, markers and barricades in compliance with the manual and specifications for uniform system of traffic control devices adopted by the Arizona Highway Department or the United States, to warn those using such street, road or highway.

Sec. 17.104 Injuring, Defacing, Etc., Traffic-Control or Warning Signs

No person shall without lawful authority attempt to or in fact alter, deface, injure or knock down any official traffic-control device or any railroad sign or signal or any inscription, shield or insignia thereon or any other part thereof.

Sec. 17.105 - 17.140 Reserved

OPERATION OF VEHICLES

Sec. 17.141 Operation of Vehicles by Non-Members on Land Other than Reservation Roadways

- A. No person, except members of the Hualapai Tribe, may operate any motor-driven vehicle on any land within the Hualapai Reservation except over roadways as defined by this Code, unless authorized by a valid permit issued by the Hualapai Tribe on its authorized representative.
- B. Impoundment of vehicle; notification of owner. If any vehicle is operated in violation of this Section, the vehicle shall be impounded by the peace officers of the Hualapai Indian Reservation and shall be kept at a place of storage within the community. Within 15 days of the date of impoundment, notice by certified mail, return receipt requested, shall be sent to the registered owner of the vehicle impounded informing such owner of the time and place of a hearing to determine whether the vehicle was operated in violation of the Section and what, if any, damages resulted from such operation. The notice will be sent by the chief of police of the Hualapai Police Department and a record of the notice will be kept in the office of the chief of police and the office of the Hualapai Tribal Court.
- C. Hearing. Upon the hearing, if the court determines that the vehicle was being unlawfully operated and caused damages, the court shall enter its judgment determining such illegal operation and the amount of damages caused and ordering that the Hualapai Police Department shall hold the vehicle until the owner of the vehicle pays to the court for the benefit of the community the amount of damages which the court has determined was caused by the unlawful operation of the vehicle, or the value of the vehicle, whichever is the lesser. A copy of the court's judgment shall be forwarded to the owner of the vehicle within three days of the issuance of the judgment.
- D. Sale of vehicle for recovery of damages. Any judgment by the court under this Section finding illegal operation and damages shall provide that unless payment of the damages as provided for herein is made within 30 days after the entry of judgment, the vehicle will be sold at public auction after reasonable notice by certified mail to the owner of the vehicle of said sale. Upon payment of such amount within 30 days, the vehicle will be returned to the owner. The proceeds of the sale necessary for the satisfaction of the judgment shall be paid by the clerk of the court to the community for the benefit of the beneficial owners of the land damaged, and any excess over such judgment shall be paid first to satisfy the expenses incurred by the court and the Hualapai Police Department in the impoundment and hearing proceedings and second to the owner of the vehicle.

- E. Release of vehicle on posting of bond. In the event the owner of the vehicle posts a cash bond with the clerk of the Hualapai Tribal court in an amount equal to the value of the vehicle, prior to the hearing required by this Section, the vehicle will be returned to such owner at the time of the posting of the bond. The value of the vehicle shall be determined from any commercially recognized valuation periodical by the clerk of the court. In the event the owner of the vehicle objects to the value set by the clerk of the court, the judge of the community court shall make such determination upon affidavits submitted by the owner of the vehicle and the police chief of the Hualapai Reservation.

Sec. 17.142 Offenses by Persons Owning or Controlling Vehicles

It is a civil offense for the owner, or any other person, employing or otherwise directing the driver or any vehicle to require or knowingly to permit the operation of the vehicle upon a highway in any manner contrary to law.

Sec. 17.143 – 17.152 Reserved

Sec. 17.153 Turning Movements and Required Signals

- A. A person shall not turn a vehicle at an intersection unless the vehicle is in proper position on the roadway, or turn a vehicle to enter a private road or driveway or otherwise turn a vehicle from a direct course or move right or left on a roadway unless and until the movement can be made with reasonable safety. A person shall not so turn any vehicle without giving an appropriate signal in the manner provided by this Chapter in the event any other traffic may be affected by the movement.
- B. A signal of intention to turn right or left when required shall be given continuously during not less than the last 100 feet traveled by the vehicle before turning.
- C. A person shall not stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal in the manner provided by this Chapter to the driver of any vehicle immediately to the rear when there is opportunity to give the signal.

Sec. 17.154 Hand or Arm Signals or Signal Device

A person shall give a stop or turn signal if required by this Chapter by means of the hand or arm or by a signal lamp or lamps or mechanical device of a type approved by the appropriate jurisdiction. If a vehicle is constructed or loaded so that a hand or arm signal would not be visible both to the front and rear of the vehicle, the signals must be given by a lamp or lamps or signal device.

Sec. 17.155 Method of Giving Hand and Arm Signals

A person shall give all hand and arm signals required by this Chapter from the left side of the vehicle in the following manner, and the signals shall indicate as follows:

- A. Left turn - hand and arm extended horizontally.
- B. Right turn - hand and arm extended upward.
- C. Stop or decrease speed - hand and arm extended downward.

Sec. 17.156 Turning on Curve or Crest of Grade Prohibited

No vehicle shall be turned so as to proceed in the opposite direction upon any curve or upon the approach to or near the crest of a grade, where the vehicle cannot be seen by the driver of any other vehicle approaching from either direction within 500 feet.

Sec. 17.157 Backing Limitations

The driver of a vehicle shall not back the vehicle unless the movement can be made with reasonable safety and without interfering with other traffic.

Sec. 17.158 Obstruction to View; Interference with Driving

- A. A person shall not drive a vehicle when the vehicle's load or passengers obstruct the driver's view to the front or sides of the vehicle or interfere with the driver's control over the vehicle's driving mechanism.
- B. A passenger in a vehicle shall not ride in a position that interferes with the driver's view ahead or to the sides or that interferes with the driver's control over the vehicle's driving mechanism.

Sec. 17.159 – 17.170 Reserved

RIGHT-OF-WAY AND PASSING

Sec. 17.171 Vehicle at Intersection; Exceptions

- A. When two vehicles enter or approach an intersection from different streets or highways at approximately the same time, the driver of the vehicle on the left shall yield the right-of-way to the vehicle on the right. This Section does not apply to vehicles approaching or entering an uncontrolled "T" intersection if the vehicle on the left is on a continuing street or highway and the vehicle on the right is on the terminating street or highway. The vehicle on the terminating street or highway shall yield to the vehicle on the continuing street or highway.

- B. The right-of-way rule prescribed in Subsection A of this Section is modified at through highways and otherwise as stated in this Chapter.

Sec. 17.172 Vehicle Turning Left at Intersection

The driver of a vehicle within an intersection intending to turn to the left shall yield the right-of-way to a vehicle that is approaching from the opposite direction and that is within the intersection or so close to the intersection as to constitute an immediate hazard.

Sec. 17.173 Through Highway; Intersection Entrance

- A. The driver of a vehicle shall stop as required by Section 17.193 at the entrance to a through highway and shall yield the right-of-way to other vehicles that have entered the intersection from the through highway or that are approaching so closely on the through highway as to constitute an immediate hazard, but the driver having so yielded may proceed and the drivers of all other vehicles approaching the intersection on the through highway shall yield the right-of-way to the vehicle that is proceeding into or across the through highway.
- B. The driver of a vehicle shall stop in obedience to a stop sign as required by this Chapter at an intersection where a stop sign is erected at one or more entrances to the intersection although not a part of a through highway, shall proceed cautiously and shall yield to vehicles that are not obliged to stop and that are within the intersection or are approaching so closely as to constitute an immediate hazard, but may then proceed.

Sec. 17.174 Highway Access from Private Road or Driveway

The driver of a vehicle about to enter or cross a highway from a private road or driveway shall yield the right-of-way to all closely approaching vehicles on the highway.

Sec. 17.175 Approach of Authorized Emergency Vehicle; Following Fire Apparatus

- A. Upon the immediate approach of an authorized emergency vehicle and when the driver of the emergency vehicle is giving audible signal by siren, exhaust whistle, or bell:
 - 1. The driver of every other vehicle shall yield the right of way and shall immediately drive to a position parallel to, and as close as practicable to, the right-hand edge or curb of the roadway clear of any intersection and shall stop and remain in that position until the authorized emergency vehicle has passed, unless otherwise directed by a peace officer or the attending circumstances make such movement impossible or manifestly impractical, in which case the other vehicle

shall stop in place.

2. The driver of any vehicle other than one on official business of the Tribe or other government agency officially concerned with the emergency shall not follow any fire apparatus traveling in response to a fire alarm closer than 500 feet or drive into or park the vehicle within the block where fire apparatus has stopped in answer to a fire alarm.
- B. This Section shall not operate to relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway.

Sec. 17.176 Overtaking a Vehicle on the Left

The following rules govern the overtaking and passing of vehicles proceeding in the same direction:

- A. The driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass to the left of the vehicle at a safe distance and only where marked to allow passing and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle.
- B. Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal or blinking of head lamps at nighttime and shall not increase the speed of the overtaken vehicle until completely passed by the overtaking vehicle.

Sec. 17.177 Limitations on Overtaking on the Left

A person shall not drive a vehicle to the left side of the center of the roadway in overtaking and passing another vehicle proceeding in the same direction unless the left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit the overtaking and passing to be completed without interfering with the safe operation of any vehicle approaching from the opposite direction or any vehicle overtaken. The overtaking vehicle shall return to the right-hand side of the roadway before coming within 100 feet of any vehicle approaching from the opposite direction.

Sec. 17.178 Limitations on Driving to Left of Roadway Center

- A. A person shall not drive a vehicle to the left side of the roadway under the following conditions:
 1. When approaching the crest of a grade or on a curve in the highway where the driver's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction.

2. When approaching within 100 feet of or traversing any intersection or railroad crossing or where appropriate signs or markings have been installed to define a no passing zone.
3. When the view is obstructed on approaching within 100 feet of any bridge, viaduct or tunnel.

B. The limitations provided in this Section do not apply on a one-way roadway.

Sec. 17.179 Overtaking on the Right

- A. The driver of a vehicle may overtake and pass on the right of another vehicle only under the following circumstances:
1. When the vehicle overtaken is making or about to make a left turn.
 2. On a street or highway with unobstructed pavement that is not occupied by parked vehicles and that is of sufficient width for two or more lines of moving vehicles in each direction.
 3. On a one-way street or on a roadway on which traffic is restricted to one direction of movement and if the roadway is free from obstructions and of sufficient width for two or more lines of moving vehicles.
- B. The driver of a vehicle may overtake and pass another vehicle on the right side only under conditions permitting the movement in safety. The driver shall not make the movement by driving off the pavement or main traveled portion of the roadway.

Sec. 17.180 Following too Closely

The driver of a vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of the vehicles and the traffic upon and the condition of the highway.

Sec. 17.181 Application of Chapter to Persons Riding Animals or Driving Animal-Drawn Vehicles

Every person riding an animal or driving any animal-drawn vehicle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this Chapter, except those provisions of this Chapter which by their very nature can have no application.

Sec. 17.182 Driver's Duty when Approaching Horse or Livestock

Every person operating a motor vehicle upon any public highway and approaching any horse-drawn vehicle or any horse upon which any person is riding or livestock being driven upon the highway shall exercise reasonable precaution to avoid frightening the animal and to safeguard such animals and to ensure the safety of any person riding or driving the same. If such animals appear frightened, the person in control of the vehicle shall reduce its speed and, if requested by signal or otherwise, shall not proceed further toward such animals unless necessary to avoid accident or injury, until such animals appear to be under control.

Sec. 17.183 - 17.189 Reserved

STOPPING, STANDING AND PARKING

Sec. 17.190 Starting Parked Vehicles

No person shall start a vehicle which is stopped, standing or parked unless and until the movement can be made with reasonable safety.

Sec. 17.191 Vehicles to be Parked or Stopped off Pavement if Possible

- A. Upon any highway outside a business or residence district, no person shall stop, park or leave standing any vehicle, whether attended or unattended, upon the paved or main-traveled part of the highway when it is practicable to stop, park or so leave the vehicle off that part of the highway; but in every event an unobstructed width of the highway opposite a standing vehicle shall be left for the free passage of other vehicles and a clear view of the stopped vehicles shall be available from a distance of 200 feet in each direction upon the highway.
- B. This Section shall not apply to: The driver of any vehicle which is disabled while on the paved or main-traveled portion of a highway in such manner and to such extent that its impossible to avoid stopping and temporarily leaving the disabled vehicle in such position.

Sec. 17.192 Stop Signs; Yield Signs

The driver of a vehicle approaching a stop sign shall stop before entering the crosswalk on the near side of the intersection, or if there is no crosswalk, shall stop at a clearly marked stop line, or if there is no line, shall stop at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection except when directed to proceed by a peace officer.

Sec. 17.193 School Bus Signs; Overtaking and Passing School Bus; Violations

- A. On meeting or overtaking from either direction a school bus that has stopped

on the highway, the driver of a vehicle on a highway shall:

1. Stop the vehicle before reaching the school bus, if the school bus is displaying the signal as provided in Subsection C and if alternately flashing lights are in use.
 2. Not proceed until the school bus resumes motion or the signal and alternately flashing lights are no longer displayed.
- B. A bus used for the transportation of school children shall have on the front and rear of the bus a plainly visible sign containing the words "school bus" in letters not less than eight inches in height. If a school bus is operated on a highway for a purpose other than the actual transportation of children either to or from school, all markings indicating "school bus" shall be covered or concealed.
- C. A bus used for the transportation of school children shall have a signal with the word "stop" printed on both sides in white letters not less than five inches high on a red background. The signal shall be an 18 inch reflectorized octagon. The operator of the school bus shall:
1. Manually operate the signal in a manner so that the signal is clearly visible from both the front and rear when extended from the left of the body of the bus.
 2. Display the signal and alternately flashing lights if passengers are being received or discharged while the bus is stopped on the roadway.
- D. The judge hearing the case may suspend for not more than six months the privilege to operate a motor vehicle within the Hualapai Reservation of a person found responsible for a second or subsequent violation of Subsection A.

Sec. 17.194 Stopping, Standing or Parking Prohibitions

Except if necessary to avoid conflict with other traffic or if in compliance with law or the directions of a peace officer or traffic control device, a person shall not stop, stand or park a vehicle in any of the following places:

- A. On a sidewalk.
- B. In front of a public or private driveway, except that this Subsection does not apply to a vehicle or the driver of a vehicle engaged in the official delivery of the United States mail if both of the following apply:
 1. The driver does not leave the vehicle.

2. The vehicle is stopped only momentarily.

C. Within an intersection.

D. Within 15 feet of a fire hydrant.

E. On a crosswalk.

F. Within 20 feet of a crosswalk at an intersection.

G. Within 30 feet on the approach to any flashing beacon, stop sign, yield sign or traffic control signal located at the side of a roadway.

H. Between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone, unless the jurisdiction or official having authority indicates a different length by signs or markings.

I. Within 50 feet of the nearest rail or a railroad crossing or within nine feet of the center of any railroad track, except while a motor vehicle with motive power attached is loading or unloading railroad cars.

J. Alongside or opposite a street excavation or obstruction when stopping, standing or parking would obstruct traffic.

K. On the roadway side of a vehicle stopped or parked at the edge or curb of a street.

L. On a bridge or other elevated structure on a highway or within a highway tunnel.

M. At any place where official signs prohibit standing or stopping.

N. On a controlled access highway except for emergency reasons or except in areas specifically designated for parking such as rest areas.

Sec. 17.195 Removal of Illegally Stopped Vehicles

A. When any peace officer finds a vehicle standing upon a highway in violation of the provisions of Section 17.191, the officer is authorized to move the vehicle or require the driver or other person in charge of the vehicle to move the same to a position off the paved or main-traveled part of the highway.

B. Any peace officer is authorized to remove or cause to be removed to a place of safety any unattended vehicle illegally left standing upon any highway, bridge, causeway, or in any tunnel, in such position or under such circumstances as to obstruct the normal movement of traffic.

- C. Any peace officer is authorized to remove or cause to be removed to the nearest garage or other place of safety any vehicle found upon a highway:
1. When a report has been made that such vehicle has been stolen or taken without the consent of its owner.
 2. When the person or persons in charge of such vehicle are unable to provide for its custody or removal.
 3. When the person driving or in control of such vehicle is arrested for an alleged offense for which the officer is required by law to take the person arrested before a proper magistrate without unnecessary delay.
 4. When any vehicle is left unattended for more than four hours upon the right-of-way of any freeway, which has full control of access, and no crossings at grade.
 5. When any vehicle is left unattended for more than two hours upon the right-of-way of any freeway, within the boundaries of a city, which has full control of access and no crossings at grade.

Sec. 17.196 Stop Required before Emerging from Alley or Driveway

The driver of a vehicle within a business or residence district emerging from an alley, driveway or building shall stop the vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across any alleyway or private driveway, and shall yield the right-of-way to any pedestrian as may be necessary to avoid collision, and upon entering the roadway shall yield the right-of-way to all closely approaching vehicles on the roadway.

Sec. 17.197 Obedience to Signal Indicating Approach of Train

- A. When any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this Section, the driver of the vehicle shall stop with 50 feet but not less than 15 feet from the nearest rail of the railroad, and shall not proceed until the driver can do so safely. The foregoing requirements shall apply when:
1. A visible electric or mechanical signal device gives warning of the approach of a railroad train.
 2. A crossing gate is lowered or when a flagman gives or continues to give a signal of the approach or passage of a railroad train.
 3. A railroad train approaching within approximately 1500 feet of the highway crossing emits a signal audible from such distance and the

railroad train, by reason of its speed or nearness to the crossing is an immediate hazard.

4. An approaching railroad train is plainly visible and is in hazardous proximity to the crossing.
- B. No person shall drive any vehicle through, around or under any crossing gate or barrier at a railroad crossing when the gate or barrier is closed or is being opened or closed.

Sec. 17.198 Certain Vehicles must Stop at all Railroad Grade Crossings

- A. The driver of any motor vehicle carrying passengers for hire, or of any school bus carrying any school child, or of any vehicle carrying or returning after delivery of explosive substances or flammable liquids as a cargo or part of a cargo, before crossing at grade any track or tracks of a railroad, shall stoop the vehicle with 50 feet but not less than 15 feet from the nearest rail of the railroad and while so stopped shall listen and look in both directions along the track for any approaching train, and for signals indicating the approach of a train, except as provided in Chapter 17, and shall not proceed until the driver can do so safely. After stopping as required by this Section, and upon proceeding when it is safe to do so the driver of the vehicle shall cross only in such gear of the vehicle that there will be no necessity for changing gears while traversing the crossing and the driver shall not shift gears while crossing the track or tracks.
- B. No stop need be made at any such crossing where a peace officer or a traffic-control signal directs traffic to proceed.

Sec. 17.199 Moving Heavy Equipment at Railroad Grade Crossings

- A. No person shall operate or move any crawler-type tractor, steam shovel, derrick, roller or any equipment of structure having a normal operating speed of 10 or less miles per hour or a vertical body or load clearance of less than one-half foot of the distance between any two adjacent axles or in any event of less than nine inches, measured above the level surface of a roadway, upon or across any tracks at a railroad grad crossing without complying with this Section.
- B. No stop need be made at any such crossing where a peace officer or a traffic-control signal directs traffic to proceed.
- C. Before making any such crossing the person operating or moving the vehicle or equipment shall first stop the same not less than 5 feet nor more than 10 and look in both directions along the track for any approaching train and for

signals indicating the approach of a train, and shall not proceed until the crossing can be made safely.

- D. No such crossing shall be made when warning is given by automatic signal, crossing gates, a flagman or otherwise of the approach of a railroad train or car. If a flagman is provided by the railroad, movement over the crossing shall be under the flagman's direction.

Sec. 17.200 – 17.211 Reserved

SPEED RESTRICTIONS

Sec. 17.212 Maximum Speed Limit

No maximum speed limit on any highway in this Reservation shall be in excess of 65 miles per hour. This shall not be construed as altering any existing maximum speed limit, which is less than 65 miles per hour.

Sec. 17.213 Minimum Speed Limit; Exceptions

- A. No person shall drive a motor vehicle at such a slow speed as to impede or block the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with law.
- B. Peace officers are authorized to enforce this Section by directions to drivers; and in the event of apparent willful disobedience to this Section and refusal to comply with the direction of an officer in accordance with this Section, the continued slow operation by a driver is an offense.

Sec. 17.214 Speeds to be Reasonable and Prudent

- A. No person shall drive a vehicle on a highway at a speed greater than is reasonable and prudent under the circumstances, conditions and actual and potential hazards then existing. In every event, speed shall be so controlled as may be necessary to avoid colliding with any person, vehicle or other conveyance on or entering the highway in compliance with legal requirements and the duty of all persons to exercise reasonable care for the protection of others.
- B. Except, as provided where a special hazard requires a lesser speed, any speed in excess of these speeds shall be prima facie evidence that the speed is too great and therefore unreasonable and unlawful.
 - 1. Fifteen miles per hour approaching school crossing.
 - 2. Twenty-five miles per hour in any residential district.

- C. The maximum lawful speed as provided in this Section shall be reduced to that which is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing, such as when:

1. Approaching and crossing an intersection or railroad crossing.
2. Approaching and going around a curve.
3. Approaching a hillcrest.
4. Traveling upon any narrow or winding roadway.
5. Special hazards exist with respect to pedestrians or other traffic or by reason of weather or highway conditions.

Sec. 17.215 Special Speed Limitation on Motor-Driven Cycles

No person shall operate any motor driven cycle at anytime mentioned in Section 17.71 at a speed greater than 35 miles per hour unless such motor driven cycle is equipped with a head lamp or lamps which are adequate to reveal a person or vehicle at a distance of 300 feet ahead.

Sec. 17.216 Charging Violations and Rule in Civil Actions

- A. In every charge of violation of any speed regulation in Chapter 17, the complaint and the summons or notice to appear shall specify the speed at which the defendant is alleged to have driven and the prima facie speed applicable at the location of violation.
- B. The provisions of Chapter 17 declaring prima facie speed limitations shall not be construed to relieve the plaintiff in any civil action from the burden of proving negligence on the part of the defendant as the proximate cause of an accident.

Sec. 17.217 Racing and Drag Races

- A. Prohibited. No person shall drive any vehicle in any race, speed competition or contest drag race or acceleration contest, test of physical endurance, exhibition of speed or acceleration, or for the purpose of making a speed record on a street or highway, and no person shall in any manner participate in any such race, competition, contest, test or exhibition.
- B. "Drag race" means the operation of two or more vehicles from a point side by side at accelerating speeds in a competitive attempt to outdistance each other or the operation of one or more vehicles over a common selected course, from

the same point, for the purpose of comparing the relative speeds or power of acceleration of such vehicle or vehicles within a certain distance or time limit.

- C. "Racing" means the use of one or more vehicles in an attempt to outgain, outdistance or prevent another vehicle from passing.
- D. A person who violates this Section must be fined in an amount not to exceed \$300.00.
- E. A person who commits a second or subsequent violation of this Section committed within a period of 24 months from the commission of the first offense shall be fined in an amount not to exceed \$500.00.
- F. The court may suspend the driving privileges of a person guilty of a first violation of this Section for a period not to exceed 90 days. Upon a second or subsequent violation of this Section committed within 24 months from the commission of the first offense, the court shall suspend all driving privileges of such person for a period not to exceed one year.
- G. Upon an admission to or adjudication of liability for an offense under this Section, the court may forward to any appropriate state or federal agency notice of such disposition.
- H. The Tribal Council may give authorization in writing for any organized and properly controlled event otherwise impermissible under this Section to utilize a highway or part of a highway. The authorization shall specify the time of the event, the location and any other conditions imposed by the Tribal Council.

Sec. 17.218 Driving at Speed which Causes Trailer to Sway

Any person who drives a vehicle towing a trailer or semi-trailer at a rate of speed or under conditions that cause the trailer or semi-trailer to sway laterally from the line of traffic is guilty of a civil offense.

Sec. 17.219 Charge of Violation to Specify Alleged Speed of Violator; Speed Limit not to Relieve Plaintiff of Proving Negligence

- A. In every charge of violation of any speed regulation in this Chapter, the citation shall specify the speed at which the defendant is alleged to have driven and the prima facie speed applicable.
- B. The provisions of this Chapter declaring maximum speed limitations shall not be construed to relieve the plaintiff in any civil action from the burden of proving negligence on the part of the defendant as the proximate cause of an accident.

Sec. 17.220 - 17.241 Reserved

ACCIDENTS

Sec. 17.242 Accidents Involving Damage to Vehicle

The driver of any vehicle involved in an accident resulting only in damage to a vehicle which is driven or attended by any person shall immediately stop his vehicle at the scene of the accident or as close thereto as possible but shall forthwith return to and in every event shall remain at the scene of the accident until he has fulfilled the requirements of Section 17.247. Every such stop shall be made without obstructing traffic more than is necessary. Any person failing to stop or comply with the requirements under the circumstances is guilty of a misdemeanor.

Sec. 17.243 Duty upon Striking Unattended Vehicle

The driver of any vehicle which collides with any vehicle which is unattended shall immediately stop and shall then and there either locate and notify the operator or owner of the vehicle of the name and address of the driver and owner of the vehicle striking the unattended vehicle or shall leave in a conspicuous place in the vehicle struck a written notice giving the name and address of the driver and of the owner of the vehicle doing the striking.

Sec. 17.244 Duty upon Striking Fixtures upon a Highway

The driver of any vehicle involved in an accident resulting only in damage to fixtures or other property legally upon or adjacent to a highway shall take reasonable steps to locate and notify the owner or person in charge of the property of that fact and of his name and address and of the registration number of the vehicle he is driving, and shall upon request exhibit his operator's or chauffeur's license and shall make report of the accident when and as required in Section 17.248.

Sec. 17.245 Immediate Reports of Certain Accidents

The driver of a vehicle involved in an accident resulting in injury to or death of any person shall immediately by the quickest means of communication, whether oral or written, give notice of the accident to the tribal police department.

Sec. 17.246 Duty to Give Information and Render Aid

The driver of any vehicle involved in an accident resulting in injury or to death of any person or damage to any vehicle which is driven or attended by any person shall give his name, address and the registration number of the vehicle the person is driving and shall upon request exhibit his or her operator's or chauffeur's license to the person struck or the driver or occupants of a person attending any vehicle collided with and shall render to any person injured in the accident reasonable assistance, including the making of arrangements for the

carrying of the person to a physician, surgeon or hospital for medical or surgical treatment if it is apparent that treatment is necessary or if the carrying is requested by the injured person.

Sec. 17.247 Written Reports of Accidents

- A. The driver of a vehicle involved in an accident resulting in bodily injury to or death or of any person or total property damage to an apparent extent of \$100 or more shall, within five days after the accident, forward a written report of the accident to the tribal police department.
- B. The tribal police department may require any driver of a vehicle involved in an accident of which report must be made as provided in this Section to file supplemental reports when the original report is insufficient in the opinion of the tribal police department and may require witnesses of accidents to render reports to the department.

Sec. 17.248 When Driver is Unable to Report

- A. When the driver of a vehicle is physically incapable of making an immediate report of an accident as required in the preceding Section, and there was another occupant in the vehicle at the time of the accident capable of making a report, the occupant shall make or cause to be made the report not made by the driver.
- B. When the driver is physically incapable of making a written report as required in the preceding Section and the driver is not the owner of the vehicle, than the owner of the vehicle involved in the accident shall, within five days after learning of the accident, make the report not made by the driver.

Sec. 17.249 Accident Report Forms

- A. The tribal police department shall obtain upon request, supply to law enforcement agencies, garages and other suitable agencies or individuals, forms for accident reports required under this Chapter, appropriate with respect to the persons required to make the reports and the purposes to be served. The written reports to be made by persons involved in accidents and by investigating officers shall call for sufficiently detailed information to disclose with reference to a traffic accident the cause, conditions then existing and the persons and vehicles involved.
- B. Every accident report required to be made in writing shall be made on the appropriate form approved by the state of Arizona and shall contain all of the information required therein unless not available.

Sec. 17.250 Offense for Failure to Report

The Tribal Court shall suspend the privilege of driving in the reservation of any person failing to report an accident as provided by this Chapter until the report has been filed. Any person failing to make a report as required by this Chapter commits a civil offense.

Sec. 17.251 Garages to Report

The person in charge of any garage or repair shop to which is brought any motor vehicle which shows evidence of having been involved in an accident of which report must be made as provided in Section 17.247 or struck by a bullet, shall report to the tribal police within 24 hours after the motor vehicle is received, giving the engine number, registration number and the name and address of the owner or operator of the vehicle.

Sec. 17.252 Accident Reports

Copies of accident reports may be released to persons involved in accidents, or their designated representatives upon completion of a police investigation.

Sec. 17.253 - 17.260 Reserved

PEDESTRIANS' RIGHTS AND DUTIES

Sec. 17.261 Right-Of-Way in Crosswalks

- A. When traffic-control signs are not in place, the driver of a vehicle shall yield the right-of-way, slowing down or stopping, if need be, to so yield to a pedestrian crossing the roadway within a crosswalk when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger, into the path of a vehicle which is so close that it is impossible for the driver to yield. This provision shall not apply under the conditions stated in Subsection B of the following Section.
- B. When any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass the stopped vehicle.

Sec. 17.262 Crossing at Other than at Crosswalks

Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway.

Sec. 17.263 Drivers to Exercise due Care

Notwithstanding the provisions of Chapter 17, every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian upon any highway and shall give warning by sounding the horn when necessary and shall exercise particular precaution upon observing any child or confused or incapacitated person upon or near a highway.

Sec. 17.264 Pedestrians on Roadways

- A. Where sidewalks are provided, it shall be unlawful for any pedestrian to walk along and upon an adjacent roadway.
- B. Where sidewalks are not provided, any pedestrian walking along and upon a highway shall, when practicable, walk only on the left side of the roadway or its shoulder facing traffic which may approach from the opposite direction.
- C. No person shall stand in a roadway for the purpose of hitchhiking or soliciting a ride from the driver of any vehicle.

Sec. 17.265 School Crossings

- A. No vehicle shall proceed at a speed to exceed 15 miles per hour when approaching the crosswalk and while between the portable signs placed on the highway indicating "school in session" and "stop when children in crosswalk."
- B. Vehicles to obey signs. When the school authorities place and maintain the required portable "school in session" signs and "stop when children in crosswalk" signs, all vehicles shall come to a complete stop at the school crossing when the crosswalk is occupied by any person.

Sec. 17.266 Provisions for Blind Pedestrians

- A. Any person who is blind shall, when walking on a street or other highway, unless guided by a guide dog or assisted by a person with sight, carry a white cane which shall have a red end eight inches in length.
- B. For the purposes of this Section a person is blind who has central visual acuity of 20/200 or less in the better eye or central visual acuity of more than 20/200 in the better eye if there is a field defect in which the peripheral field has contracted to such an extent that the widest diameter of visual field subtends an angular distance no greater than 20 degrees.
- C. It is a civil offense for a person who is not blind to carry on the streets or highways a white cane with a red end.

- D. Any person operating a vehicle, other than an emergency vehicle the siren of which is being sounded, shall bring the vehicle to a stop and yield the right of way at a street, avenue, alley, or other highway intersection to a blind person carrying a white cane with a red end, or who is being guided by a guide dog, when the blind person enters the intersection. Notwithstanding the foregoing, upon seeing a blind person with such a cane in a roadway or preparing to cross a roadway at any point, any person operating a vehicle which may jeopardize such blind person shall stop or yield the right of way to the blind person.
- E. This Section shall not be construed to deprive a blind person not carrying a white cane with a red end or not being guided by a dog or sighted person of the rights and privileges conferred by law upon pedestrians, nor shall the failure of a blind person to carry a white cane with a red end or be guided by a guide dog or sighted person be held to constitute prima facie evidence of contributory negligence.

Sec. 17.267 - 17.300 Reserved

BICYCLES AND PLAY VEHICLES

Sec. 17.301 Application of Provisions

- A. The parent of a child and the guardian of a ward shall not authorize or knowingly permit the child or ward to violate any of the provisions of this Chapter.
- B. The regulations of this Chapter in their application to bicycles shall apply when a bicycle is operated upon any highway within the reservation.

Sec. 17.302 Traffic Laws Apply to Persons Riding Bicycles

Every person riding a bicycle upon a roadway shall be granted all the rights and shall be subject to all the duties applicable to the driver of a vehicle by this Chapter except as to special regulations in this Chapter, and except as to those provisions of this Chapter which by their nature can have no application.

Sec. 17.303 Riding on Roadways and Bicycle Paths

- A. Every person operating a bicycle upon a roadway shall ride as near to the right side of the roadway as practicable exercising due care when passing a standing vehicle or one proceeding in the same direction.
- B. Persons riding bicycles upon a roadway shall not ride more than two abreast except on paths or parts of roadways set aside for the exclusive use of bicycles.

Sec. 17.304 Manner of Riding

- A. A person propelling a bicycle shall not ride other than upon or astride a permanent and regular seat attached thereto.
- B. No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

Sec. 17.305 Carrying Articles

No person operating a bicycle shall carry any package, bundle or article which prevents the driver from keeping at least one hand upon the handlebars.

Sec. 17.306 Lamps and other Equipment on Bicycles

- A. Every bicycle when in use at nighttime shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least 500 feet to the front and with a red reflector on the rear of a type approved by the department which shall be visible from all distances from 50 feet to 300 feet to the rear when directly in front of lawful upper beams of head lamps on motor vehicles. A lamp emitting a red light visible from a distance of 500 feet to the rear may be used in addition to the red reflector.
- B. Every bicycle shall be equipped with a brake which will enable the operator to make the braked wheels skid on dry, level, clean pavement.

Sec. 17.307 Clinging to Vehicles

No person riding upon any bicycle, coaster, roller skates, roller blades, skateboard, scooter, sled or toy vehicle shall attach the same of himself to any vehicle upon a roadway.

Sec. 17.308 – 17.310 Reserved

MISCELLANEOUS

Sec. 17.311 Riding on Motorcycles

A person operating a motorcycle shall ride only upon the permanent and regular seat attached thereto, and the operator shall not carry any other person nor shall any other person ride on the motorcycle unless it is designed to carry more than one person, in which event a passenger may ride upon the permanent and regular seat if designed for two persons, or upon another seat firmly attached to the rear or side of the operator.

Sec. 17.312 Maximum Number in School Bus; Exceptions, Receiving or Discharging School Children at School

- A. No school bus shall be operated on a highway while it is carrying more than can be properly seated, nor while any person is standing therein, except for the purpose of conducting drills under school regulations and in the emergency evacuation and dispersal of pupils and school personnel.
- B. No person who is a driver of any vehicle carrying children to and from school shall, in receiving or discharging children at the school, fail to stop the vehicle on the side of the highway upon which the school is located.

Sec. 17.313 Liability for Damage to Highways or Structures

- A. Any person driving any vehicle, object or contrivance upon any highway or highway structure shall be liable for all damage which the highway or structure may sustain as a result of any illegal operation, driving or moving of the vehicle, object or contrivance, or as a result of operating, driving or moving any vehicle, object or contrivance weighing in excess of the maximum weight in this Chapter but authorized under the provisions of Section 17.91.
- B. When the driver is not the owner of the vehicle, object or contrivance, but is so operating, driving or moving the same with the express or implied permission of the owner, the owner and driver shall be jointly and severally liable for any damage.
- C. Such damage may be recovered in civil action brought by or on behalf of the Tribe.

Sec. 17.314 Parties to a Civil Offense

A person who commits, attempts to commit, conspires to commit or aids or abets in the commission of any act declared in this Chapter to be a civil offense, whether individually or in connection with one or more persons or as a principal, agent or accessory, commits a civil offense, and a person who falsely, fraudulently, forcibly or willfully induces, causes, coerces, requires, permits or directs another to violate any provision of this Chapter is likewise commits a civil offense.

Sec. 17.315 Driving on Mountain Highways

The driver of a motor vehicle traveling through canyons or on mountain highways shall hold the motor vehicle under control and as near the right-hand edge of the roadway as reasonably possible.

Sec. 17.316 Coasting Prohibited

- A. The driver of any motor vehicle when traveling upon a downgrade shall not coast with the gears of the vehicle in neutral.
- B. The driver of a commercial motor vehicle when traveling upon a downgrade shall not coast with the clutch disengaged.

Sec. 17.317 Injuring or Preventing Operation of Vehicle

- A. A person is guilty of a civil offense who:
 - 1. Willfully breaks, injures, tampers with or removes any part of a vehicle for any purpose against the will or without consent of the owner of the vehicle.
 - 2. In any other manner willfully or maliciously interferes with or prevents the running or operation of the vehicle.
 - 3. Without consent of the owner or person in charge of a vehicle climbs into or upon a vehicle with intent to commit any crime, malicious mischief or injury thereto.
 - 4. While a vehicle is stopped and unattended attempts to manipulate any levers, starting crank or other starting device, brakes or other mechanism thereof, or sets the vehicle in motion.
- B. The provision of Subsection A of this section shall not apply when any of the conduct described therein is committed in an emergency in furtherance of public safety or convenience or by or under the direction of a peace officer in the performance of his or her duty.

CHAPTER 18

COMPULSORY SCHOOL ATTENDANCE

GENERAL PROVISIONS

Sec. 18.1 Purpose

The purpose of this Chapter is to require the regular attendance at school of all school age children living within the Hualapai Indian Reservation.

Sec. 18.2 Definitions

- A. "Absence" shall mean the child's non-attendance of any scheduled school session at the particular school in which the child is enrolled.
- B. "Tribal Juvenile Court" shall mean the Children's Court established by the Hualapai Law and Order Code.
- C. "Excused Absence" shall mean absence from school for the following permitted reasons: a legitimate medical reason, a compelling personal reason such as a death in the immediate family; a bona fide religious reason prohibiting school attendance; or, the child or guardian has presented reasons for non-attendance which are satisfactory to the school officials and the truancy officer.
- D. "Guardian" means the natural or adoptive parent or parents having legal custody of the child or any other adult person who has been entrusted with the care and supervision of a child and who has legal custody of the child pursuant to court order.
- E. "Legal Custody" means the legal status created by parental rights, court order, or tribal custom, which vests in a parent or guardian the right to have physical custody of the child and the duties and responsibilities to provide the child with food, shelter, protection, discipline, medical care and education.
- F. "School Age Child" means a child between the ages of five years and eighteen years; provided, however, for the purpose of this Chapter, a child shall be deemed five years of age only if the child reaches such age prior to September 1, of the current school year.
- G. "Tribal Court(s) or Court(s)" means the courts of the Hualapai Indian Tribe.
- H. "Tribe or Tribal" means or refers to the Hualapai Indian Tribe.
- I. "Truant" shall mean absence from school without an excused absence.

Sec. 18.3 Jurisdiction

- A. Any guardian of a child found in violation of this Chapter shall be subject to the jurisdiction of the Hualapai Tribal Courts.
- B. Any child found in violation of this Chapter shall be subject to the jurisdiction of the Hualapai Tribal Courts.

COMPULSORY SCHOOL ATTENDANCE REQUIREMENTS

Sec. 18.4 Duties of Guardian to Enroll Child

Every guardian of a school age child shall enroll the child in school for the entire school year, and shall be responsible for the child's attendance at all required class sessions unless the child has an excused absence.

Sec. 18.5 Duties of Child to Attend School

Every school age child is required to attend all scheduled class sessions at the school in which the child is enrolled unless the child has an excused absence.

Sec. 18.6 Exceptions

A person is excluded from the duties prescribe by Sections 18.4 and 18.5 of this Chapter when it is shown to the satisfaction of the Tribal Juvenile Court that:

- A. The child is attending a regularly organized private or parochial school;
- B. The child has obtained a high school equivalency certificate;
- C. The child has been barred from school attendance by a school disciplinary action, provided the child is at all times in the immediate supervision of the guardian;
- D. The child is in such physical or mental condition that attendance at a regular school is impossible or impractical;
- E. The child is a parent and his or her parental duties make attendance at a regular school a severe hardship;
- F. The child will reach the age of 18 years prior to the commencement of the current school year;
- G. The parent or guardian has tried to enroll the child in other schools;

- H. The guardian of the child has presented reasons for non-attendance which are satisfactory to the tribal Education Department or the Tribal Juvenile Court; or
- I. The guardian of a five-year-old child has presented satisfactory evidence that it would not be in the best interest of the child to enroll the child in school at age five.

SANCTIONS

Sec. 18.7 Adult Sanctions

- A. A guardian who fails or refuses, without good cause, to send his or her children to school in violation of Section 18.4 of this Chapter and who is a person over which the Tribal Courts have criminal jurisdiction commits the criminal offense of failure to send children to school. A person found guilty of the criminal offense of failure to send children to school may be sentenced to imprisonment for a term not to exceed 30 days and/or fined in an amount not to exceed \$1000.
- B. A guardian who fails or refuses, without good cause, to send his or her children to school in violation of Section 18.4 of this Chapter and who is a person over which the Tribal Courts have civil jurisdiction but do not have criminal jurisdiction commits the civil offense of failure to send children to school. A person who commits the civil offense of failure to send children to school may be fined in an amount not to exceed \$1000.

Sec. 18.8 Children's Sanctions

Any child who, without good cause, fails or refused to attend school in violation of Section 18.5 of this Chapter is a child "in need of care" and is subject to any disposition provided for such a child by the Tribal Juvenile Chapter 13 of the Hualapai Tribe Law and Order Code.

ENFORCEMENT PROCEDURES

Sec. 18.9 Truancy Officer

The Hualapai Tribal Council shall appoint a truancy officer whose primary responsibilities shall be to enforce the provisions of this Chapter.

Sec. 18.10 Public Responsibility to Report

Anyone who has reason to believe a school age child is truant shall notify the truancy officer, the Tribal Police Department or the Tribal Department of Education of the child's possible truancy, the whereabouts of the child and the child's name and address, if known. The Tribal Police Department of the tribal Education Department shall in all cases notify the

truancy officer of any school age child known or believed to be truant.

Sec. 18.11 Locating and Detaining Child; Notification to Child's Guardian

When the truancy officer has been notified that a school age child may be truant, or has other reasons to believe a child may be truant, the officer shall make very reasonable attempt to locate the child. If, after locating the child, the officer has reasonable grounds to believe the child is truant, the officer shall detain the child if the child is not at his or her residence or otherwise in the presence of his or her guardian and make very reasonable attempt to notify the child's guardian and to release the child to the guardian. In any case in which a school age child is detained for truancy under this Section, the truancy officer shall proceed in accordance with Chapter 13 of this Code.

Sec. 18.12 Tribal Juvenile Court Petition

In any case in which a school age child is detained for truancy or the truancy officer has reasonable grounds to believe that a child is truant, the truancy officer shall file a petition in the Tribal Juvenile Court for further proceedings.

TRIBAL JUVENILE COURT DISPOSITION

Sec. 18.13 Tribal Juvenile Code Controlling; Informal Settlement: Transfer of Adult Action to Tribal Court

The Tribal Juvenile Chapter of this Code shall govern any case in which a petition is filed in Tribal Juvenile Court alleging violation of this Chapter. The Tribal Juvenile Court may, in its discretion, allow the child and the guardian to make an informal settlement if they enroll the child in school and sign a written agreement guaranteeing school attendance. If the Tribal Juvenile Court decides that an informal resolution of the case would not be in the best interest of the child, the Tribal Juvenile Court may transfer the case against the guardian to the Tribal Court for proceedings under this Chapter, proceed with "child in need of care" proceedings or pursue any other alternative for which the Tribal Juvenile Chapter and other applicable law provides.

Sec. 18.14 Conditions Imposed as Part of Informal Settlement

The Tribal Juvenile Court may impose upon any child and/or guardian making an informal settlement any reasonable conditions, including counseling or community service, which are necessary to insure the successful resolution of the school attendance problem.

RECORDS

Sec. 18.15 Repeat Violations; Order to School to Release School Records

In any case in which the Tribal Juvenile Court finds probable cause to believe that repeated violations of this Chapter have occurred, and that the violations pose a danger to the

health, safety, or well-being of the child, the Tribal Juvenile Court may order that the school provide the Court with a sealed copy of the child's school discipline and attendance records. The records shall remain sealed and confidential except for disclosure to the Court, the child, the guardian, the their legal representative. The records shall not be disclosed to other persons for any reasons. Upon termination of Tribal Juvenile Court jurisdiction, the records shall be returned to the school.

Sec. 18.16 School Information Provided to Tribal Education Department

Every school shall, within 30 days of the beginning of each semester, provide the Tribal Education Department with all directory information regarding its students who reside within the Hualapai Indian Reservation, including rosters, absentee lists, and withdrawal lists, without requiring the consent of the students or their guardians.

SCOPE AND APPLICATION

Sec. 18.17 Construction

This Chapter shall be liberally construed to effect its object and to promote the well-being of children of the Tribe and other children residing within the Hualapai Indian Reservation. The Chapter shall be read in conjunction with all other part of the Hualapai Law and Order Code.

Sec. 18.18 Savings Clause

This Chapter does not affect any rights and duties that matured, penalties that were incurred, or proceedings that were commenced before its effective date. This Chapter shall be effective upon adoption by resolution of the Hualapai Tribal Council.

Sec. 18.19 Sovereign Immunity

Nothing in the provisions of this Chapter is intended, nor shall be construed, as consent by the Tribe or its sub-organizations to be sued in any court. This Chapter does not constitute a waiver of the Tribe's sovereign immunity for any purpose.

Sec. 18.20 Severability

If any provision of this Chapter or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Chapter which can be given effect without the invalid provision or application, and to this end the provisions of this Chapter are severable.

CHAPTER 19 COMMERCIAL CHAMPAGNE FLIGHTS

GENERAL PROVISIONS

Sec. 19.1 Purpose

The purpose of this section is to allow for, regulate, and control the limited possession, transportation, sale, and consumption of champagne or similar sparkling wine beverages in conjunction with commercial helicopter tours on the Hualapai Reservation. Enactment of this section will increase the ability of the Tribal government to regulate Reservation alcohol possession and consumption, and at the same time provide an important source of revenue for the continued operation and strengthening of the Tribal and the delivery of Tribal government services.

Sec. 19.2 Scope and Territory

This section applies to all sales, purchases, distributions, possession, and consumption of alcoholic beverages made in conjunction with any tribally authorized commercial helicopter tour conducted within the exterior boundaries of the Hualapai reservation.

Sec. 19.3 Application of 18 United States Code, Section 1161

All acts and transactions under this Section shall be in conformity with this Section and in conformity with the laws of the State of Arizona, as that term is used in Title 18 of the U.S.C. Section 1161.

Sec. 19.4 Definitions

In this Section, unless the context otherwise requires:

- A. "Alcohol" and "Alcoholic Beverage" means beer, wine, or any other spirituous liquor.
- B. "Champagne" and "Similar Sparkling Wine Beverage" means an alcoholic sparkling wine beverage with an alcohol content not to exceed 14%.
- C. "Community" means the Hualapai Tribe.
- D. "Customer" means a customer of a commercial champagne tour.
- E. "Person" means a natural person or a corporation duly chartered by a jurisdiction within the United States.
- F. "Reservation" means all Indian Lands under the control and authority of the

Hualapai Tribe.

- G. "Sell," "Sold," "Buy" means and shall include furnish, dispose of, give, receive or acquire.
- H. "Tribal Official" means a tribal peace officer, an officer or Director of the Grand Canyon Resort Corporation, or a member of the Tribal Council.
- I. "Tribe" or "Hualapai Tribe" means the Hualapai Indian Tribe of the Hualapai Indian Reservation, a federally recognized Indian Tribe.

Sec. 19.5 Unlawful Acts

Unless specifically provided for in Subsection 19.6 below, this Section does not invalidate or alter the limitations on the use, sale, purchase, possession, or consumption of alcohol set forth in Chapter 6, or elsewhere in the Hualapai Law and Order Code.

Sec. 19.6 Limited Use of Alcohol for Commercial Champagne Helicopter Tours

Notwithstanding limitations on the use, sale, purchase, possession, or consumption of alcohol set forth elsewhere in the Hualapai Law and Order Code, the limited use of alcohol for commercial champagne helicopters is allowed, consistent with the following provisions:

- A. A helicopter vendor may transport up to two bottles, not to exceed 36 ounces each, of champagne or similar sparkling wine beverages for purposes of providing or selling such beverages to customers in conjunction with tribally authorized commercial champagne helicopter tours. All other alcoholic beverages are specifically excluded from the helicopter champagne tour and are otherwise banned from the application of this Section. Passengers on commercial champagne helicopter tours may consume such beverages outside of the helicopter and within the regular sightseeing areas located near the vendor's helipad landing sites at the base of the Grand Canyon.
- B. A helicopter operator, vendor employee, or vendor contractor who becomes aware of an individual violation of this Section must instruct the violator to immediately desist from his or her unauthorized use of alcohol. Such a helicopter operator, vendor, employee, or vendor contractor shall immediately, or as soon thereafter as is practicable, notify a Tribal Official of the violation and shall provide the name, address and other identifying information of the violator. Failure of a helicopter operator, vendor employee, or vendor contractor to perform the requirements of this Subsection is a violation of this Section.
- C. At no time may a helicopter vendor provide, nor may customers consume, more than one bottle of champagne or similar sparkling wine per couple.

- D. At no time may a helicopter operator, vendor employee, or vendor contractor consume any alcoholic beverages during such periods such person is or persons are working in conjunction with a commercial champagne helicopter tour.
- E. The transportation and consumption of alcohol pursuant to this Section must at all times be consistent with all Federal Aviation Administration requirements.

Sec. 19.7 Removal of Alcoholic Beverages

All alcoholic beverages and containers must be removed from the Hualapai Reservation by the helicopter operator, vendor employee or vendor contractor on the same helicopter champagne tour which introduced said beverages onto the Reservation.

Sec. 19.8 Violation of Section

- A. A customer who violates any provision of this Section shall be subject to a civil fine not to exceed \$1,000 plus court costs.
- B. A helicopter vendor, vendor employee, or contractor who violates any provision of this Section shall be subject to a civil fine not to exceed \$5,000 plus court costs, and such violation shall be reported to the Grand Canyon Resort Corporation ("GCRC") for its consideration of revoking the vendor's Operating Certificate.
- C. Violations of this Section shall be cited into the Tribal Court, and the rules of the Tribal Court shall control such actions.

Sec. 19.9 Agreement to Consent of Civil Jurisdiction Required

Any customer, helicopter vendor, vendor employee, or vendor contractor who seeks to transport or consume champagne or similar sparkling wine beverages pursuant to this Section shall, before transporting or consuming such beverages, enter into a written agreement explicitly consenting to Hualapai Tribe civil jurisdiction over all matters arising from the applicants' activities within the exterior boundaries of the Tribe's reservation.

| RESOLUTION NO. | TITLE | ADOPTED | |
|----------------|--|------------|--------------------|
| 41-2004 | Chapter 8, Section 8.3-8.11-Tresspass, Exclusion | 5/19/2004 | |
| 71-2004 | Chapter 15, Animal Control, Section 15-10 | 9/1/2004 | |
| 63-2005 | Chapter 9 - Section 9.1-9.9- | 9/14/2005 | Supersedes 41-2004 |
| 68-2006 | Chapter 6, Section 6.203-Curfew | 12/28/2006 | |
| 08-2007 | Section 1.8(N) Definition of "Party" | 2/16/2007 | |
| 24-2008 | Section 2.15 Court Administrator duties | 5/3/2008 | |
| 41-2008 | Chapter 6-Sections 6.203 & 6.204-Curfew | 7/21/2008 | Supersedes 68-2006 |
| 07-2009 | Section 13.38 (A-D) Juvenile Detention | 1/26/2009 | |
| 11-2009 | Chapters 6 & 13 -Gangs | 3/9/2009 | |
| 77-2010 | Chapter 10-Appeals | 11/6/2010 | |
| 20-2011 | Section 2.16- Eminent Domain | 4/4/2011 | |
| 40-2011 | Section 6.126 to 6.139-Sex Offender | 7/9/2011 | |
| 85-2011 | Chapter 5-Criminal Procedure | 12/12/2011 | |
| 20-2012 | Section 6.126 to 6.139-Sex Offender | 2/16/2012 | |
| 38-2013 | Chapter 7-Section 7-Domestic Violence | 5/23/2013 | |
| 52-2013 | Chapter 15-Animal Control, Section 15-3A | 8/5/2013 | |
| 53-2013 | Chapter 15-Animal Control, Section 15-2A | 8/5/2013 | |
| 54-2013 | Chapter 15-Animal Control, Section 15-9 | 8/5/2013 | |
| 90-2016 | Chapter 10- Section 10.10 A-E | 11/2/2016 | |
| 18-2017 | Chapter 9 - Section 6.242 & 6.154 | 3/4/2017 | |
| 21-2018 | Chapter 20 - Grandparents' Contact & Visitation Rights | 4/7/2018 | |
| | | | |
| | Revised: 04/11/18 | | |
| | | | |
| | | | |

| AMENDMENTS TO ORDINANCE NO. 20 - LAW & ORDER CODE | | | |
|---|--|------------|----------------------------|
| RESOLUTION NO. | TITLE | ADOPTED | |
| 41-2004 | Chapter 8, Section 8.3-8.11-Trespass, Exclusion | 5/19/2004 | |
| 71-2004 | Chapter 15, Animal Control, Section 15-10 | 9/1/2004 | |
| 63-2005 | Chapter 9 - Section 9.1-9.9- | 9/14/2005 | Supersedes 41-2004 |
| 68-2006 | Chapter 6, Section 6.203-Curfew | 12/28/2006 | Superseded by Res #41-2008 |
| 08-2007 | Section 1.8(N) Definition of "Party" | 2/16/2007 | |
| 24-2008 | Section 2.15 Court Administrator duties (Chapter 1) | 5/3/2008 | |
| 41-2008 | Chapter 6-Sections 6.203 & 6.204-Curfew | 7/21/2008 | Supersedes 68-2006 |
| 07-2009 | Section 13.38 (A-D) Juvenile Detention (Chapter 13) | 1/26/2009 | |
| 11-2009 | Chapters 6 & 13 -Gangs | 3/9/2009 | |
| 77-2010 | Chapter 10-Appeals | 11/6/2010 | |
| 20-2011 | Section 2.16- Eminent Domain (Chapter 2) | 4/4/2011 | |
| 40-2011 | Section 6.126 to 6.139-Sex Offender (Chapter 6) | 7/9/2011 | |
| 85-2011 | Chapter 5-Criminal Procedure | 12/12/2011 | |
| 20-2012 | Section 6.126 to 6.139-Sex Offender (Chapter 6) | 2/16/2012 | |
| 38-2013 | Chapter 7-Section 7-Domestic Violence | 5/23/2013 | |
| 52-2013 | Chapter 15-Animal Control, Section 15-3A | 8/5/2013 | |
| 53-2013 | Chapter 15-Animal Control, Section 15-2A | 8/5/2013 | |
| 54-2013 | Chapter 15-Animal Control, Section 15-9 | 8/5/2013 | |
| 90-2016 | Chapter 10- Section 10.10 A-E | 11/2/2016 | |
| 18-2017 | Chapter 9 - Section 6.242 & 6.154 (Exclusions) | 3/4/2017 | |
| 21-2018 | Chapter 20 - Grandparents' Contact & Visitation Rights | 4/7/2018 | |
| 20-2020 | Temporary Modification L & Code, Sec. 6.79 - Contempt (COVID) | 3/31/2020 | |
| 26-2020 | Temporary Modification L & Code, Sec. 6.92-Endangerment(COVID) | 4/9/2020 | |
| Revised 01/22/21 | | | |

HUALAPAI TRIBAL COUNCIL
RESOLUTION 26-2020
OF THE GOVERNING BODY
OF THE HUALAPAI TRIBE OF THE HUALAPAI RESERVATION

**Temporary Amendment of Section 6.92 (Endangerment)
of the Tribal Law & Order Code Regarding COVID-19**

WHEREAS, the Hualapai Tribe is a federally recognized Indian Tribe located on the Hualapai Indian Reservation in Northwestern Arizona; and

WHEREAS, the Hualapai Tribal Council has the power to represent the Tribe and act in all matters that concern the welfare of the Tribe pursuant to Article V(r) of the Hualapai Constitution; and

WHEREAS, the Hualapai Tribe declared a State of Emergency in connection with COVID-19 on March 16, 2020; and

WHEREAS, the Tribal Incident Command Team (ICT) is preparing the support the Hualapai Community as part of the ICT COVID-19 Response Plan through implementation of isolation, Stay-At-Home Orders, Quarantine Orders, and a curfew, which requires an enforcement provision for such a Response Plan; and

WHEREAS, the ICT has consulted with Hualapai Nation Police Department, the Hualapai Prosecutor's Office, Legal Counsel of the Hualapai Tribe, and the Hualapai Tribal Court, and has made the recommendation that these amendments be enacted in order to establish enforcement provisions per the ICT COVID-19 Response Plan;

THEREFORE BE IT RESOLVED, the Hualapai Tribal Law & Order Code is hereby amended as follows:

Section 6.92 shall be temporarily amended with the following:

"Section 6.92 Endangerment

A person commits endangerment:

- (A) By recklessly engaging in any conduct which places another person at substantial risk of imminent death or bodily harm; or

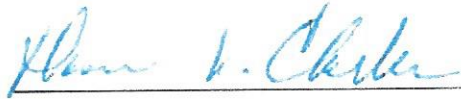
(B) By knowingly refusing or failing to obey any Declaration of Emergency Measure Order, or any provisions thereof, that is in effect pursuant to action of the Hualapai Tribal Council.

A 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."

NOW THEREFORE BE IT FINALLY RESOLVED, that the Tribal Council hereby enacts this Temporary Amendment to Section 6.92 (Endangerment) to the Tribal Law & Order Code.

CERTIFICATION

I, the undersigned as Chairman of the Hualapai Tribal Council hereby certify that the Hualapai Tribal Council of the Hualapai Tribe is composed of nine (9) members of whom nine (9) constituting a quorum were present at **Special Council Meeting**, thereof held on this 9th day of April, 2020; and that the foregoing resolution was duly adopted by the affirmative vote of (6) approve, (3) opposed, (0) not voting, (0) excused, pursuant to the authority of Article V, Section (a) of the Constitution of the Hualapai Tribe approved March 13, 1991.



Dr. Damon R. Clarke, Chairman
Hualapai Tribal Council

ATTEST:



Shanna Salazar, Administrative Assistant
Hualapai Tribal Council

HUALAPAI TRIBAL COUNCIL
RESOLUTION 20-2020
OF THE GOVERNING BODY OF THE
OF THE HUALAPAI TRIBE OF THE HUALAPAI RESERVATION

COVID-19, Temporary Modification to Tribal Law & Order Code

WHEREAS, the Hualapai Tribe is a federally recognized Indian Tribe located on the Hualapai Indian Reservation in Northwestern Arizona; and

WHEREAS, the Hualapai Tribal Council has the power to represent the Tribe and act in all matters that concern the welfare of the Tribe pursuant to Article V (r) of the Hualapai Constitution; and

WHEREAS, the Hualapai Tribe declared a State of Emergency in connection with COVID-19 on March 16, 2020; and

WHEREAS, the Tribal Incident Command Team (ICT) is preparing to support the Hualapai Community through temporarily modification to the Tribal Law & Order Code to support the ICT COVID-19 Response Plan through implementing isolation, Stay at Home Order, quarantine, and a curfew with fines based on section 6.79 Contempt of Court, Part D. of the Tribal Law & Order Code;

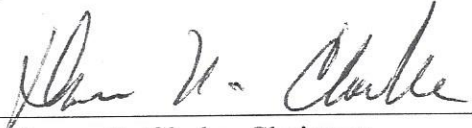
THEREFORE BE IT RESOLVED, the Tribal Law & Order Code is temporarily modified as follows:

1. Upon application of any authorized medical officer of the United States, the Hualapai Tribal Court is authorized to issue an order requiring any person subject to the jurisdiction of the Court, who is thought to be suffering from a communicable disease, to undergo such examination or treatment (including but not limited to confinement or quarantine) as may be necessary to protect the community from contagion.
2. Any person violating such an order may be subject to the penalties provided under section 6.79 Contempt of Court, Part D. of the Tribal Law & Order Code, and any other relief available to the Court.

NOW THEREFORE BE IT FINALLY RESOLVED, that the Tribal Council hereby enacts this COVID-19, Temporary Modification to Tribal Law & Order Code.

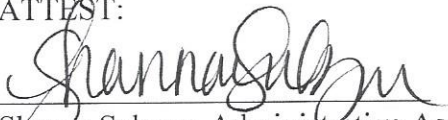
CERTIFICATION

I, the undersigned as Chairman of the Hualapai Tribal Council hereby certify that the Hualapai Tribal Council of the Hualapai Tribe is composed of nine (9) members of whom **nine (9)** constituting a quorum were present at a **Special Council Meeting** thereof held on this **31st day of March, 2020;** and that the foregoing resolution was duly adopted by the affirmative vote of **(5) approve, (3) opposed, (1) not voting, (0) excused,** pursuant to the authority of Article V, Section (a) of the Constitution of the Hualapai Tribe approved March 13, 1991.



Dr. Damon R. Clarke, Chairman
Hualapai Tribal Council

ATTEST:



Shanna Salazar, Administrative Assistant
Hualapai Tribal Council

**HUALAPAI TRIBAL COUNCIL
RESOLUTION NO. 40-2011
OF THE GOVERNING BODY OF THE
HUALAPAI TRIBE OF THE HUALAPAI RESERVATION**

WHEREAS, the Hualapai Tribe of Arizona, is organized pursuant to the Indian Reorganization Act of 1934; and

WHEREAS, the Hualapai Tribal Council is the legal governing body of the Hualapai Indian Tribe, organized according to the Constitution and Bylaws of the Hualapai Indian Tribe; and

WHEREAS, on July 19, 2007 the Hualapai tribe passed Resolution 23-2007 and elected by majority vote of the council to become a Sex Offender Registration and Notification Act (SORNA) compliant Registration Jurisdiction; and

WHEREAS, elected to meet the minimum established requirements set forth in the Adam Walsh Child Protection and Safety Act(P.L. 109-248) title one which is SORNA and update the current Hualapai Tribe Sex Offender Registration laws found in Section 6.126 to 6.136 as adopted in July 2004; and

WHEREAS, the Tribe shall establish and maintain a Sex Offender Registration program that is in compliance with the terms and requirements of the Act and as such amends the current Sex Offender Registration section of the Hualapai Tribal Law and Order Code adopted in July 2004 by replacing it with the 2011 Sex Offender Registration Code presented today consisting of Section 6.126 to Section 6.139; and

WHEREAS, the purpose of the Sex Offender Registration Code is as follows:

1. To Implement the federal Sex offender Registration and Notification Act (SORNA), Title 1 of Public Law 109-248, and shall be interpreted liberally to comply with the terms and conditions of SORNA as presently written or hereafter amended; and
2. To insure the safety of all people living within the exterior boundaries of the Hualapai Indian Reservation against sex offenders; and
3. To establish an official system where sex offenders must be registered within the exterior boundaries of the Reservation; and

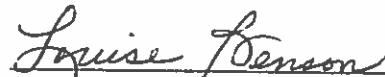
WHEREAS, the Tribe to become substantially compliant with federal law by the federal dead line set of July 26, 2011 and to avoid any possible penalties that may compromise tribal sovereignty, jurisdiction and or future funding adopt the 2011 Sex Offender Registration Code as presented.

NOW, THEREFORE, BE IT RESOLVED that the Hualapai Tribal Council hereby amend the Law and Order Code of 2004 in specifically Section 6.126 to 6.136 and replace it with the 2011 Sex Offender Registration Code Section 6.126 to 6.139 as amended.


BE IT FURTHER RESOLVED, that the Chairperson and/or Vice-Chairman of the Tribal Council is authorized to take all steps necessary to implement this resolution.

CERTIFICATION

I, the undersigned as Chairwoman of the Hualapai Tribal Council hereby certify that the Hualapai Tribal Council of the Hualapai Tribe is composed of nine (9) members of whom (6) constituting a quorum were present at a Regular Council meeting thereof held on this 9th day of July, 2011; and that the foregoing resolution was duly adopted by a vote of (6) in favor, (0) opposed, (0) not voting, (3) excused, pursuant to authority of Article V, Section (a) of the Constitution of the Hualapai Tribe approved March 13, 1991.


Louise Benson, Chairwoman
Hualapai Tribal Council

ATTEST:


Adeline Crozier, Assis. Secretary
Hualapai Tribal Council

HUALAPAI TRIBE SEX OFFENDER REGISTRATION CODE

TABLE OF CONTENTS

| | |
|------------------------|--|
| Title | 1 |
| SECTION 6.126 | Purpose |
| SECTION 6.127 | Creation of Registries |
| SECTION 6.128 | Definitions |
| SECTION 6.129 | Covered Offenses |
| SECTION 6.130 | TIERING OF OFFENSES |
| SECTION 6.130 A | Tier I Offenses |
| SECTION 6.130 B | Tier II Offenses |
| SECTION 6.130 C | Tier III Offenses |
| SECTION 6.131 | REQUIRED INFORMATION |
| SECTION 6.131 A | General Requirements |
| SECTION 6.131 B | Criminal History |
| SECTION 6.131 C | Date of Birth |
| SECTION 6.131 D | DNA Sample |
| SECTION 6.131 E | Driver's Licenses, Identification Cards, Passports, and Immigration Documents |
| SECTION 6.131 F | Employment Information |
| SECTION 6.131 G | Finger and Palm Print |
| SECTION 6.131 H | Internet Identifiers |
| SECTION 6.131 I | Name |
| SECTION 6.131 J | Phone Numbers |
| SECTION 6.131 K | Picture |
| SECTION 6.131 L | Physical Description |
| SECTION 6.131 M | Professional Licensing Information |
| SECTION 6.131 N | Residence Address |
| SECTION 6.131 O | School |
| SECTION 6.131 P | Social Security Number |
| SECTION 6.131 Q | Temporary Lodging |
| SECTION 6.131 R | International Travel |
| SECTION 6.131 S | Offense Information |
| SECTION 6.131 T | Vehicle Information |
| SECTION 6.132 | REGISTRATION |
| SECTION 6.132 A | Where Registration Is Required |
| SECTION 6.132 B | Initial Registration |
| SECTION 6.132 C | Retroactive Registration |
| SECTION 6.132 D | Keeping Registration Current |
| SECTION 6.132 E | Failure To Appear For Registration and Absconding |
| SECTION 6.133 | VERIFICATION and APPEARANCE REQUIREMENTS |
| SECTION 6.133 A | Frequency |
| SECTION 6.133 B | Requirements for In Person Appearances |
| SECTION 6.133 C | Sex Offender Acknowledgement Form |
| SECTION 6.134 | PUBLIC SEX OFFENDER REGISTRY WEBSITE |
| SECTION 6.134 A | Website |
| SECTION 6.134 B | Required and Prohibited Information |
| SECTION 6.135 | COMMUNITY NOTIFICATION |
| SECTION 6.135 A | Law Enforcement Community Notification |
| SECTION 6.135 B | Community Notification |
| SECTION 6.136 | CRIMES AND CIVIL SANCTIONS |
| SECTION 6.136 A | Indians |

| | | |
|--------------------------|---|----|
| SECTION 6.136 B | Non-Indians | 21 |
| SECTION 6.137 | UNLAWFUL USE OF REGISTRY INFORMATION | 21 |
| SECTION 6.137 A | Unlawful use of registry information for criminal act | 21 |
| SECTION 6.137 B | Unlawful use of registry information for criminal act by an Indian | 21 |
| SECTION 6.137 C | Unlawful use of registry information for criminal act by a Non-Indian | 21 |
| SECTION 6.138 | HINDERENCE OF SEX OFFENDER REGISTRATION | 22 |
| SECTION 6.138 A 1 | Knowingly harboring a sex offender | 22 |
| SECTION 6.138 A 2 | Knowingly assisting a sex offender | 22 |
| SECTION 6.138 A 3 | Providing false information on sex offender to Law Enforcement | 22 |
| SECTION 6.138 B | Violation of Sec. 138 A by an Indian | 22 |
| SECTION 6.138 C | Violation of Sec. 138 A by a Non-Indian | 22 |
| SECTION 6.139 | IMMUNITY | 22 |

SEX OFFENDER REGISTRATION

Sec. 6.126 Purpose

The intent of this code is to implement the federal Sex Offender Registration and Notification Act (SORNA) (Title I of Public Law 109-248) (42 USC 16901 et seq). and shall be interpreted liberally to comply with the terms and conditions of SORNA as presently written or hereafter amended. This Chapter supersedes and replaces Sec. 6.126 to 6.140 of the Hualapai Law and Order Code adopted on July 1, 2004.

Sec. 6.127 Creation of Registries

- A. Sex Offender Registry. There is hereby established a sex offender registry program, which the Hualapai Tribal Police Department shall maintain and operate pursuant to the provisions of this code, as amended.
- B. Public Sex Offender Registry Website. There is hereby established a public sex offender registry website, which the Hualapai Tribal Police Department shall maintain and operate pursuant to the provisions of this code, as amended.

Sec. 6.128 Definitions

The definitions below apply to Sections 6.126 through 6.139 of the Revised Law and Order Code:

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

A juvenile offender is "convicted" for purposes of this code if the juvenile offender is either:

- 1. Prosecuted and found guilty as an adult for a sex offense; or
 - 2. Is adjudicated delinquent as a juvenile for a sex offense, but only if the offender is 14 years of age or older at the time of the offense and the offense adjudicated was comparable to or more severe than aggravated sexual abuse (as described in either (a) or (b) of section 2241 of title 18, United States Code), or was an attempt or conspiracy to commit such an offense.
- B. Dru Sjodin National Sex Offender Public Website (NSOPW). The public website maintained by the Attorney General of the United States pursuant to 42 U.S.C. §16920.
 - C. Foreign Convictions. A foreign conviction is one obtained outside of the United States.

- D. Employee. The term "employee" as used in this code includes, but is not limited to, an individual who is self-employed or works for any other entity, regardless of compensation. Volunteers of a tribal agency or organization are included within the definition of employee for registration purposes.
- E. Immediate. "Immediate" and "immediately" mean within 3 business days.
- F. Imprisonment. The term "imprisonment" refers to incarceration pursuant to a conviction, regardless of the nature of the institution in which the offender serves the sentence. The term is to be interpreted broadly to include, for example, confinement in a state "prison" as well as in a federal, military, foreign, BIA, private or contract facility, or a local or tribal "jail". Persons under "house arrest" following conviction of a covered sex offense are required to register pursuant to the provisions of this code during their period of "house arrest".
- G. Jurisdiction. The term "jurisdiction" as used in this code refers to the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, the United States Virgin Islands, and any Indian Tribe that has asserted jurisdiction pursuant to Public Law 109-248 Section 127 of the SORNA (42 USC § 16927).
- H. Minor. The term "minor" means an individual who has not attained the age of 18 years.
- I. National Sex Offender Registry (NSOR). The national database maintained by the Federal Bureau of Investigation pursuant to 42 U.S.C. §16919.
- J. Resides. The term "reside" or "resides" means, with respect to an individual, the location of the individual's home or other place where the individual habitually lives or sleeps.
- K. Sex Offense. The term "sex offense" as used in this code includes those offenses contained in 42 U.S.C. § 16911(5) (as amended) and those offenses commented in section 6.129 of this code or any other register able offense under Hualapai Tribal law.

An offense involving consensual sexual conduct is not a sex offense for the purposes of this code if the victim was an adult, unless the adult was under the custodial authority of the offender at the time of the offense, or if the victim was at least 13 years old and the offender was not more than 4 years older than the victim.

- L. Sex Offender. A person convicted of a sex offense is a "sex offender".
- M. Sexual Act. The term "sexual act" means:
1. contact between the penis and the vulva or the penis and the anus, and for purposes of this definition contact involving the penis occurs upon penetration, however slight;
 2. contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus;
 3. the penetration, however slight, of the anal or genital opening of another by a hand or finger or by any object, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person; or

4. the intentional touching, not through the clothing, of the genitalia of another person that has not attained the age of 18 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.
- N. Sexual Contact. The intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desires of any person.
- O. SORNA. The "SORNA" refers to the Sex Offender Registration and Notification Act as provided in Title I of the Adam Walsh Child Protection and Safety Act of 2006, P.L. 109-248 (as codified at 42 U.S.C. § 16901 *et. seq.*).
- P. Student. A "student" is a person who enrolls in or attends either a private or public education institution, including a secondary school, trade or professional school, or an institution of higher education.
- Q. Sex Offender Registry. The term "sex offender registry" means the registry of sex offenders, and a notification program, maintained by Hualapai Tribal Police Department.
- R. SMART Office. The Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking, which was established within the United States Department of Justice under the general authority of the Attorney General of the United States pursuant to 42 U.S.C. § 16945.
- S. "Tier I Sex Offender". A "tier I sex offender", or a "sex offender" designated as "tier I", is one that has been convicted of a "tier I" sex offense as defined in section 6.130 (A).
- T. "Tier II Sex Offender". A "tier II sex offender", or a "sex offender" designated as "tier II", is one that has been either convicted of a "tier II" sex offense as defined in section 6.130 (B), or who is subject to the recidivist provisions of 6.130(B 1).
- U. "Tier III Sex Offender". A "tier III sex offender", or a "sex offender" designated as "tier III", is one that has been either convicted of a "tier III" sex offense as defined in section 6.130 (C), or who is subject to the recidivist provisions of 6.130(C 1).

Sec. 6.129 Covered Offenses

Offenders who reside within the exterior boundaries of the reservation or otherwise reside on property owned by the Hualapai Tribe in fee or trust regardless of location, are employed within the exterior boundaries of the reservation or on property owned by the Hualapai Tribe in fee or trust regardless of location, or who attend school within the exterior boundaries of the reservation or on property owned by the Hualapai Tribe in fee or trust regardless of location, that have been convicted of the following offenses are subject to the requirements of this code:

- A. Tribal Offenses. A violation of the Law and Order Code of the Hualapai Tribe, "Sexual Offenses," or any conviction for attempt, conspiracy, or aiding and abetting of the following offenses:

1. Sec. 6.112 Sexual Assault
2. Sec. 6.113 Forcible Sexual Penetration with a Foreign Object
3. Sec. 6.114 Unlawful Sexual Acts
4. Sec. 6.115 Unlawful Sexual Conduct
5. Sec. 6.116 Reserved
6. Sec. 6.117 Indecent Exposure
7. Sec. 6.118 Enticement of a Child for the Purposes of Prostitution or Illicit Intercourse
8. Sec. 6.119 Reserved
9. Sec. 6.120 Child Pornography
10. Sec. 6.121 Transporting a Child for Sexual Purpose
11. Sec. 6.122-6.125 Reserved

B. Federal Offenses. A conviction, for or a conviction for an attempt or conspiracy to commit any of the following, and any other offense hereafter included in the definition of "sex offense" at 42 U.S.C. § 16911(5): Including any offenses prosecuted under the Assimilative Crimes Act (18 USC § 1152 or § 1153).

1. 18 U.S.C. §1591 (sex trafficking of children),
2. 18 U.S.C. §1801 (video voyeurism of a minor),
3. 18 U.S.C. §2241 (aggravated sexual abuse),
4. 18 U.S.C. §2242 (sexual abuse),
5. 18 U.S.C. §2243 (sexual abuse of a minor or ward),
6. 18 U.S.C. §2244 (abusive sexual contact),
7. 18 U.S.C. §2245 (offenses resulting in death),
8. 18 U.S.C. §2251 (sexual exploitation of children),
9. 18 U.S.C. §2251A (selling or buying of children),
10. 18 U.S.C. §2252 (material involving the sexual exploitation of a minor),
11. 18 U.S.C. §2252A (material containing child pornography),
12. 18 U.S.C. §2252B (misleading domain names on the internet),
13. 18 U.S.C. §2252C (misleading words or digital images on the internet),
14. 18 U.S.C. §2260 (production of sexually explicit depictions of a minor for import into the United States),
15. 18 U.S.C. §2421 (transportation of a minor for illegal sexual activity),

16. 18 U.S.C. §2423 (), (Transportation of Minors for Illegal Sexual Activity, Travel With the Intent to Engage in Illicit Sexual Conduct with a minor, Engaging in Illicit Sexual Conduct in Foreign Places)
 17. 18 U.S.C. §2424 (failure to file factual statement about an alien individual), and
 18. 18 U.S.C. §2425 (transmitting information about a minor to further criminal sexual conduct).
- C. Foreign Offenses. Any conviction for a sex offense involving any conduct listed in Section 6.129(D) which was obtained under the laws of Canada, the United Kingdom, Australia, New Zealand, and any foreign country where the United States State Department, in its Country Reports on Human Rights Practices, has concluded that an independent judiciary generally or vigorously enforced the right to a fair trial in that country during the year in which the conviction occurred.
- D. Military Offenses. Any military offense specified by the Secretary of Defense under Section 115(a) (8) (C) (i) of P.L. 105-119 (codified at 10 U.S.C. § 951).
- E. Juvenile Offenses or Adjudications. Any sex offense, or attempt or conspiracy to commit a sex offense, that is comparable to or more severe than the federal crime of aggravated sexual abuse (as codified in 18 U.S.C. § 2241) and committed by a minor who is 14 years of age or older. This includes engaging in a sexual act with another by force or the threat of serious violence; or engaging in a sexual act with another by rendering unconscious or involuntarily drugging the victim.
- F. Jurisdiction Offenses. Any sex offense committed in any jurisdiction, including this Hualapai Tribe that involves:
1. Any type of degree of genital, oral, or anal penetration,
 2. Any sexual touching of or contact with a person's body, either directly or through the clothing,
 3. Kidnapping of a minor,
 4. False imprisonment of a minor,
 5. Solicitation to engage a minor in sexual conduct understood broadly to include any direction, request, enticement, persuasion, or encouragement of a minor to engage in sexual conduct,
 6. Use of a minor in a sexual performance,
 7. Solicitation of a minor to practice prostitution,
 8. Video voyeurism of a minor as described in 18 U.S.C. § 1801,
 9. Possession, production, or distribution of child pornography,
 10. Criminal sexual conduct that involves physical contact with a minor or the use of the Internet to facilitate or attempt such conduct. This includes offenses whose elements involve the use of other persons in prostitution, such as pandering, procuring, or pimping in cases where the victim was a minor at the time of the offense,
 11. Any conduct that by its nature is a sex offense against a minor, and

12. Any offense similar to those outlined in:

- a. 18 U.S.C. § 1591 (sex trafficking by force, fraud, or coercion),
- b. 18 U.S.C. § 1801 (video voyeurism of a minor),
- c. 18 U.S.C. § 2241 (aggravated sexual abuse),
- d. 18 U.S.C. § 2242 (sexual abuse),
- e. 18 U.S.C. § 2244 (abusive sexual contact),
- f. 18 U.S.C. § 2422(b) (coercing a minor to engage in prostitution),
- g. 18 U.S.C. § 2423(a) (transporting a minor to engage in illicit conduct).

3Sec. 6.130 Tiered Offenses

A. Sex Offenses. A “Tier I” offense includes any sex offense, for which a person has been convicted, or an attempt or conspiracy to commit such an offense that is not a “Tier II” or “Tier III” offense.

- 1. Offenses Involving Minors. A “Tier I” offense also includes any offense for which a person has been convicted by any jurisdiction, local government, or qualifying foreign country pursuant to Section 6.129(C) that involves the false imprisonment of a minor, video voyeurism of a minor, or possession or receipt of child pornography.
- 2. Tribal Offenses. Any sex offense covered by this act where punishment was limited to one year in jail shall be considered a “Tier I” sex offense.
- 3. Certain Federal Offenses. Conviction for any of the following federal offenses or an attempt to commit such offense shall be considered a conviction for a “Tier I” offense:
 - a. 18 U.S.C. § 1801 (video voyeurism of a minor),
 - b. 18 U.S.C. § 2252 (material involving the sexual exploitation of a minor),
 - c. 18 U.S.C. § 2252A (material containing child pornography),
 - d. 18 U.S.C. § 2252B (misleading domain names on the internet),
 - e. 18 U.S.C. § 2252C (misleading words or digital images on the internet),
 - f. 18 U.S.C. § 2422(a) (coercion to engage in prostitution),
 - g. 18 U.S.C. § 2423(b) (travel with the intent to engage in illicit conduct),
 - h. 18 U.S.C. § 2423(c) (engaging in illicit conduct in foreign places),
 - i. 18 U.S.C. § 2424 (failure to file factual statement about an alien individual), and
 - j. 18 U.S.C. § 2425 (transmitting information about a minor to further criminal sexual conduct).

4. Certain Military Offenses. Any military offense specified by the Secretary of Defense under section 115(a)(8)(C)(i) of Public Law 105-119 (codified at 10 U.S.C. §951 note) that is similar to those offenses outlined in Section 6.28(A) (1),(2), or (3) shall be considered "Tier I" offenses.

B. Tier II Offenses

1. Recidivism and Felonies. Unless otherwise covered by Section 6.130(C), any sex offense that is not the first sex offense for which a person has been convicted or an attempt or conspiracy to commit such an offense and is punishable by more than one year in jail is considered a "Tier II" offense.
2. Offenses Involving Minors. A "Tier II" offense includes any sex offense against a minor for which a person has been convicted, or an attempt or conspiracy to commit such offense that involves:
 - a. The use of minors in prostitution, including solicitations,
 - b. Enticing a minor to engage in criminal sexual activity,
 - c. A non-forcible Sexual Act with a minor 16 or 17 years old,
 - d. Sexual contact with a minor 13 years of age or older, whether direct or through the clothing, that involves the intimate parts of the body,
 - e. The use of a minor in a sexual performance, or
 - f. The production for distribution of child pornography.
3. Certain Federal Offenses. Conviction for any of the following federal offenses shall be considered a conviction for a "Tier II" offenses:
 - a. 18 U.S.C. §1591 (sex trafficking by force, fraud, or coercion),
 - b. U.S.C. §2423(d) (arranging, inducing procuring or facilitating the travel in interstate commerce of a minor for the purpose of engaging in illicit conduct for financial gain),
 - c. 18 U.S.C. § 2244 (abusive sexual contact),
 - d. 18 U.S.C. § 2251 (sexual exploitation of children),
 - e. 18 U.S.C. § 2251A (selling or buying of children),
 - f. 18 U.S.C. § 2252 (material involving the sexual exploitation of a minor),
 - g. 18 U.S.C. § 2252A (production or distribution of material containing child pornography),
 - h. 18 U.S.C. § 2260 (production of sexually explicit depictions of a minor for import into the United States),
 - i. 18 U.S.C. § 2421 (transportation of a minor for illegal sexual activity),
 - j. 18 U.S.C. § 2422(b)(coercing a minor to engage in prostitution),
 - k. 18 U.S.C. § 2423(a) (transporting a minor to engage in illicit conduct).

4. Certain Military Offenses. Any military offense specified by the Secretary of Defense under Section 115(a)(8)(C)(i) of Public Law 105-119 (codified at 10 U.S.C. § 951 note) that is similar to those offenses outlined in Section 6.130(B) (1), (2), or (3) shall be considered "Tier II" offenses.

C. Tier III Offenses

1. Recidivism and Felonies. Any sex offense that is punishable by more than one year in jail where the offender has at least one prior conviction or an attempt or conspiracy to commit such offense for a Tier II sex offense, or has become a Tier II sex offender, is a "Tier III" offense.
2. General Offenses. A "Tier III" offense includes any sex offense, for which a person has been convicted, or an attempt or conspiracy to commit such an offense that involves:
 - a. Non-parental kidnapping of a minor,
 - b. A sexual act with another by force or threat,
 - c. A sexual act with another who has been rendered unconscious or involuntarily drugged, or who is otherwise incapable of appraising the nature of the conduct or declining to participate, or
 - d. Sexual contact with a minor 12 years of age or younger, including offenses that cover sexual touching of or contact with the intimate parts of the body, either directly or through the clothing.
3. Certain Federal Offenses. Conviction for any of the following federal offenses shall be considered conviction for a "Tier III" offense:
 - a. 18 U.S.C. § 2241 (aggravated sexual abuse),
 - b. 18 U.S.C. § 2242 (sexual abuse), or
 - c. 18 U.S.C. § 2243 (sexual abuse of a minor or ward),
 - d. Where the victim is 12 years of age or younger, 18 U.S.C. § 2244 (abusive sexual contact).
4. Certain Military Offenses. Any military offense specified by the Secretary of Defense under Section 115(a) (8) (C) (i) of PL 105-119 (codified at 10 U.S.C. § 951) that is similar to those offenses outlined in Section 6.130(C) (1),(2), or (3) shall be considered "Tier III" offenses.

Sec. 6.131 Required Information

A. General Requirements

1. Duties. A sex offender covered by this code who is required to register with the Hualapai Tribe pursuant to Chapter 5 shall provide all of the information detailed in this chapter to the Hualapai Tribal Police Department, and the Hualapai Tribal Police Department shall obtain all of the information detailed in this chapter from covered sex offenders who are required to register with the Hualapai Tribe in accordance with this code and implementing policies and procedures.

2. Digitization. All information obtained under this code shall be, at a minimum, maintained by the Hualapai Tribal Police Department in digitized format.
 3. Electronic Database. A sex offender registry shall be maintained in an electronic database by the Hualapai Tribal Police Department and shall be in a form capable of electronic transmission.
- B. Criminal History. The Hualapai Tribal Police Department shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's sex offense criminal history:
1. The date of all arrests,
 2. The date of all convictions,
 3. The sex offender's status of parole, probation, or supervised release,
 4. The sex offender's registration status, and
 5. Any outstanding arrest warrants.
- C. Date of Birth. The Hualapai Tribal Police Department shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's date of birth:
1. The sex offender's actual date of birth, and
 2. Any other date of birth used by the sex offender.
- D. DNA Sample.
1. DNA. If the sex offender's DNA is not already contained in the Combined DNA Index System ("CODIS"), the sex offender shall provide the Hualapai Tribal Police Department a sample of his DNA.
 2. CODIS. Any DNA sample obtained from a sex offender shall be submitted to an appropriate lab for analysis and entry of the resulting DNA profile in to CODIS.
- E. Driver's License, Identification Cards, Passports, and Immigration Documents.
1. Driver's License. A covered sex offender shall provide all of the sex offender's valid driver's licenses issued by any jurisdiction and the Hualapai Tribal Police Department shall make a photocopy of any such licenses.
 2. Identification Cards. A covered sex offender shall provide to the Hualapai Tribal Police Department any identification card issued by any jurisdiction, including the sex offender's tribal enrollment, and the Hualapai Tribal Police Department shall make a photocopy of all such identification cards.
 3. Passports. A covered sex offender shall provide to the Hualapai Tribal Police Department any passport issued by any jurisdiction, and the Hualapai Tribal Police Department shall make a photocopy of all such passports.
 4. Immigration Documents. A covered sex offender shall provide to the Hualapai Tribal Police Department any immigration documents issued by any jurisdiction, and the Hualapai Tribal Police Department shall make a photocopy of all such immigration documents.

- F. **Employment Information.** The Hualapai Tribal Police Department shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's employment, to include any and all places where the sex offender is employed in any means including volunteer and unpaid positions:
1. The name of the sex offender's employer,
 2. The address of the sex offender's employer, and
 3. Similar information related to any transient or day labor employment.
- G. **Finger and Palm Prints.** The Hualapai Tribal Police Department shall obtain, and a covered sex offender shall provide, both finger prints and palm prints which must be submitted to the FBI Next Generation Identification Program.
- H. **Internet Names.** The Hualapai Tribal Police Department shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's internet related activity:
1. Any and all e-mail addresses used by the sex offender,
 2. Any and all Instant Message addresses and identifiers,
 3. Any and all other designations or monikers used for self-identification in Internet communications or postings, and
 4. Any and all designations used by the sex offender for the purpose of routing or self-identification in internet communications or postings, including but not limited to social network identifications, twitter accounts, video posting site identifications such as You Tube etc...
- I. **Name.** The Hualapai Tribal Police Department shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's name:
1. The sex offender's full primary given name,
 2. Any and all nicknames, aliases, and pseudonyms regardless of the context in which it is used, and
 3. Any and all ethnic or tribal names by which the sex offender is commonly known. This does not include any religious or sacred names not otherwise commonly known.
- J. **Phone Numbers.** The Hualapai Tribal Police Department shall obtain, and a covered sex offender shall provide, any and all telephone numbers and any other designations used by sex offenders for the purposes of routing or self-identification in telephonic communications including but not limited to:
1. Any and all cellular telephone numbers.
 2. Any and all land line telephone numbers.
 3. Any and all Voice over IP (VOIP) telephone numbers.
- K. **Picture.**
1. **Photograph.** A covered sex offender shall permit his photograph to be taken by the Hualapai Tribal Police Department:
 - a. Every 90 days for Tier III sex offenders,

- b. Every 180 days for Tier II sex offenders, and
 - c. Every year for Tier I sex offenders.
- 2. Update Requirements. Unless the appearance of a sex offender has not changed significantly a digitized photograph shall be collected at each appearance indicated in Section 6.131 K (1).
- L. Physical Description. The Hualapai Tribal Police Department shall obtain, and a covered sex offender shall provide, an accurate description of the sex offender as follows:
 - 1. A physical description,
 - 2. A general description of the sex offender's physical appearance or characteristics, and
 - 3. Any identifying marks, such as, but not limited to, scars, moles, birthmarks, or tattoos.
- M. Professional Licensing Information. The Hualapai Tribal Police Department shall obtain, and a covered sex offender shall provide, all licensing of the sex offender that authorizes the sex offender to engage in an occupation or carry out a trade or business.
- N. Residence Address. The Hualapai Tribal Police Department shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's residence:
 - 1. The address of each residence at which the sex offender resides or will reside, and
 - 2. Any location or description that identifies where the sex offender habitually resides regardless of whether it pertains to a permanent residence or location otherwise identifiable by a street or address.
- O. School. The Hualapai Tribal Police Department shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's school:
 - 1. The address of each school where the sex offender is or will be a student, intern, or volunteer, and
 - 2. The name of each school the sex offender is or will be a student, intern, or volunteer.
- P. Social Security Number. The Hualapai Tribal Police Department shall obtain, and a covered sex offender shall provide, the following information:
 - 1. A valid social security number for the sex offender, and
 - 2. Any social security number the sex offender has used in the past, valid or otherwise.
- Q. Temporary Lodging. The Hualapai Tribal Police Department shall obtain, and a covered sex offender shall provide, the following information when the sex offender will be absent from his residence for 7 days or more:

1. Identifying information of the temporary lodging locations including addresses and names, and
2. The dates the sex offender will be staying at each temporary lodging location.
3. The registered sex offender shall provide the information in Section 6.131 Q (1) and (2) no later than 3 days before his scheduled travel. The information shall be provided in person.

R. INTERNATIONAL TRAVEL

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

S. Offense Information

1. Offense Information. The Hualapai Tribal Police Department shall obtain the text of each provision of law defining the criminal offense(s) for which the sex offender is registered.
2. SORNA Database. The text of each provision of law mentioned in Section 6.131(S) (1) shall be cross linked to the SORNA Database containing the text of relevant sex related laws for all jurisdictions.

T. Vehicle Information. The Hualapai Tribal Police Department shall obtain, and a covered sex offender shall provide, the following information related to all vehicles owned or operated by the sex offender for work or personal use including land vehicles, aircraft, and watercraft:

1. License plate numbers,
2. Registration numbers or identifiers,
3. General description of the vehicle to include color, make, model, and year, and
4. Any permanent or frequent location where any covered vehicle is kept.

Sec. 6.132 Registration

A. Where Required

1. Jurisdiction of Conviction. A sex offender must initially register with the Hualapai Tribal Police Department if the sex offender was convicted by the Tribal Court of a covered sex offense regardless of the sex offender's actual or intended residency.
2. Jurisdiction of Incarceration. A sex offender must register with the Hualapai Tribal Police Department if the sex offender is incarcerated by the tribe while completing any sentence for a covered sex offense, regardless of whether it is the same jurisdiction as the jurisdiction of conviction or residence.
3. Jurisdiction of Residence. A sex offender must register with the Hualapai Tribal Police Department if the sex offender resides within the exterior

boundaries of the reservation or otherwise resides on property owned by the tribal jurisdiction in fee or trust, regardless of location.

4. Jurisdiction of Employment. A sex offender must register with the Hualapai Tribal Police Department if he or she is employed by the Hualapai Tribe in any capacity or otherwise is employed within the exterior boundaries of the Hualapai reservation or on property owned by the Hualapai Tribe in fee or trust, regardless of location.
5. Jurisdiction of School Attendance. A sex offender must register with the Hualapai Tribal Police Department if the sex offender is a student in any capacity within lands subject to the jurisdiction of the Hualapai Tribe.

B. Initial Registration

1. Timing. A sex offender required to register with the Hualapai Tribe under this code shall do so in the following time frame:
 - a. If convicted by the Hualapai Tribe for a covered sex offense and incarcerated, the sex offender must register before being released from incarceration;
 - b. If convicted by the Hualapai tribe but not incarcerated, within 3 business days of sentencing for the registration offense, and
 - c. Within 3 business days of establishing a residence, commencing employment, or becoming a student on lands subject to the jurisdiction of the Hualapai Tribe, a sex offender must appear in person to register with the Hualapai Tribal Police Department.
2. Duties of Hualapai Tribal Police Department. The Hualapai Tribal Police Department shall have policies and procedures in place to ensure the following:
 - a. That any sex offender incarcerated or sentenced by the Hualapai Tribe for a covered sex offense completes their initial registration with the Hualapai Tribe,
 - b. That the sex offender reads, or has read to them, and signs a form stating the duty to register has been explained to them and that the sex offender understands the registration requirement, [See the requirement and guidance in Section 6.132]
 - c. That the sex offender is registered, and added to the public website if applicable and
 - d. That upon entry of the sex offender's information in to the registry, that information is immediately forwarded to all other jurisdictions in which the sex offender is required to register due to the sex offender's residency, employment, or student status.
 - e. That all information is entered and updated in the NCIC/NSOR.

C. Retroactive Registration.

1. Retroactive Registration. The Hualapai Tribal Police Department shall have in place policies and procedures to ensure the following three categories of sex offenders are subject to the registration and updating requirements of this code:

- a. Sex offenders incarcerated or under supervision of the Hualapai Tribe, whether for a covered sex offense or other crime,
 - b. Sex offenders already registered or subject to a pre-existing sex offender registration requirement, and
 - c. Sex offenders reentering the justice system due to conviction for any crime.
 2. Timing of Recapture. The Hualapai Tribal Police Department shall ensure recapture of the sex offenders mentioned in Section 6.132(C)(1) within the following timeframe to be calculated from the date of passage of this code:
 - a. For Tier I sex offenders, 1 year,
 - b. For Tier II sex offenders, 180 days, and
 - c. For Tier III sex offenders, 90 days.
- D. Keeping Registration Current
1. Jurisdiction of Residency. All sex offenders who reside in lands subject to the jurisdiction of the Hualapai Tribe who are required to register in this jurisdiction shall immediately appear in person at the Hualapai Tribal Police Department to update any changes to their name, residence (including termination of residency), employment, or school attendance. All sex offenders required to register in this jurisdiction shall immediately inform the Hualapai Tribal Police Department in person of any changes to their temporary lodging information, and in writing of any changes to their vehicle information, internet identifiers, or telephone numbers. In the event of a change in temporary lodging, of 7 days the sex offender shall immediately notify the registering official of the residence jurisdiction and the Hualapai Tribal Police Department shall notify the jurisdiction in which the sex offender will be temporarily staying.
 2. Duties of Hualapai Tribal Police Department. The Hualapai Tribal Police Department shall have policies and procedures in place to ensure the following: With regard to changes in a sex offender's registration information, the Hualapai Tribal Police Department or designee shall immediately notify:
 - a. All jurisdictions where a sex offender intends to reside, work, or attend school,
 - b. Any jurisdiction where the sex offender is either registered or required to register, and
 - c. Specifically with respect to information relating to a sex offender's intent to commence residence, school, or employment outside of the United States, any jurisdiction where the sex offender is either registered or required to register, and the U.S. Marshals Service. The Hualapai Tribal Police Department shall also ensure this information is immediately updated on NSOR.
 3. Jurisdiction of Employment. Any sex offender, who is employed by the Hualapai Tribe in any capacity or otherwise are employed within lands subject to the jurisdiction of the Hualapai Tribe regardless of location that change their employment, or otherwise terminate their employment, shall immediately appear in person at the Hualapai Tribal Police Department to

update that information. The Hualapai Tribal Police Department shall ensure that each jurisdiction in which the sex offender is required to register, or was required to register prior to updated information being given, are immediately notified of the charge.

4. Jurisdiction of School Attendance. Any sex offender who is a student in any capacity within lands subject to the jurisdiction of the Hualapai Tribe regardless of the location that change their school, or otherwise terminate their schooling, shall immediately of the school the exterior boundaries of the reservation or on property owned by the Hualapai Tribe in fee or trust regardless of location change their school, or otherwise terminate their schooling, shall immediately appear in person at the Hualapai Tribal Police Department to update that information. The Hualapai Tribal Police Department shall ensure that each jurisdiction in which the sex offender is required to register, or was required to register prior to the updated information being given, are immediately notified of the change.

E. Failure to Appear for Registration and Absconding

1. Failure to Appear. In the event a sex offender fails to register with the Hualapai Tribe as required by this code, the Hualapai Tribal Police Department shall immediately inform the jurisdiction that provided notification that the sex offender was to commence residency, employment, or school attendance with the Hualapai Tribe that the sex offender failed to appear for registration.
2. Absconded Sex Offenders. If the Hualapai Tribal Police Department receives information that a sex offender has absconded the Hualapai Tribal Police Department shall make an effort to determine if the sex offender has actually absconded.
 - a. In the event no determination can be made, the Hualapai Tribal Police Department shall ensure the tribal police and any other appropriate law enforcement agency is notified.
 - b. If the information indicating the possible absconding came through notice from another jurisdiction or federal authorities, they shall be informed that the sex offender has failed to appear and register.
 - c. If an absconded sex offender cannot be located then the Hualapai Tribal Police Department shall take the following steps:
 - i. Update the registry/public website to reflect the sex offender has absconded or is otherwise not capable of being located,
 - ii. Notify the U.S. Marshalls Service,
 - iii. Seek a warrant for the sex offender's arrest. The U.S. Marshalls Service or FBI may be contacted in an attempt to obtain a federal warrant for the sex offender's arrest,
 - iv. Update the NCIC/NSOR to reflect the sex offender's status as an absconder, or is otherwise not capable of being located, and
 - v. Enter the sex offender into the National Crime Information Center Wanted Person File.

3. Failure to Register. In the event a sex offender who is required to register due to their employment or school attendance status fails to do so or otherwise violates a registration requirement of this code, the Hualapai Tribal Police Department shall take all appropriate follow-up measures including those outlined in Section 6.132(E)(2). The Hualapai Tribal Police Department shall first make an effort to determine if the sex offender is actually resides, is employed or attending school in lands subject to the Hualapai Tribe's jurisdiction.

Sec. 6.133 Verification and Appearance Requirements

A. Frequency

1. Frequency. A sex offender who is required to register shall, at a minimum, appear in person at the Hualapai Tribal Police Department for purposes of verification and keeping their registration current in accordance with the following time frames:
 - a. For "Tier I" offenders, once every year for 15 years from the time of release from custody for a sex offender who is incarcerated for the registration offense or from the date of sentencing for a sex offender who is not incarcerated for the registration offense.
 - b. For "Tier II" offenders, once every 180 days for 25 years from time of release from custody for a sex offender who is incarcerated for the registration offense or from the date of sentencing for a sex offender who is not incarcerated for the registration offense.
 - c. For "Tier III" offenders, once every 90 days for the rest of their lives.
2. Reduction of Registration Periods. A sex offender may have their period of registration reduced as follows:
 - a. A Tier I offender may have his or her period of registration and verification reduced to 10 years if he or she has maintained a clean record for 10 consecutive years,
 - b. A Tier III offender may have their period of registration and verification reduced to 25 years if they were adjudicated delinquent of an offense as a juvenile which required Tier III registration and they have maintained a clean record for 25 consecutive years.
3. Clean Record. For purposes of Section 6.131(A)(2), a person has a clean record if:
 - a. He or she has not been convicted of any offense for which imprisonment for more than 1 year may be imposed;
 - b. He or she has not been convicted of any sex offense;
 - c. He or she has successfully completed, without revocation, any period of supervised release, probation, or parole; and
 - d. He or she has successfully completed an appropriate sex offender treatment program certified by the tribe, another jurisdiction, or by the Attorney General of the United States.

B. Requirements for In Person Appearances

1. Photographs. At each in person verification, the sex offender shall permit the Hualapai Tribal Police Department to take a photograph of the sex offender.
2. Review of Information. At each in person verification the sex offender shall review existing information for accuracy.
3. Notification. If any new information or change in information is obtained at an in person verification, the Hualapai Tribal Police Department shall immediately notify all other jurisdictions in which the sex offender is required to register of the information or change of information.
4. If any new information or change in information is obtained at an in person verification, the Hualapai Tribal Police Department shall immediately update the public website, if applicable, and update information in NCIC/NSOR.

C. Sex Offender Acknowledgement Form

1. The sex offender shall read, or have read to them, and sign a form stating that the duty to register has been explained to them by Hualapai Tribal Police Department or designee's and that the sex offender understands the registration requirement.
2. The form shall be signed and dated by the Hualapai Tribal Police Department personnel registering the sex offender.
3. The Hualapai Tribal Police Department shall immediately upload the acknowledgement form into the Hualapai Tribal Police Department or sex offender registry.

Sec. 6.134 Public Sex Offender Registry Website

A. Website.

1. Website. The Hualapai Tribal Police Department shall use and maintain a public sex offender registry website.
2. Links. The Hualapai Tribal Sex Offender Registry website shall include links to sex offender safety and education resources.
3. Instructions. The Hualapai Tribal Sex Offender Registry website shall include instructions on how a person can seek correction of information that the individual contends is erroneous.
4. Warnings. The Hualapai Tribal Sex Offender Registry website shall include a warning that the information contained on the website should not be used to unlawfully injure, harass, or commit a crime against any individual named in the registry or residing or working at any reported addresses and that any such action could result in civil or criminal penalties.
5. Search Capabilities. The Hualapai Tribal Sex Offender Registry website shall have the capability of conducting searches by (1) name; (2) county, city, and/or town; and, (3) zip code or geographic radius.
6. Dru Sjodin National Sex Offender Public Website. The Hualapai Tribe shall include in the design of its registry website all field search capabilities needed for full participation in the Dru Sjodin National Sex Offender Public Website and shall participate in that website as provided by the Attorney General of the United States.

B. Required and Prohibited Information

1. **Required Information.** The following information shall be made available to the public on the sex offender registry website:
 - a. Notice that an offender is in violation of their registration requirements or cannot be located if the sex offender has absconded,
 - b. All sex offenses for which the sex offender has been convicted,
 - c. The sex offense(s) for which the offender is currently registered,
 - d. The address of the sex offender's employer(s),
 - e. The name of the sex offender including all aliases,
 - f. A current photograph of the sex offender,
 - g. A physical description of the sex offender,
 - h. The residential address and, if relevant, a description of a habitual residence of the sex offender,
 - i. All addresses of schools attended by the sex offender, and
 - j. The sex offender's vehicle license plate number along with a description of the vehicle.
2. **Prohibited Information.** The following information shall not be available to the public on the sex offender registry website:
 - a. Any arrest that did not result in conviction,
 - b. The sex offender's social security number,
 - c. Any travel and immigration documents, and
 - d. The identity of the victim.
 - e. Internet identifiers (as defined in 42 U.S.C. §16911).
3. **Witness Protection.** For sex offenders who are under a witness protection program, the Hualapai Tribal Police Department may honor the request of the United States Marshal Service or other agency responsible for witness protection by not including the original identity of the offender on the publicly accessible sex offender registry website.

Sec. 6.135 Community Notification

- A. Law Enforcement Notification.** Whenever a sex offender registers or updates his or her information with the Hualapai Tribe, the Hualapai Tribal Police Department shall:
1. Monitor and utilize the SORNA Exchange Portal for inter-jurisdictional change of residence, employment or student status.
 2. Immediately update NCIC/NSOR,
 3. Immediately notify any agency, department, or program within the Hualapai Tribe that is responsible for criminal investigation, prosecution, child welfare or sex offender supervision functions, or sex offender supervision functions, including but not limited to, police, whether BIA, tribal, or FBI, tribal prosecutors, and tribal probation.
 4. Immediately notify any and all other registration jurisdictions where the sex offender is registered due to the sex offender's residency, school attendance, or employment; and

5. Immediately notify National Child Protection Act agencies, which includes any agency responsible for conducting employment-related background checks under Section 3 of the National Child Protection Act of 1993 (42 U.S.C. § 5119a) when a sex offender registers or updates registration.

6. Enter or update information posted on public website.

B. Community Notification. The Hualapai Tribal Police Department shall ensure there is an automated community notification process in place that ensures the following:

1. Upon a sex offender's registration or update of information with the Hualapai Tribe, the Hualapai Tribal Sex Offender Registry website is immediately updated.
2. The Hualapai Tribal Sex Offender Registry has a function that enables the general public to request e-mail notice that will notify them when a sex offender commences residence, employment, or school attendance with the Hualapai Tribe, within a specified zip code, or within a certain geographic radius. This e-mail notice shall include the sex offender's identity so that the public can access the public registry for new information.

Sec. 6.136 Crimes and Civil Sanctions

- A. Indians. Any violation of a provision of this code by a sex offender who is an Indian shall be considered a crime and subject to imprisonment for a period not to exceed one year or a fine not to exceed \$5,000.00, or both.
- B. Non-Indians. Any violation of a provision of this code by a sex offender who is not an Indian shall be considered a civil violation subject to enforcement by any means not prohibited by federal law, including, but not limited to the issuance of fines, forfeitures, civil contempt, and exclusion from all lands within the jurisdiction of the Hualapai Tribe

Sec. 6.137 Unlawful Use of Registry Information

- A. A person is guilty of an offense if they knowingly use, or cause 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.
- B. Any violation of Section 6.137(A) by a person who is an Indian shall be considered a crime and subject to imprisonment for a period not to exceed 1 year, or a fine not to exceed \$5,000.00, or both.
- C. Any violation of Section 6.137(A) by a person who is not an Indian shall be considered a civil violation subject to enforcement by any means not prohibited by federal law, including, but not limited to the issuance of fines, forfeitures, civil contempt, and exclusion from all lands within the jurisdiction of the Hualapai Tribe.

Sec. 6.138 Hindrance of Sex Offender Registration

- A. A person is guilty of an offense if they:
1. Knowingly harbor or knowingly attempt to harbor, or knowingly assist another person in harboring or attempting to harbor a sex offender who is in violation of Sections 6.126 through 6.137;
 2. Knowingly assist a sex offender in eluding a law enforcement agency that is seeking to find the sex offender to question the sex offender about, or to arrest the sex offender for, noncompliance with the requirements of Section 6.126 through 6.137; or
 3. Provide information to law enforcement agencies regarding a sex offender which the person knows to be false.
- B. Any violation of Section 6.138(A) by a person who is an Indian shall be considered a crime and subject to imprisonment for a period not to exceed 1 year, or a fine not to exceed \$5,000.00, or both.
- C. Any violation of Section 6.138(A) by a person who is not an Indian shall be considered a civil violation subject to enforcement by any means not prohibited by federal law, including, but not limited to the issuance of fines, forfeitures, civil contempt, and exclusion from all lands within the jurisdiction of the Hualapai Tribe.

Sec. 6.139 Immunity

No waiver of immunity. Nothing under this chapter shall be construed as a waiver of sovereign immunity for the Hualapai Tribe, its departments, agencies, employees, or Agents.

Good faith. Any person acting under good faith shall be immune from any civil liability arising out of such action.

HUALAPAI TRIBAL COUNCIL
RESOLUTION NO. 20-2011
OF THE GOVERNING BODY OF THE
HUALAPAI TRIBE OF THE HUALAPAI RESERVATION
PEACH SPRINGS, ARIZONA

(Enactment of Law and Order Code Section 2.16, Eminent Domain)

WHEREAS, the Hualapai Tribal Council is the legislative body of the Hualapai Tribe and is empowered by inherent sovereign rights and powers, and the Constitution of the Hualapai Indian Tribe to exercise eminent domain over all property subject to the jurisdiction of the Hualapai Tribe; and

WHEREAS, it has been the law, customs and tradition from a time beyond memory that the Hualapai People, acting through their leaders, may take the property of an individual within its territory for the public good, provided a fair trade is made for such property; and

WHEREAS, the Hualapai Tribal Council is empowered by the Constitution of the Hualapai Indian Tribe to take any and all actions necessary and proper to the exercise of its powers and duties under the Constitution, and those powers and duties vested in the Tribal Council through its inherent sovereignty; and

WHEREAS, the Hualapai Tribal Council has a duty under the Constitution of the Hualapai Indian Tribe and the traditions of the Hualapai People to ensure just compensation for the taking of private property for a public use; and

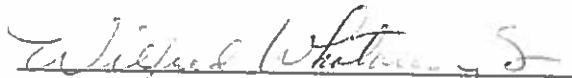
WHEREAS, to ensure due process and equal protection under the law, the Hualapai Tribal Council finds it necessary to create procedures for the exercise of its listing and inherent power of eminent domain.

NOW, THEREFORE, BE IT RESOLVED that the Hualapai Tribal Council assembled this 4th day of April, 2011, does hereby approve and enact Section 2.16 of the Hualapai Tribe Law and Order Code, attached hereto as Ex. A; and

BE IT FINALLY RESOLVED that Section 2.16 shall go into effect immediately upon passage by the Tribal Council.

CERTIFICATION

I, the undersigned, as Chairman of the Hualapai Tribal Council, hereby certify that the Hualapai Tribal Council of the Hualapai Tribe is composed of nine (9) members of whom (9), constituting a quorum, were present at a Special Council meeting held on the 4th day of April, 2011; and that the foregoing resolution was duly adopted by a vote of (9) in favor, (0) opposed, (0) not voting, (0) excused, pursuant to authority of Article V, Section (a) of the Constitution of the Hualapai Tribe, approved March 13, 1991.



Wilfred Whatoname, Sr., Chairman
HUALAPAI TRIBAL COUNCIL

ATTEST:



Adeline Crozier, Assist. Secretary
HUALAPAI TRIBAL COUNCIL

Sec. 2.16

A. Definitions

1. Throughout this Section, "public use" means any of the following:

a. The possession, occupation, use and/or enjoyment of property by the general public or the Tribe;

b. The use of property for the creation or functioning of utilities;

c. The acquisition of property to eliminate (i) a threat or hazard to public health or safety, (ii) a blight or detriment to an area possessed, occupied, used and/or enjoyed by the general public, or (iii) an obstacle or hindrance, whether tangible or intangible, to the possession, occupation, use and/or enjoyment by the general public of property belonging to the Tribe, caused in any such case by the property in its current condition or by an encumbrance, tangible or intangible, affecting such property, including elimination by means of (a) the removal of a structure that is or is foreseeably beyond repair at a reasonable expense or unfit for human habitation or use, (b) completion of a structure in order to facilitate human habitation or use, and/or (c) the removal of the obstacle, hindrance or encumbrance;

d. The acquisition of abandoned property; or

e. The public benefit of economic development, including an increase in tax base, tax revenues, general revenues, tourism, employment or general economic health.

2. Throughout this Section, "take," "taken" and "taking" mean the transfer of ownership or use from a property owner to the Tribe.

3. Throughout this Section, "include," "included" and "including" denote a partial definition, by way of illustration and not by way of limitation, and have the same effect as if the phrase "without limitation" (or any variation thereof) were added thereto.

4. Throughout this Section, "Tribe" means and refers to the Hualapai Indian Tribe, a federally recognized Indian Tribe, its governmental departments and agencies, and/or its tribally owned businesses. This definition shall not be construed to limit the definition of "Tribe" or its variants in other portions of the Hualapai Law and Order Code.

B. Purposes For Which Eminent Domain May Be Exercised

Subject to the provisions of this Section, the right of eminent domain may be exercised by the Tribe, through action of the Tribal Council, for the following uses:

1. All public uses authorized by the government of the United States or the Tribe.

2. Buildings, grounds and other facilities for the use of the Tribe.

3. All property interests, tangible or intangible, for any use of the Tribe, or any other use authorized by the Tribal Council.

4. Sanitary sewage systems, including collection, transport, storage, treatment, dispersal, effluent use and discharge.

5. Drainage and flood control systems, including collection, transport, diversion, storage, detention, retention, dispersal, use and discharge.

6. Water systems for domestic, industrial, irrigation, tribal government or fire protection purposes, including production, collection, storage, treatment, transport, delivery, connection and dispersal.

7. Electrical systems, including generation, storage, transmission, and distribution of electrical power.

8. Telecommunications systems, including all forms of telecommunications equipment, towers, receivers, transmitters, lines, antennae, and dishes.

9. Highways, streets, roadways and parking facilities, including all areas for vehicular use for travel, ingress, egress and parking.

10. Areas for pedestrian, equestrian, bicycle or other nonmotor vehicle use for travel, ingress, egress and parking.

11. Pedestrian malls, parks, performance venues, views, vistas, outlooks and other prospects, recreational facilities, stadiums, other structures, facilities and improvements, and open space areas for use of members of the public for entertainment, assembly, tourism and recreation.

12. Landscaping, including earthworks, structures, lakes and other water features, plants, trees, and related water delivery systems.

13. Lighting systems.

14. Traffic control systems and devices, including signals, controls, markings and signage.

15. Wharves, docks, piers, ramps, marinas, chutes, booms, ferries, bridges, toll roads, byroads, plank and turnpike roads and highways.

16. Railroads, railways, transit lines, and trolley lines, including rights of way, station grounds, pits, yards, sidetracks and other necessary facilities for the foregoing.

17. Pipe lines used for carrying gas, petroleum, petroleum products or any other gas or liquid.

18. All transportation, transmission and intercommunication facilities of public service agencies.

19. Aviation fields.

20. Roads, tunnels, ditches, flumes, pipes and dumping places for working mines, and outlets, natural or otherwise, for the flow, deposit or conduct of tailings or refuse matter from mines, or any place for the flow, deposit or conduct of tailings or refuse matter from their several mines.

C. Estates in Land Subject to Condemnation

All estates and interests, including rights, assignments, easements, encumbrances and other interests, in, on or to land located on or within the boundaries of the Hualapai Reservation are subject to be taken for public use.

D. Private Property Subject to Condemnation

3. The declaration of taking shall contain or have annexed to it:

a. A statement of the public use for which the property is taken, which declaration may take the form solely of citing the pertinent category or categories of public use set forth in subsection A of this Section;

b. A description of the property sufficient to identify it;

c. A statement of the estate or interest in the property taken, which statement may be identical or similar to the description provided pursuant to paragraph 3(b) of this subsection; and

d. A statement of the amount of money estimated by the Tribe to be just compensation for the property taken.

e. The declaration of taking is not required to, and need not, contain or have annexed to it any other statement or other material.

4. On filing the declaration of taking:

a. title to the estate or interest specified in the declaration of taking shall vest in the Tribe, and such vesting shall include that, if the property is an estate or interest in an intangible such as a contract, franchise, license, lease, patent, trade route or other types of property, the Tribe shall be the party thereto in the full place and stead of the defendant, to the full extent as if the Tribe and not the defendant were the original signator or party thereto, and the defendant shall no longer be a party thereto;

b. the property is condemned and taken for the use of the Tribe;

c. the parties in possession of the property shall be deemed to have surrendered possession to the Tribe, and any attempt by such parties to remain in possession of the property or otherwise to exert control over or with respect to the property shall be deemed a trespass against the Tribe; and

d. the right to just compensation vests in the person(s) entitled to just compensation.

5. The Court shall not require the Tribe to post a bond or deposit any money as a condition of filing a declaration of taking or initiating a condemnation proceeding; however, if the Tribal Council, in its sole and absolute discretion, deems a deposit necessary or appropriate under the circumstances, the Tribe may elect to deposit in the court the amount of estimated compensation listed in the declaration of taking.

a. The making of a deposit shall not be a condition to the effectiveness of matters set forth in subsections F(4)(a) through (4)(d) of this Section.

b. The absence of a deposit at the time of the filing of the declaration of taking shall not preclude the Tribe from subsequently electing to make such a deposit.

6. Within ten (10) days of the filing of the declaration of taking, the defendant may file a motion to dismiss the condemnation action and declaration of taking solely for the purpose of challenging the validity of the taking as not being for a public use.

a. The motion to dismiss and hearing on the motion to dismiss shall be limited to a judicial determination on whether the taking is for a public use. The motion to dismiss shall not contain and the court shall not adjudicate any other challenge or issue at this stage of the

In addition to the estates and interests in land in subsection C, estates and interests in private property which may be taken includes:

1. All property located on or within the boundaries of the Hualapai Reservation belonging to any person.
2. All property subject to the jurisdiction of the Tribe having an effect on the Hualapai Reservation, the Tribe or a Hualapai Tribal Member.
3. All tangible or intangible property, including intangibles such as contracts, franchises, licenses, leases, patents, trade routes, and other types of property, including contracts pertaining to the possession, occupation, use, design, development, improvement, construction, operation and/or management of property, including property owned by the Tribe.
4. Property appropriated to public use.
5. All other classes of private property not enumerated may be taken for public use.

E. Right of Tribe to Enter, and Examine, Survey, Inspect or Inventory

1. Where land is required for public use, the Tribe, through its agent(s), may enter upon the land, and make examinations, surveys and maps thereof.
2. Where property other than land is required for public use, the Tribe, through its agent(s), may subject the property to examination, inventory or inspection, including any property that is associated with a contract, franchise, license, lease, patent, trade route or other type of property which is subject to being taken. The person in control of such property shall cooperate with the Tribe, or its agent(s), in making the property available for examination, inventory or inspection.
3. A person authorized by the Tribal Council to seek to acquire property for any of the public uses authorized by this Section is an agent of the Tribe. The Tribe, or its agent(s), may exclude other persons, including the person in control of the property, from the property or portions thereof as and to the extent deemed necessary or appropriate by the Tribe, or its agent(s), to facilitate any examination, survey, mapping, inventory or inspection.
4. No one shall have a cause of action against the Tribe, or its agent(s), for exercising the authority granted under this subsection.
5. The Tribal Council may, but is not required to, enforce this subsection through judicial process or its inherent contempt power. The Tribal Council is not required to obtain a writ, subpoena or other judicial process prior to exercising its rights under this subsection. If deemed necessary or appropriate, the Tribal Council may, but is not required to, issue one or more subpoenas and/or enlist the assistance of the Hualapai Nation Police Department in exercising its rights under this subsection.

F. Actions for Condemnation; Declaration of Taking

1. All actions for condemnation shall be brought as other civil actions in the Hualapai Tribal Court.
2. At the time of filing the complaint, or at any time after filing the complaint, the Tribe may file with the tribal court a declaration of taking, signed by the Tribal Chairperson, the Tribal Vice-Chairperson, or the Tribal Council's authorized agent, declaring that the property described in the Complaint is taken for the use of the Tribe.

proceeding, including any claim that the defendant is not a real party in interest, that the defendant does not hold title to any estate or interest in the property, or that there are other persons who might hold an estate or interest in the property or might otherwise be interested in the taking.

b. Within twenty (20) days of the filing of the motion to dismiss, the Tribe may respond to the motion to dismiss.

c. The court shall set a hearing on the matter, which hearing shall be held within forty (40) days of the filing of the declaration of taking, and the court shall rule on the matter within sixty (60) days of the filing of the declaration of taking. The taking shall be presumed in all cases to have been for a public use. The defendant(s) shall have the burden of proving and establishing by clear and convincing evidence facts rebutting the presumption.

d. During the period of defendant(s)' challenge to the taking as not being for an authorized public use, the Tribe shall hold a defeasible title to the property listed in the declaration of taking. The Tribe shall have the full right and authority to possess and use the property, including acting as the party to the contract or other intangible property, described in the declaration of taking. The Tribe's right and authority to possess and use the property, including acting as the party to the contract or other intangible property, described in the declaration of taking shall not be delayed or prevented through any court action.

e. If, after a hearing, the court determines that the taking is for a public use, fee simple absolute title to the property described in the declaration of taking shall vest in the Tribe and, in the case of a contract or other intangible property, the Tribe shall be the party thereto in the full placement and stead of the defendant(s), all as provided in paragraph 4(a) of this subsection, and the right to just compensation shall vest in the defendant(s).

f. No subsequent proceedings shall affect the title acquired by the Tribe to the property, or its status as a party to the contract or other intangible property, described in the declaration of taking.

7. Just compensation shall be determined and awarded as prescribed in subsection L of this Section.

a. If compensation finally awarded is more than the amount of money, if any, deposited in the court at the time of the filing of the declaration of taking, the court shall enter judgment against the Tribe in the amount of the deficiency.

b. If compensation finally awarded is less than the amount of money deposited in the court at the time of the filing of the declaration of taking, the court shall immediately refund the excess to the Tribe.

8. If the Tribe elected to make a deposit as provided in subsection F(5) of this Section, on application of the defendant, the court may order that any part of the money deposited in the court, if any, be paid immediately to the defendant as compensation for the taking, subject to the following conditions:

a. The application must contain (i) a statement of the defendant's interest in the property described in the declaration of taking, how much money the defendant is seeking as compensation for that interest, a representation that the defendant has not conveyed or become obligated to convey the defendant's interest in such property to any other person, and the names and addresses of all other persons having an interest in such property, and (ii) an indemnity in form and substance satisfactory to the Tribe in its sole and absolute discretion regarding the true and complete nature of such statement.

b. In addition to the application, the defendant shall file with the court a stipulation that the money applied for constitutes full and just compensation for the taking.

c. Payment of the money to the defendant shall constitute a complete settlement of the case with respect to that defendant, a full relinquishment of that defendant's claims arising in connection with the action or proceeding and of that defendant's right, title and interest in and to the property described in the declaration of taking, and an abandonment of that defendant's defenses to the action or proceeding, other than the right to the just compensation described Section 2.16(F)(7)(b).

d. Any other defendant having an interest in the property described in the declaration of taking may contest the amount of compensation sought by the defendant filing an application for an award out of the deposited funds. The court shall determine the respective rights of the defendants seeking compensation for the taking.

9. On the filing of the declaration of taking, the court may make just and equitable orders, not inconsistent with the other provisions of this subsection, with respect to encumbrances, liens, rents, taxes, assessments, insurance, and other charges.

10. Any information contained in the declaration of taking and the amount of money, if any, deposited by the Tribe into the court shall not be introduced in evidence or used to the prejudice of any party on the trial of the action.

11. In the event of any inconsistency or conflict between subsection F of this Section and any other provision of this Section, subsection F shall control and govern the matter.

G. Complaint

The complaint shall set forth:

1. The Tribe and, if applicable, the name of the Tribe's agent(s), as plaintiff.

2. The names of all persons having an interest in the property, if known, or a statement that they are unknown, as defendants.

3. A statement of the right of the Tribe, including a statement of the public use for which the property is sought, which statement may take the form solely of citing the pertinent category or categories of public use set forth in subsection A of this Section.

4. A general description of the property subject to condemnation sufficient to identify it.

5. A statement of the estate or interest in the property taken, which statement may be identical or similar to the description provided pursuant to paragraph 4 of this subsection.

6. The Tribe is not required to, and need not, plead or prove any other matter, including that the public use is "necessary."

H. Joint or Separate Actions; Consolidation

All separate property required for the same public use may be included in the same or separate proceedings, at the election of the Tribe, but the court may consolidate or separate them for convenience of the parties.

I. Summons; Contents; Service

1. Upon receiving the Complaint for filing, the clerk of the court shall follow the procedures for issuance of a summons and notice of hearing prescribed by Sections 4.4 and 4.5 of this Code.

2. Notice to defendants shall include a statement for them to appear and show cause why the property described should not be condemned as prayed for in the Complaint.

3. Failure of the clerk of the court to follow any of the specialized procedures in this Section shall not constitute grounds for dismissal of the action or affect the consequences of a declaration of taking; however, the court may remedy the procedural error in a manner equitable to the parties.

J. Right to Defend Action

1. All persons occupying, or having or claiming an interest in any of the property described in the Complaint, or in the damages for the taking thereof, though not named, may appear, plead and defend such interest in the property or damages as if named in the complaint.

2. This Section provides the sole and exclusive means to defending one's interest in any of the property described in the Complaint. The Court shall issue no injunction, stay or other order, or provide any right or remedy not provided for in this Section.

K. Powers of Court; Precedence over Other Actions

1. No pro tem judge shall hear or adjudicate actions arising under this Section. Only judges appointed to full-time positions on the Hualapai Tribal Court may adjudicate actions arising under this action.

2. The court shall hear and determine all adverse or conflicting claims to the property sought to be condemned and the claim of damages therefor, and shall determine the respective rights of different parties seeking condemnation of the same property.

3. The court shall, at the request of any party, give the condemnation action precedence over other civil actions.

L. Ascertainment and Assessment of Value, Damages and Benefits

1. The court shall ascertain and assess:

a. The value of the property sought to be condemned.

b. The value of all improvements on or to the property, if applicable.

c. The value of each and every separate estate or interest in the property.

d. The value of each parcel or portion, and each separate estate or interest in the parcel or portion, if the property consists of different parcels or portions.

e. The damages that will accrue to the portion of the property not sought to be condemned by reason of its severance from the portion sought to be condemned, if the property sought to be condemned constitutes only a part of a larger whole.

f. How much the portion not sought to be condemned and each estate or interest in such portion will be benefited, if at all, by the condemnation proposed by the Tribe. If the benefit is equal to the damages assessed, the owner of the parcel shall be allowed no

compensation except for the value of the portion taken. If the benefit is less than the damages so assessed, the benefit shall be deducted from the damages, and the remainder shall be the only damages allowed in addition to the value.

g. Any effect on the value of the property due to the condition of improvements on the property, or of the defendant's performance or failure to perform all of its obligations pertaining to or arising in connection with the property

2. As far as practicable, compensation shall be assessed for each source of damage separately. In ascertaining and assessing value, the court shall take into all of the applicable items listed in subsection L(1) of the Section.

3. Value shall be determined by ascertaining the most probable price estimated in terms of cash in United States dollars or comparable market financial arrangements that the property would bring if exposed for sale in the open market, with reasonable time allowed in which to find a purchaser, buying with knowledge of all of the uses and purposes to which it was adapted and for which it was capable.

4. Defendant(s) shall have the burden of proving the amount of just compensation.

M. Accrual of Right to Compensation and Damages; Limitation

1. For the purpose of assessing compensation and damages, the right to compensation and damages shall be deemed to accrue at the date of the summons, and its actual value at that date shall be the measure of compensation and damages.

2. If there was a declaration of taking filed, the compensation and damages awarded shall draw interest from the date of the declaration of taking at the weekly average one-year constant maturity (nominal) Treasury yield, as published by the United States Federal Reserve System. Interest shall not be allowed on as much of the compensation as has been deposited into the court at the time of the filing of the declaration of taking. Amounts deposited with the court shall not be charged with commissions, fees, or poundage.

3. No improvements placed upon or made in connection with the property, and no performance by defendant of any of its obligations pertaining to or arising in connection with the property, subsequent to the date of service of the summons or, if later, filing of the declaration of taking shall be included in the assessment of compensation or damages.

N. Payment of Compensation; Effect of Failure to Pay

1. Payment of compensation and damages may be made to a defendant or defendants entitled thereto, or the money may be deposited with the court and distributed to the defendant or defendants entitled thereto.

2. If the Tribe does not pay the compensation and damages ordered by the court within one hundred eighty (180) days of such an order, upon a showing to that effect, the court shall set aside and annul the entire proceedings, and restore possession and title of the property to defendant or defendants, if possession has been taken by the Tribe.

3. The Tribe shall be granted extensions of time for payment of compensation for good cause shown.

O. Final Order of Condemnation; Vesting of Property

1. When the final judgment has been satisfied, the court shall make a final order of condemnation, describing the property condemned and the purposes of the condemnation.

2. Upon issuance of the final order of condemnation, all interest in the property described shall vest in the Tribe for the purposes therein specified.

3. This subsection does not apply when the Tribe has filed a declaration of taking.

P. Possession by the Tribe After Judgment or Pending Appeal; Receipt of Payment as Abandonment; Custody of Money Paid into Court; Costs of New Trial

1. Unless a declaration of taking has been filed, at any time after judgment is entered, or pending an appeal from the judgment, when the Tribe has paid into court for defendant or defendants the full amount of the judgment, and such other amounts as required by the court as a fund to pay further damages and costs which may be recovered in the proceedings, as well as all damages that may be sustained by defendant or defendants if for any cause the property is not finally taken for public use, the court may, upon notice of not less than ten days, authorize the Tribe, if already in possession, to continue therein (including, in the case of a contract or other intangible property, to continue as the party thereto in the full place and stead of the defendant(s)), or if not, then to take possession of and use the property (including, to act as the party to and otherwise perform such contract or other intangible property) until final conclusion of the litigation.

2. The defendant or defendants who are entitled to the money paid into court upon any judgment may demand and receive the money at any time thereafter upon an order of the court. The court shall, upon application, order the money so paid into court delivered to the party entitled thereto upon his filing with the Court either a satisfaction of the judgment or a receipt for the money, as well as a stipulation fully relinquishing that defendant's claims arising in connection with the action or proceeding and that defendant's right, title and interest in and to the property, and abandoning all defenses to the action or proceeding except as to the amount of damages to which he may be entitled if a new trial is granted. Such payment shall be deemed an abandonment of all defenses and claims, except the party's claim for greater compensation.

3. The money paid into court on final judgment may be placed by order of court in the custody of the clerk to be held or disbursed upon order of court.

4. When a new trial is granted upon application of a defendant, and he fails upon the trial to obtain greater compensation than was allowed upon the first trial, the costs of the new trial, plus a penalty in the amount of thirty percent (30%) of such costs, shall be taxed against him.

Q. Costs and Fees

Except as provided in Section 2.16(P)(4), each party shall be responsible for its own costs and fees, and no party shall be entitled to recover such costs and fees from any other party.

R. Dismissal of Condemnation Action

1. If the Tribe causes a condemnation action under this article to be dismissed without prejudice before payment of the compensation and damages awarded the defendant by the court, the Tribe shall not initiate any eminent domain proceeding with respect to the same property for the same or a related project for at least one year after the date of the verdict or judgment.

2. At any time after service of the Complaint and before the court renders judgment on the issues of compensation and damages, the Tribe may dismiss the action without prejudice upon motion to the court.

3. The Tribe may not dismiss the condemnation action if a declaration of taking has been filed unless the defendant(s) have agreed to the just compensation offered by the Tribe as a settlement of the action or the Tribe revokes the declaration of taking prior to the defendant(s) receiving just compensation.

S. Applicability

If a conflict arises between this Section and any other law, this Section controls.

T. Severability

If any provision of this Section or its application to any person or circumstance is held invalid, that invalidity does not affect other provisions or applications of this Section that can be given effect without the invalid provision or application, and to this end the provisions of this Section are severable.

U. Sovereign Immunity

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

**HUALAPAI TRIBAL COUNCIL
RESOLUTION NO. 77-2010
OF THE GOVERNING BODY OF THE
HUALAPAI TRIBE OF THE HUALAPAI RESERVATION
PEACH SPRINGS, ARIZONA**

(Revisions to the Hualapai Law and Order Code Section 10)

WHEREAS, the Hualapai Tribal Council is the legislative body of the Hualapai Tribe and is empowered by the Hualapai Constitution to enact legislation regarding the health, welfare, and safety of the Hualapai Tribe;

WHEREAS, the Hualapai Tribal Council adopted a Revised Law and Order Code on June 2, 2004, pursuant to the Constitution of the Hualapai Indian Tribe;

WHEREAS, the Hualapai Judiciary has been working with the UCLA Tribal Legal Development Clinic to fulfill the mandate of Article VI, section 14 of the Hualapai Constitution and Section 10.10 – Rules Governing Appeals of the Law and Order Code, which direct the creation of Rules of Appellate Procedure to govern procedural matters not addressed in the Law and Order Code itself;

WHEREAS, a Working Committee, consisting of representatives of the Hualapai Judiciary, practitioners before the Hualapai Court, and the Hualapai Tribal Council, has met consistently over the course of the past several months to create the Proposed Rules of Appellate Procedure;

WHEREAS, the Working Committee has held five open meetings with the Hualapai community to discuss the types of rules that are needed for the Court of Appeals and the language used to draft such rules;

WHEREAS, based on this input from the Hualapai community, two of the Working Committee's important goals in drafting the Proposed Rules are to facilitate appeals within the Hualapai legal system and to promote more orderly court administration;

WHEREAS, the Working Committee determined that clarifying access to appeals for parties to juvenile proceedings, lengthening the period for filing a Notice of Appeal, eliminating the requirement of a cash bond for criminal appeals, and eliminating burdensome procedures for challenging findings of fact on appeal are appropriate ways to facilitate appeals within the Hualapai legal system, and to render the Law and Order Code more consistent with the Hualapai Constitution;

WHEREAS, the Working Committee determined that establishing the position of Chief Justice of the Court of Appeals would promote more order court administration;

WHEREAS, the Hualapai Constitution requires that any court rules be consistent with the Law and Order Code;

WHEREAS, the Working Committee has uncovered five inconsistencies between the Proposed Rules of Appellate Procedure and the Law and Order Code that could best be resolved by amendment of the Code so as to facilitate appeals and to ensure that the Court of Appeals may administer court proceedings as efficiently as possible;

WHEREAS, Article V, Section (aa) of the Hualapai Constitution states, *"The Tribal Council shall have all of the legislative powers vested in the Hualapai Tribe through its inherent sovereignty and Federal law and shall, in accordance with established customs of the Hualapai Tribe and subject to the express limitations contained in this constitution and the applicable laws of the United States, have the followings powers: to enact laws, ordinances and resolutions necessary or incidental to the exercise of its legislative powers."*

NOW, THEREFORE, BE IT RESOLVED, that the Hualapai Tribal Council assembled this _06th_ day of _November_, 2010 does hereby approve the below-stated revisions and amendments to Chapter 10 of the Revised Law and Order Code:

BE IT FURTHER RESOLVED, that the revised Section 10.3 – Right of Appeal of the Revised Law and Order Code shall supersede and replace the previous Section 10.3, shall go into effect immediately, and shall read as follows:

Section 10.3 – Right of Appeal of the Revised Law and Order Code, "Any party to a civil action, including a matter before the juvenile court, or a defendant in a criminal action dissatisfied with a final judgment or order of the Tribal Court may appeal there from to the Tribal Court of Appeals."

BE IT FURTHER RESOLVED, that revised Section 10.4 (A)(1) – How Taken of the Revised Law and Order Code shall supersede and replace the previous Section 10.4 (A)(1), shall go into effect immediately, and shall read as follows:

Section 10.4(A)(1) – How Taken of the Revised Law and Order Code, "Appeals may be taken from any judgment or order of the Tribal Court or Juvenile Court by filing written notice of appeal within 30 days after the date of the action appealed."

BE IT FURTHER RESOLVED, that Section 10.4 (A)(3) - How Taken of the Revised Law and Order Code shall be removed from the Revised Law and Order Code. The current Section 10.4 (A)(4) shall therefore be renumbered Section 10.4 (A)(3).

BE IT FURTHER RESOLVED, that Section 10.8 – Review of Findings of Fact of the Revised Law and Order Code shall be removed from the Revised Law and Order Code. The current Section 10.9 – Review of Tribal Court Procedure and Conclusions of Law shall therefore be renumbered Section 10.8, and the current Section 10.10 – Rules Governing Appeals shall therefore be renumbered Section 10.9.

BE IT FINALLY RESOLVED, that the following section shall be incorporated as Section 10.10 (A-E) – The Chief Justice of the Revised Law and Order Code:

The Chief Justice

The Justices of the Court of Appeals shall select from within their membership a Chief Justice.
The Chief Justice's powers and duties shall include:

- A. In consultation with the Chief Judge of the Tribal Court, designating one member of the Clerk of Courts staff to serve as the Chief Clerk of the Court of Appeals.

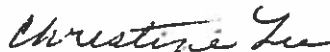
- B. When a Notice of Appeal is filed, ensuring that each panel of Justices is provided with the necessary documents and materials for all cases appearing on the docket.
- C. Filling any vacancy in a judicial panel by either selecting another Justice for the panel or by appointing a visiting judge or judges with qualifications corresponding to those of the absent member(s) of the panel.
- D. On behalf of the Court of Appeals, applying for grants and contracts to provide supplementary funding for the Court. The Chief Justice shall consult with the Chief Judge of the Tribal Court and with the Justices of the Court of Appeals when preparing such applications.
- E. Ordering the periodic publication of the decisions of the Court of Appeals on the internet or in other publication forums, or the distribution of the same to law libraries, other appropriate repositories, and subscribers.

CERTIFICATION

I, the undersigned as Chairman of the Hualapai Tribal Council hereby certify that a Hualapai Tribal Council of the Hualapai Tribe is composed of nine (9) members of whom 9 constituting a quorum were present at a **SPECIAL COUNCIL MEETING** thereof held on this **06th day of November, 2010**; and that the foregoing resolution was duly adopted by a vote of 9 in favor, 0 opposed, 0 not voting, 0 excused pursuant to authority of Article V, Section (a) of the Constitution of the Hualapai Tribe approved March 13, 1991.


Wilfred Whatoname, Chairperson
Hualapai Tribal Council

ATTEST:


Christine Lee, Secretary
Hualapai Tribal Council

**HUALAPAI TRIBAL COUNCIL
RESOLUTION NO. 11-2009
OF THE GOVERNING BODY OF THE
HUALAPAI TRIBE OF THE HUALAPAI RESERVATION
PEACH SPRINGS, ARIZONA**

WHEREAS, the Hualapai Tribal Council is the legislative body of the Hualapai Tribe and is empowered by the Hualapai Constitution to enact legislation regarding the health, welfare and safety of the Hualapai Tribe;

WHEREAS, the Hualapai Tribal Council adopted a Revised Law and Order Code on June 2, 2004, pursuant to the Constitution of the Hualapai Indian Tribe;

WHEREAS, the Revised Law and Order Code does not contain adequate provisions regulating and/or prohibiting the activities of criminal street gangs;

WHEREAS, the Hualapai Tribal Council finds that the activities of criminal street gangs pose a substantial and ongoing threat to community safety and tribal unity;

WHEREAS, the Hualapai Tribal Council finds that recent dangerous and unlawful activities of criminal street gang members have diminished community safety and have caused harm to individual community members;

WHEREAS, the Hualapai Tribal Council finds it necessary to create a comprehensive legislative plan to eliminate the activities of criminal street gangs in order to protect the health, welfare, and safety of the Hualapai Tribe and its Members.

NOW, THEREFORE, BE IT RESOLVED, that the Hualapai Tribal Council assembled this 9th day of March, 2009 does hereby approve the below-stated revisions and amendments to Chapters 6 and 13 of the Revised Law and Order Code.

BE IT FURTHER RESOLVED, that the following revisions and amendments shall be incorporated into Chapters 6 and 13 of the Revised Law and Order Code:

Sec. 6.66 Criminal Street Gangs

A. Definitions

1. "Criminal Act" means any act punishable by a term of detention, jail or imprisonment under the laws and ordinances of the Hualapai Nation, of any state, or the United States.
2. "Criminal Street Gang" means any ongoing formal or informal association of three or more persons whose members or associates individually or collectively engage in the commission, attempted commission, facilitation or solicitation of any criminal act, or any act that would be a criminal act if the youth were an adult, and who has at least one individual who is an identified gang member.

3. "Gang Loitering" means remaining in any one place under circumstances that would warrant a reasonable person to believe that the purpose or effect of that behavior is to enable a criminal street gang to establish control over identifiable areas, to intimidate others from entering those areas, or to conceal or facilitate illegal activities.
 4. "Gang Member" means an individual to whom at least two of the following seven criteria that indicate criminal street gang membership apply:
 - i. Self-proclamation.
 - ii. Witness testimony or official statement.
 - iii. Written or electronic correspondence.
 - iv. Paraphernalia or photographs.
 - v. Tattoos.
 - vi. Clothing or colors.
 - vii. Any other indicia of criminal street gang membership
 5. "Gang-Related Offense" means any criminal offense identified under Tribal Law committed by any individual with the intent to promote or further the objectives of a criminal street gang.
 6. "Public Place" means the public way and any other location open to the public, whether publicly or privately owned.
- B. Participating in a Criminal Street Gang
1. A person commits participating in a criminal street gang by:
 - i. 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
 - ii. Knowingly enticing or inducing others to engage in violence or intimidation to promote or further the criminal objectives of the criminal street gang; or
 - iii. 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 objectives of a criminal street gang; or
 - iv. Hiring, engaging or using a minor for any conduct preparatory to or in completion of any gang-related offense; or
 - v. Committing, attempting to commit, or soliciting one or more gang-related offenses.
 2. 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. Any person convicted of participating in a criminal street gang shall not be eligible for a suspension of sentence, probation, parole or any other release from custody until the sentence imposed by the Tribal Court is fully served. Any sentence of imprisonment imposed pursuant to this subsection shall be in addition and consecutive to any sentence imposed for the commission of an underlying gang-related offense.
 3. Evidence of gang membership: Evidence concerning indicia of gang membership including, but not limited to, possession of gang-related paraphernalia, gang-related tattoos, or gang-related clothing may be admitted, with proper foundation therefore, for submission into evidence in any case brought under this Section.

C. Gang Loitering

1. Whenever a police officer observes a gang member engaged in gang loitering with one or more other persons in any public place, the police officer shall, subject to all applicable procedures promulgated by the chief of police: (i) inform all such persons that they are engaged in gang loitering in a public place; (ii) order all such persons to disperse and remove themselves from within sight and hearing of the place at which the order was issued; and (iii) inform those persons that they will be subject to arrest if they fail to obey the order promptly or engage in further gang loitering within sight or hearing of the place at which the order was issued during the next eight hours.
2. Any person who fails to obey promptly an order issued under subsection (C)(1), or who engages in further gang loitering within sight or hearing of the place at which such an order was issued during the eight-hour period following the time the order was issued, is subject to a fine of not less than \$100 and not more than \$500 for each offense, or imprisonment for not more than six months for each offense, or both. In addition, any person who violates this subsection may be required to perform up to 120 hours of community service at the discretion of the Tribal Court. A second or subsequent offense shall be punishable by a mandatory minimum sentence of not less than five days imprisonment.

Sec. 6.63 Maintaining a Public Nuisance

- A. 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 maintaining a public nuisance.
- B. Any person(s) who own(s), rent(s), lease(s), or otherwise control(s) the premises in which an illegal juvenile gathering occurs, or any person(s) who organize(s) an illegal juvenile gathering shall be deemed guilty of maintaining a public nuisance.
 1. An "Illegal Juvenile Gathering" is an assemblage where three or more persons under the age of 21 years are present for a social occasion or a social activity, and controlled substances or alcoholic beverages are possessed or consumed by any person under the age of 21 years.
 2. If the premises in which an illegal juvenile gathering occurs are rented, leased or otherwise exclusively controlled by someone other than the legal owner of the premises, the legal owner of the premises shall not be criminally liable for maintaining a public nuisance unless the illegal juvenile gathering occurred with the owner's knowledge.
- C. Any person guilty of this offense may be sentenced to a fine not to exceed \$500. If the Tribal Court finds that a public nuisance has been maintained, the Court may issue an order imposing reasonable requirements to abate the nuisance and enjoining the defendant from maintaining such a nuisance in the future.

Sec. 6.262 Drive-by Shooting

A. Definitions

1. "Drive-by Shooting" means the discharge of a firearm, paintball gun, BB or pellet gun, or the propulsion of any explosive or explosive device from a vehicle whether moving or stopped.
 2. "Participant" means any person who, of his or her own will, is physically present in a vehicle used in a drive-by shooting during the drive-by shooting.
- B.** Any participant in a drive-by shooting may be sentenced to imprisonment for a period not to exceed one year, or a fine not to exceed \$5,000, or both. Any person convicted of violating this section who is sentenced to imprisonment 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. 6.8 Preparatory Offenses

A. Attempt

1. A person commits attempt if, acting with the kind of culpability otherwise required for commission of an offense, such person:
 - i. Intentionally engages in conduct which would constitute an offense if the attendant circumstances were as such person believes them to be; or
 - ii. Intentionally does or omits to do anything which, under the circumstances as such person believes them to be, is any step in a course of conduct planned to culminate in commission of an offense; or
 - iii. Engages in conduct intended to aid another to commit an offense, although the offense is not committed or attempted by the other person, provided his conduct would establish his complicity under chapter 3 if the offense were committed or attempted by the other person.
2. It is no defense that it was impossible for the person to aid the other party's commission of the offense, provided such person could have done so had the circumstances been as he believed them to be.
3. A person guilty of attempt may be sentenced to imprisonment for a period not to exceed one-half of the maximum period of imprisonment for the offense attempted, or a fine not to exceed one-half of the maximum fine for the offense attempted, or both.

B. Solicitation

1. A person, other than a police officer acting in his or her official capacity within the scope of his or her authority and in the line of duty, commits solicitation if, with the intent to promote or facilitate the commission of any offense under Chapter 6 of the Revised Law and Order Code, such person commands, encourages, requests or solicits another person to engage in specific conduct which would constitute the felony or misdemeanor or which would establish the other's complicity in its commission.
2. A person guilty of solicitation may be sentenced to imprisonment for a period not to exceed one-half of the maximum period of imprisonment for the offense solicited, or a fine not to exceed one-half of the maximum fine for the offense solicited, or both.

C. Conspiracy

1. A person commits conspiracy if, with the intent to promote or aid the commission of an offense, such person agrees with one or more persons that at least one of them or another person will engage in conduct constituting the offense and one of the parties commits an overt act in furtherance of the offense.
2. If a person guilty of conspiracy knows or has reason to know that a person with whom such person conspires to commit an offense has conspired with another person or persons to commit the same offense, such person is guilty of conspiring to commit the offense with such other person or persons, whether or not such person knows their identity.
3. A person who conspires to commit a number of offenses is guilty of only one conspiracy if the multiple offenses are the object of the same agreement or relationship and the degree of the conspiracy shall be determined by the most serious offense conspired to.
4. A person guilty of conspiracy may be sentenced to the same penalty as that prescribed for the most serious offense which is the object of or result of the conspiracy.

D. Facilitation

1. A person commits facilitation if, acting with knowledge that another person is committing or intends to commit an offense, the person knowingly provides the other person with means or opportunity for the commission of the offense.
2. This subsection does not apply to police officers who act in their official capacity within the scope of their authority and in the line of duty.
3. A person guilty of facilitation may be sentenced to imprisonment for a period not to exceed one-half of the maximum period of imprisonment for the offense facilitated, or a fine not to exceed one-half of the maximum fine for the offense facilitated, or both.

E. Renunciation of Attempt, Solicitation, Conspiracy, or Facilitation; Defenses

1. In a prosecution for attempt, conspiracy or facilitation, it is a defense that the defendant, under circumstances manifesting a voluntary and complete renunciation of his criminal intent, gave timely warning to law enforcement authorities or otherwise made a reasonable effort to prevent the conduct or result which is the object of the attempt, conspiracy or facilitation.
2. In a prosecution for solicitation, it is a defense that the defendant, under circumstances manifesting a voluntary and complete renunciation of the defendant's criminal intent completed both of the following acts:
 - i. Notified the person solicited.
 - ii. Gave timely warning to law enforcement authorities or otherwise made a reasonable effort to prevent the conduct or result solicited.
3. A renunciation is not voluntary and complete within the meaning of this subsection if it is motivated in whole or in part by:
 - i. A belief that circumstances exist which increase the probability of immediate detection or apprehension of the accused or another participant in the criminal enterprise or which render more difficult the accomplishment of the criminal purpose; or

- ii. A decision to postpone the criminal conduct until another time or to transfer the criminal effort to another victim, place or another but similar objective.
 - 4. A warning to law enforcement authorities is not timely within the meaning of this subsection unless the authorities, reasonably acting upon the warning, would have the opportunity to prevent the conduct or result. An effort is not reasonable within the meaning of this subsection unless the defendant makes a substantial effort to prevent the conduct or result.
- F. Effect of Immunity, Irresponsibility or Incapacity of a Party to Solicitation, Conspiracy, or Facilitation
 - 1. It is not a defense to a prosecution for solicitation, conspiracy or facilitation that a person solicited, facilitated or with whom the defendant conspired could not be guilty of committing the offense because:
 - i. Such person is, by definition of the offense, legally incapable in an individual capacity of committing the offense; or
 - ii. Such person is not criminally responsible as defined in chapter 5 of this title, or has an immunity to prosecution or conviction for the commission of the offense; or
 - iii. Such person does not have the state of mind sufficient for the commission of the offense in question.
 - 2. It is not a defense to a prosecution for solicitation or conspiracy that the defendant is, by definition of the offense, legally incapable in an individual capacity of committing the offense that is the object of the solicitation or conspiracy.

Sec. 13.39 Gang Diversion Program

- A. Notwithstanding Section 5.33, any individual under the age of 18 years may be referred by the Tribal Prosecutor to the Hualapai Tribe's Gang Diversion Program in lieu of criminal prosecution where the following criteria are met:
 - 1. The individual has been charged with committing a gang-related offense or with violating Section 6.66; and
 - 2. The individual has no prior convictions or adjudications for gang-related or violent offenses in any jurisdiction; and
 - 3. The individual admits to participating in a criminal street gang and/or membership in a criminal street gang; and
 - 4. The individual and individual's parent(s) or legal guardian(s) agree to participate in the Gang Diversion Program by signing the Diversion Contract.
- B. If the Tribal Prosecutor refers the individual to the Gang Diversion Program, the following procedures must be completed before the individual may participate in the Gang Diversion Program:
 - 1. The Tribal Prosecutor and/or the Diversion Officer must ensure that the individual meets the criteria under subsection (A).
 - 2. The individual and the individual's parent(s) or legal guardian(s) must meet with the Tribal Prosecutor and/or a Diversion Officer within ten days of the individual's initial court appearance.

3. During the meeting, the Tribal Prosecutor and/or the Diversion Officer will explain the Diversion Contract and conditions of the Gang Diversion Program to the individual and the individual's parent(s) or legal guardian(s).
4. The Diversion Contract must be agreed to and signed by the individual and the individual's parent(s) or legal guardian(s).
5. The Diversion Contract will be tailored to the rehabilitative needs of the individual and it must include:
 - i. Specific conditions that must be met for the individual and the individual's parent(s) or legal guardian(s) to complete the Gang Diversion Program successfully; and
 - ii. An agreement by the individual and the individual's parent(s) or legal guardian(s) to submit to the jurisdiction of the Tribal Court; and
 - iii. A parental responsibility form; and
 - iv. A formal admission by the individual to participating in a criminal street gang and/or membership in a criminal street gang; and
 - v. An agreement by the individual not to participate in the activities of criminal street gangs and not to associate with gang members while in the Gang Diversion Program; and
 - vi. A plea of guilty to the charged offenses to the satisfaction of the Tribal Prosecutor, and
 - vii. A statement that the individual's plea of guilty shall be vacated and all charges dismissed once the individual successfully completes the Gang Diversion Program.

C. Gang Diversion Program

1. The Gang Diversion Program shall be administered by the Prosecutor's Office and that agency shall create policies and procedures for administration and content of the Gang Diversion Program in accordance with the law.
 2. The individual and individual's parent(s) or legal guardian(s) shall attend diversion training consisting of:
 - i. Gang education and prevention course.
 - ii. Cultural education course.
 - iii. Elder counseling course.
 - iv. Specialized parenting course.
 - v. Alcohol and/or drug abuse education and prevention course.
 - vi. Family nutrition course.
 - vii. Any other course that will meet the rehabilitative needs of the individual.
 3. The individual may be required to complete a community service project.
 4. A schedule of the individual's particular diversion program will be provided to the individual and individual's parent(s) or legal guardian(s).
- D. Once the individual successfully completes the Gang Diversion Program, the Tribal Prosecutor shall vacate the individual's plea of guilty and shall dismiss all charges against the individual that led to the referral to the Gang Diversion Program with prejudice.**
- E. If the individual fails to complete the Gang Diversion Program within the timelines set in the Diversion Contract or otherwise breaches the Diversion Contract, the Tribal**


Prosecutor may submit the individual's guilty plea to the Tribal Court. The Tribal Court may then sentence the individual as provided by the Revised Law and Order Code.

BE IT FURTHER RESOLVED, the Hualapai Tribal Council hereby adopts the foregoing revisions and amendments to Chapters 6 and 13 of the Revised Law and Order Code to be used to govern the administration of justice by the Hualapai Tribe's criminal and juvenile justice systems and to promote a safe and secure Hualapai tribal community.

BE IT FINALLY RESOLVED that the above stated revised and amended sections Chapters 6 and 13 of the Revised Law and Order Code shall go into effect immediately upon passage by the Tribal Council and that this Resolution and the revisions and amendments described herein shall supersede all earlier versions of Chapters 6 and 13, and all seemingly contradictory sections of the Revised Law and Order Code passed prior to this date.


CERTIFICATION

I, the undersigned as Chairman of the Hualapai Tribal Council hereby certify that the Hualapai Tribal Council of the Hualapai Tribe is composed of nine (9) members of whom 8 constituting a quorum were present at Regular Council Meeting thereof held on this 9th day of March, 2009; and that the foregoing resolution was duly adopted by a vote of 8 in favor, 0 - oppose, 1 - excused, pursuant to authority of Article V, Section (a) of the Constitution of the Hualapai Tribe approved March 13, 1991.



Wilfred Whatoname, Sr., Chairman
HUALAPAI TRIBAL COUNCIL

ATTEST:



Adeline Crozier, Assist. Secretary
HUALAPAI TRIBAL COUNCIL

**HUALAPAI TRIBAL COUNCIL
RESOLUTION NO. 07--2009
OF THE GOVERNING BODY OF THE
HUALAPAI TRIBE OF THE HUALAPAI RESERVATION**

(Revision to the Hualapai Law and Order Code Section 13.38 A-D)

WHEREAS, the Hualapai Tribal Council is the legislative body of the Hualapai Tribe and is empowered by the Hualapai Constitution to enact legislation in regards to the health, safety, and Law and Order of the Hualapai Tribe.

WHEREAS, the Hualapai Tribal Council adopted a Revised Law and Order Code on June 2, 2004, pursuant to the 1991 Revised Hualapai Constitution.

WHEREAS, Article V, Section (aa) of the Hualapai Constitution states, *"The Tribal Council shall have all of the legislative powers vested in the Hualapai Tribe through its inherent sovereignty and Federal law and shall, in accordance with established customs of the Hualapai Tribe and subject to the express limitations contained in this constitution and the applicable laws of the United States, have the following powers: to enact laws, ordinances and resolutions necessary or incidental to the exercise of its legislative powers."*

WHEREAS, Section 13.38 (A-D) – Juvenile Detention Facility of the 2004 Law and Order Code states, "A. Establishment – The Tribe may designate, establish, and/or operate a facility for the purpose of providing secure confinement and rehabilitation of youth; B. Management – The Tribal Court shall be responsible for the oversight and supervision of the operation of any juvenile facility established by the Tribe; C. Annual Inspection – The Tribal Court shall inspect and approve, on an annual basis, the operation of any Tribally established juvenile detention facility. The inspection shall consider the nature and condition of the physical plant, the level and training of staff, and the delivery of a comprehensive package of programs and services designed to promote wellness and rehabilitation; D. Purpose – the purpose of any juvenile detention facility shall be to provide education, training, and rehabilitation services in residential facility that is safe and secure for the children, the staff, and the community."

WHEREAS, The Tribal Council has decided to not have the Court manage and inspect the Juvenile Detention Center.

WHEREAS, the conflict between the Code and the Council's determination can be remedied by revising the Section 13.38 of the Code by revising the clauses that give management and inspection duties to the Tribal Court;

NOW, THEREFORE, BE IT RESOLVED, that the Hualapai Tribal Council assembled this 26th Day of January, 2009 does hereby approve the below stated revision to Section 13.38(A-D) of the Hualapai Law and Order Code.

BE IT FURTHER RESOLVED, that Sections 13.38 (A-D) shall be revised by assigning responsibilities noted in Sections B and C to other entities and agents.

BE IT FURTHER RESOLVED, The Hualapai Tribal Council hereby adopts said revision to the Law and Order Code to be used to govern the administration of the justice by the tribe's juvenile justice system and corrections.


BE IT FURTHER RESOLVED, that this revised Section of the Hualapai Tribal Law and Order Code supercedes and replaces the previous section, with the revisions stated in Section 13.38.

BE IT FINALLY RESOLVED that the revised Section 13.38.(A-D) of the Hualapai Law and Order Code shall go into affect immediately and shall read as follows:

Section 13.38 (A-D) – Juvenile Detention Facility of the 2004 Law and Order Code, “A. Establishment – The Hualapai Tribe may designate, establish, and/or operate a facility for the purpose of providing secure confinement and rehabilitation of youth; B. Management – The Tribal Administration shall be responsible for the oversight and supervision of the operation of any juvenile facility established by the Tribe; C. Inspection – An Agent(s) assigned by the Tribal Council shall inspect and approve, on a designated basis, the operation of any Tribally established juvenile detention facility. The inspection shall consider the nature and condition of the physical plant, the level and training of staff, and the delivery of a comprehensive package of programs and services designed to promote wellness and rehabilitation; D. Purpose – the purpose of any juvenile detention facility shall be to provide education, training, and rehabilitation services in residential facility that is safe and secure for the children, the staff, and the community.”

CERTIFICATION

I, the undersigned as Chairman of the Hualapai Tribal Council hereby certify that a Hualapai Tribal Council of the Hualapai Tribe is composed of nine (9) members of whom 9 constituting a quorum were present at a **SPECIAL COUNCIL MEETING** thereof held on this **26th day of January, 2009**; and that the foregoing resolution was duly adopted by a vote of 7 in favor, 0 opposed, 2 not voting, 0 excused pursuant to authority of Article V, Section (a) of the Constitution of the Hualapai Tribe approved March 13, 1991.


Wilfred Whatoname, Chairperson
Hualapai Tribal Council

ATTEST:
Christine Lee, Secretary
Hualapai Tribal Council



**HUALAPAI TRIBAL COUNCIL
RESOLUTION NO. 41-2008
OF THE GOVERNING BODY OF THE
HUALAPAI TRIBE OF THE HUALAPAI RESERVATION**

(Revision to the Law and Order Code – Curfew for Minors and Curfew Enforcement)

WHEREAS, the Hualapai Tribal Council is the legislative body of the Hualapai Tribe and is empowered by the Hualapai Constitution to enact legislation in regards to the health and safety of the Hualapai Tribe.

WHEREAS, the Hualapai Tribal Council adopted a Revised Law and Order Code on June 2, 2004, pursuant to the Hualapai Constitution, which was most recently revised in 1991.

WHEREAS, the 2004 Revised Law and Order Code did not contain adequate sections regarding Curfew for Minors or Enforcement of Curfew on minors and/or their parent(s) or guardian(s).

WHEREAS, the Hualapai Tribal Council Amended the 2004 a Revised Law and Order Code ("Code") on December 28, 2006 adding Sections 6.203 and 6.204.

WHEREAS, the Tribal Council finds it necessary to amend Sections 6.203 and 6.204 due to recent dangerous and unlawful activity that have diminished community safety and caused harm to community members.

WHEREAS, community safety issues are extreme and circumstances exist that warrant vigorous enforcement of the Curfew laws with increased sanctions on both the Minor and/or Parent/Guardian/Supervising Adult in order to help address community safety issues that have become apparent.

NOW, THEREFORE, BE IT RESOLVED, that the Hualapai Tribal Council assembled this 21st Day of July, 2008 does hereby approve the below stated Amendments to Chapter 6 - Sections 203 & 204 of the Hualapai Law and Order Code.

BE IT FURTHER RESOLVED, that the following amendments shall be incorporated in Chapter 6 of the Hualapai Law and Order Code and that they shall be vigorously enforced by the Tribe on minor children and their parent(s)/guardian(s):

6.203 Curfew for Minors: Accompaniment by Proper Adult, Exception

It shall be unlawful for any minor child under the age of eighteen years to be loitering upon any of the streets, alleys or in public places or in private residences not their own; or for such minors to ride upon the streets, alleys or public places in the communities of Hualapai Nation between Sundown and 5:00 a.m. of any day unless such minor is accompanied by a parent, guardian, or adult relative; except when said minor is attending any church, school or duly organized function. In such an event, if the function ends after 10:00 o'clock p.m., then the parent/guardian/supervising adult shall assure that the minor child is transported immediately to his or her place of residence.

Any Minor Child found guilty of this offense may be sentenced to imprisonment for a period not to exceed 90 days, and shall be assessed a fine of not less than \$300.00 and not to exceed

\$5,000.00, and any other penalties provided under Section 5.20 - Nature of Sentences in Chapter 5 of the Hualapai Law and Order Code.

6.204 Non-Enforcement of Curfew for Minor Child by their Parent, Guardian, or Supervising Adult

It shall be unlawful for any parent, guardian, or supervising adult to allow their children or dependent minor(s) to loiter upon any of the streets, alleys or in public places or in private residences not their own; or for such children or minors to ride upon the streets, alleys or public places in the communities of Hualapai Nation between sundown and 5:00 a.m. of any day unaccompanied. For community activities including church, school or duly organized children's function; if such event ends after 10:00 o'clock p.m., then the parent, guardian, or supervising adult shall assure the minor child is transported immediately to his or her place of residence.

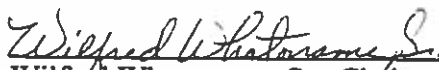
Any person (parent, guardian, custodian, or supervising adult) found guilty of this offense may be sentenced to imprisonment for a period not to exceed 90 days, and shall be assessed a fine not less than \$300.00 and not to exceed \$5,000.00 and any other penalties provided under Section 5.20 Nature of Sentences in Chapter 5 of the Hualapai Law and Order Code.

BE IT FURTHER RESOLVED, The Hualapai Tribal Council hereby adopts said amendments to the Law and Order Code to be used to govern the administration of the justice by the Tribe's criminal and juvenile justice system and to promote a safe and secure Hualapai community.

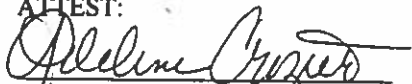
BE IT FINALLY RESOLVED that the above stated amended Sections 6.203 & 6.204 of the Hualapai Law and Order Code shall go into affect immediately and this Resolution shall supersede Hualapai Tribal Council Resolution 68-2006.

CERTIFICATION

I, the undersigned as Chairperson of the Hualapai Tribal Council hereby certify that a Hualapai Tribal Council of the Hualapai Tribe is composed of nine (9) members of whom 7 constituting a quorum were present at a **SPECIAL COUNCIL MEETING** thereof held on this **21st Day of July, 2008**; and that the foregoing resolution was duly adopted by a vote of **7 - in favor, 0 - opposed, 0 - not voting, 1 - excused, 1 - vacant**, pursuant to authority of Article V, Section (a) of the Constitution of the Hualapai Tribe approved March 13, 1991.


Wilfred Whatoname, Sr., Chairperson
Hualapai Tribal Council

ATTEST:


Adeline Crozier, Assist., Secretary
Hualapai Tribal Council

**HUALAPAI TRIBAL COUNCIL
RESOLUTION NO. 24-2008
OF THE GOVERNING BODY OF THE
HUALAPAI TRIBE OF THE HUALAPAI RESERVATION**

(Revision to the Hualapai Law and Order Code Section 2.15)

WHEREAS, the Hualapai Tribal Council is the legislative body of the Hualapai Tribe and is empowered by the Hualapai Constitution to enact legislation in regards to the health, safety, and governance of the Hualapai Tribe.

WHEREAS, the Hualapai Tribal Council adopted a Revised Law and Order Code ("Code") on June 2, 2004, pursuant to the 1991 Hualapai Constitution.

WHEREAS, Section 2.15 – Tribal Court Administrator; Duties of the 2004 Law and Order Code states, *"A Tribal Court Administrator, and such deputies and assistants as may be required, administer the Tribal Court shall be employed by the Tribal Court. The Administrator shall render support and assistance with complaints, subpoenas, warrants, commitments and any other documents incidental to the lawful function of the Court. The Administrator shall have authority to attend and keep a record of all proceedings of the Hualapai Tribal Court, to read complaints to defendants, to administer oaths to witnesses, to collect all fines paid pursuant to judgments and orders of the Court, and to make an accounting of all fines collected to the proper Tribal officials. The Administrator shall act as Clerk of the Court for all branches and divisions of the Hualapai Tribal Court."*

WHEREAS, the pre 2004 Hualapai Law and Order Code contained similar language, however, it described the duties of the Chief Court Clerk. There was no language regarding a Court Administrator and it is unclear why the Duties of the Chief Court Clerk Section was removed and replaced by Duties of a Court Administrator.

WHEREAS, it has become apparent that while it is necessary to state in the Code that a Chief Court Clerk and subordinates be hired by the Court and to describe their duties, it is not necessary that a Court Administrator be required by law; though the Court finds it prudent to include in its staff an administrative staff person to facilitate general Court administration.

WHEREAS, it is necessary to revise the Hualapai Law and Order Code to replace the Duties section of the Court Administrator with a Duties section of a Chief Court Clerk.

NOW, THEREFORE, BE IT RESOLVED, that the Hualapai Tribal Council assembled this 3rd day of May, 2008 does hereby approve the below stated revision to Section 2.15 of the 2004 Hualapai Law and Order Code.

BE IT FURTHER RESOLVED, that Section 2.15 of the Hualapai Law and Order Code shall now read: *"A Chief Court Clerk, and such deputies and assistants as may be required, to facilitate the administration of justice and to support a Court of Record, shall be employed by the Hualapai Judicial Branch. The Chief Court Clerk shall render support and assistance with complaints, subpoenas, warrants, commitments and any other documents incidental to the lawful function of the Court. The Chief Clerk shall have authority to attend and keep a record of all proceedings of the Hualapai Tribal Court, to read complaints to defendants, to administer oaths to witnesses, to collect all fees and fines pursuant to judgments and orders of the Court, and to make an accounting of all fines and fees collected to the proper officials. The Chief Clerk and*

subordinates shall act as Clerk of the Court for all branches and divisions of the Hualapai Judicial Branch."

BE IT FURTHER RESOLVED, The Hualapai Tribal Council hereby adopts said revision to the Law and Order Code to be used to govern and support the administration of the justice by the Hualapai Judicial Branch, including criminal, juvenile, domestic relations, other civil, and all other divisions and processes created legislatively and judicially.

BE IT FURTHER RESOLVED, that this revised Section 2.15 of the Hualapai Tribal Law and Order Code supercedes and replaces the previous Section 2.15.

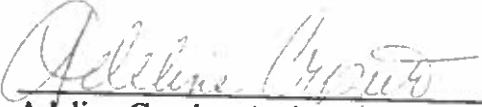
BE IT FINALLY RESOLVED that the revised Section 2.15 of the Hualapai Law and Order Code shall go into affect immediately.

CERTIFICATION

I, the undersigned as Chairman of the Hualapai Tribal Council hereby certifies that the Hualapai Tribal Council of the Hualapai Tribe is composed of nine (9) members of whom 9 constituting a quorum were present at a Regular Council Meeting thereof held on this 3rd day of May, 2008; and that the foregoing resolution was duly adopted by a vote of 7 - in favor, 1 - opposed, 1 - not voting, pursuant to authority of Article V, Section (a) of the Constitution of the Hualapai Tribe approved March 13, 1991.


Charles Vaughn, Chairman
Hualapai Tribal Council

ATTEST:


Adeline Crozier, Assist. Secretary
Hualapai Tribal Council

**HUALAPAI TRIBAL COUNCIL
RESOLUTION NO. 08-2007
OF THE GOVERNING BODY OF THE
HUALAPAI TRIBE OF THE HUALAPAI RESERVATION**

(Revision to the Hualapai Law and Order Code Definition of the Term 'Party')

WHEREAS, the Hualapai Tribal Council is the legislative body of the Hualapai Tribe and is empowered by the Hualapai Constitution to enact legislation in regards to the health and safety of the Hualapai Tribe.

WHEREAS, the Hualapai Tribal Council adopted a Revised Law and Order Code on June 2, 2004, pursuant to the Hualapai Constitution, which was most recently revised in 1991.

WHEREAS, Article VI, Section 10 of the Hualapai Constitution states, "*No Judge shall be qualified to act in any case wherein he has any direct interest or wherein any relatives by marriage or blood in the first degree are a party* (emphasis added)."

WHEREAS, Section 1.8(N) – Definitions of the 2004 Law and Order Code Defines 'party' as, "*a person who is a participant, or involved in or subject of or to, whether active or inactive, voluntary or involuntary, including one made a party by action of another person, in or to a case, trial, hearing, controversy, matter, relationship or proceeding that is governed by this Code or other Tribal Law.*"

WHEREAS, Black's Law Dictionary (7th Edition, p. 1144) defines 'party' as "*One by or against whom a lawsuit is brought.*"

WHEREAS, Section 3.4A.1. of the Hualapai Tribe Personnel Policies and Procedures Manual adopted May 4, 2006, defines a member of the immediate family, either by blood or law, to the first degree, to include first cousins.

WHEREAS, the Associate Judge of the Hualapai Tribal Court and the Associate Prosecutor are related in the first degree (i.e., first cousins).

WHEREAS, the family relationship between the Associate Judge and Associate Prosecutor may prevent free and continual transaction of business unless the constitutional issue is addressed in a manner where no one acts unconstitutionally.

WHEREAS, the conflict can be remedied by redefining the word 'party' in such a way that the Associate Judge may act in matters when the Associate Prosecutor is serving in her official capacity.

NOW, THEREFORE, BE IT RESOLVED, that the Hualapai Tribal Council assembled this 16th day of February, 2007 does hereby approve the below stated revision to Section 1.8(N) of the Hualapai Law and Order Code.

BE IT FURTHER RESOLVED, that the following sentence shall be added at the end of the current definition of 'party' in Section 1.8(N) of the Hualapai Law and Order Code: "*Party shall not include Tribal Prosecutors in matters before the Hualapai Tribal Courts where the real party of interest is the Hualapai Tribe.*"

BE IT FURTHER RESOLVED, the Hualapai Tribal Council hereby adopts said revision to the Law and Order Code to be used to govern the administration of justice by the tribe's criminal justice system, juvenile justice system, and in other civil matters when applicable.

BE IT FURTHER RESOLVED, that this revised Section of the Hualapai Tribal Law and Order Code supersedes and replaces the previous section, with the addition of this sentence after the current definition in Section 1.8(N).


BE IT FINALLY RESOLVED that the revised Section 1.8(N) of the Hualapai Law and Order Code shall go into effect immediately.

CERTIFICATION

I, the undersigned as Chairwoman of the Hualapai Tribal Council hereby certify that the Hualapai Tribal Council of the Hualapai Tribe is composed of nine (9) members of whom 7 constituting a quorum were present at a SPECIAL COUNCIL MEETING thereof held on this 16th day of February, 2007, and that the foregoing resolution was duly adopted by a vote of 7 in favor, 0 opposed, 0 not voting, 2 excused pursuant to authority of Article V, Section (a) of the Constitution of the Hualapai Tribe approved March 13, 1991.


Sherry J. Counts, Vice-Chairperson
Hualapai Tribal Council

ATTEST:


Adeline Crozier, Secretary
Hualapai Tribal Council

*Superseded
by Resolution
no. 41-2008*

**HUALAPAI TRIBAL COUNCIL
RESOLUTION NO. 68-2006
OF THE GOVERNING BODY OF THE
HUALAPAI TRIBE OF THE HUALAPAI RESERVATION**

(Addition to the Law and Order Code – Curfew for Persons and Curfew Enforcement)

WHEREAS, the Hualapai Tribal Council is the legislative body of the Hualapai Tribe and is empowered by the Hualapai Constitution to enact legislation in regards to the health and safety of the Hualapai Tribe.

WHEREAS, the Hualapai Tribal Council adopted a Revised Law and Order Code on June 2, 2004, pursuant to the Hualapai Constitution, which was most recently revised in 1991.

WHEREAS, the 2004 Revised Law and Order Code does not contain any sections regarding Curfew for Minors or Enforcement of Curfew by Parent or Guardian.

WHEREAS, the Tribal Council finds it necessary to add sections concerning curfew for minor children and the responsibility of parent(s) or guardian(s) to enforce such curfew for Minors in order to address community safety issues that have become apparent.

NOW, THEREFORE, BE IT RESOLVED, that the Hualapai Tribal Council assembled this 28th Day of December, 2006 does hereby approve the below stated additions to Chapter 6 of the Hualapai Law and Order Code.

BE IT FURTHER RESOLVED, that the following Sections shall be added to Chapter 6 of the Hualapai Law and Order Code:

6.203 Curfew for Persons: Accompaniment by Proper Adult, Exception

It shall be unlawful for any person under the age of eighteen years to be loitering upon any of the streets, alleys or in public places; or for such person to ride upon the streets, alleys or public places in the communities of Hualapai Nation after sundown. An activity curfew will be between the hours of 10:00 p.m. and 5:00 a.m. of any day, unless such person is accompanied by a parent, guardian, or adult relative, except when such person is attending any church, school or duly organized children's function; and in such event, if such function should end after 10:00 o'clock p.m., then such person shall proceed immediately to go directly to his or her place of residence.

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 \$5,000.00 and any other penalties provided under Section 5.20 - Nature of Sentences in Chapter 5 of the Hualapai Law and Order Code.

6.204 Non-Enforcement of Curfew for Persons by their Parent or Guardian

It shall be unlawful for any parent or guardian to allow any person under the age of eighteen years to loiter upon any of the streets, alleys or public places; or for such person to ride upon the streets, alleys or public places in the communities of Hualapai Nation after sundown. An activity curfew will be between the hours of 10:00 p.m. and 5:00 a.m. of any day unaccompanied, except when attending any church, school or duly organized children's function; and in such event if such function should end after 10:00 o'clock p.m., then the person shall proceed immediately to go directly to his or her place of residence.

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 \$ 5,000.00 and any other penalties provided under Section 5.20 Nature of Sentences in Chapter 5 of the Hualapai Law and Order Code."

BE IT FURTHER RESOLVED, The Hualapai Tribal Council hereby adopts said addition to the Law and Order Code to be used to govern the administration of the justice by the tribe's criminal and juvenile justice system and to promote safe and secure Hualapai communities.


BE IT FINALLY RESOLVED that Sections 6.203 & 6.204 of the Hualapai Law and Order Code shall go into affect immediately.

CERTIFICATION

I, the undersigned as Chairwoman of the Hualapai Tribal Council hereby certify that a Hualapai Tribal Council of the Hualapai Tribe is composed of nine (9) members of whom 9 constituting a quorum were present at a **SPECIAL COUNCIL MEETING** thereof held on this **28th day of December, 2006**; and that the foregoing resolution was duly adopted by a vote of 7 in favor, 2 opposed, 0 not voting, 0 excused pursuant to authority of Article V, Section (a) of the Constitution of the Hualapai Tribe approved March 13, 1991.


Charles Vaughn, Chairperson
Hualapai Tribal Council

ATTEST:


Christine Lee, Secretary
Hualapai Tribal Council

The Great Spirit created Man and Woman in His own image. In doing so, both were created as equals. Both depending on each other in order to survive. Great respect was shown for each other; in doing so, happiness and contentment was achieved then, as it should be now.

The connecting of the Hair makes them one person; for happiness or contentment cannot be achieved without each other.

The Canyons are represented by the purples in the middle ground, where the people were created. These canyons are Sacred, and should be so treated at all times.

The Reservation is pictured to represent the land that is ours, treat it well.



The Reservation is our heritage and the heritage of our children yet unborn. Be good to our land and it will continue to be good to us.

The Sun is the symbol of life, without it nothing is possible - plants don't grow - there will be no life - nothing. The Sun also represents the dawn of the Hualapai people. Through hard work, determination and education, everything is possible and we are assured bigger and brighter days ahead.

The Tracks in the middle represent the coyote and other animals which were here before us.

The Green around the symbol are pine trees, representing our name Hualapai - PEOPLE OF THE TALL PINES -

Charles Vaughn
Chairman

HUALAPAI NATION OFFICE OF THE CHAIRMAN

P.O. Box 179 • Peach Springs, Arizona 86434 • (928) 769-2216
1-888-769-2221

Sherry J. Counts
Vice-Chairwoman

December 29, 2006

Dear Tribal Member

As we come to the end of another year it is regretful to note that the vitality of our tribal community continues to be threatened by youth and adults who seem to think that no one has authority over them. Indeed, the tribal community has broken down to the point that it has become necessary to act as the Tribal Council to ensure that we are safe from the uncontrolled behavior of children whose parents have lost the ability to govern them.

On December 28, 2006, the Hualapai Tribal Council met in special session to amend the **Hualapai Law and Order Code at 6.203 Curfew for Persons: Accompaniment by Proper Adult, Exception. Effective immediately it shall be unlawful for any person under the age of 18 years to be loitering upon the streets, alleys or in public places or for such person to ride upon the streets, alleys, or public places in the communities of Hualapai Nation after sundown.** However, the Tribal Council has provided an exception to the curfew that allows participation in community activities. That provision reads as follows **'an activity curfew will be between the hours of 10:00 p.m. and 5:00 a.m. of any day, unless such person is accompanied by a parent, guardian, or adult relative, except when such person is attending any church, school or duly organized children's function; and in such event, if such function should end after 10:00 o'clock p.m., then such person shall proceed immediately to go directly to his or her place of residence.**

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 \$5,000.00 and any other penalties provided under Section 5.20-Nature of Sentences in Chapter 5 of the Hualapai Law and Order Code.

6.204 Non-Enforcement of Curfew for Persons by their Parent or Guardian

It shall be unlawful for any parent or guardian to allow any person under the age of 18 years to loiter upon any of the streets, alleys or public places; or for such persons to ride upon the streets, alleys or public places in the communities of Hualapai Nation after sundown. An activity curfew will be between the hours of 10:00 p.m. and 5:00 a.m. of any day unaccompanied, except when attending any church, school or duly organized children's function; and in such event if such function should end after 10:00 o'clock p.m., then the person shall proceed immediately to go directly to his or her place of residence.

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 \$5,000.00 and any other penalties provided under Section 5.20 Nature of Sentences in Chapter 5 of the Hualapai Law and Order Code.

It is regretful that the Tribal Council must take actions such as this to ensure that we are all protected from the escalation in violence and abuse that we all have witnessed in our tribal community. It is my hope that we can all look forward to a New Year that enjoys a new sense of community that builds our character and self esteem as Hualapai People.



Charles Vaughn
Chairman, Hualapai Tribal Council

**HUALAPAI TRIBAL COUNCIL
RESOLUTION NO. 68-2006
OF THE GOVERNING BODY OF THE
HUALAPAI TRIBE OF THE HUALAPAI RESERVATION**

(Addition to the Law and Order Code – Curfew for Persons and Curfew Enforcement)

WHEREAS, the Hualapai Tribal Council is the legislative body of the Hualapai Tribe and is empowered by the Hualapai Constitution to enact legislation in regards to the health and safety of the Hualapai Tribe.

WHEREAS, the Hualapai Tribal Council adopted a Revised Law and Order Code on June 2, 2004, pursuant to the Hualapai Constitution, which was most recently revised in 1991.

WHEREAS, the 2004 Revised Law and Order Code does not contain any sections regarding Curfew for Minors or Enforcement of Curfew by Parent or Guardian.

WHEREAS, the Tribal Council finds it necessary to add sections concerning curfew for minor children and the responsibility of parent(s) or guardian(s) to enforce such curfew for Minors in order to address community safety issues that have become apparent.

NOW, THEREFORE, BE IT RESOLVED, that the Hualapai Tribal Council assembled this 28th Day of December, 2006 does hereby approve the below stated additions to Chapter 6 of the Hualapai Law and Order Code.

BE IT FURTHER RESOLVED, that the following Sections shall be added to Chapter 6 of the Hualapai Law and Order Code:

6.203 Curfew for Persons: Accompaniment by Proper Adult, Exception

It shall be unlawful for any person under the age of eighteen years to be loitering upon any of the streets, alleys or in public places; or for such person to ride upon the streets, alleys or public places in the communities of Hualapai Nation after sundown. An activity curfew will be between the hours of 10:00 p.m. and 5:00 a.m. of any day, unless such person is accompanied by a parent, guardian, or adult relative, except when such person is attending any church, school or duly organized children's function; and in such event, if such function should end after 10:00 o'clock p.m., then such person shall proceed immediately to go directly to his or her place of residence.

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 \$5,000.00 and any other penalties provided under Section 5.20 - Nature of Sentences in Chapter 5 of the Hualapai Law and Order Code.

6.204 Non-Enforcement of Curfew for Persons by their Parent or Guardian

It shall be unlawful for any parent or guardian to allow any person under the age of eighteen years to loiter upon any of the streets, alleys or public places; or for such person to ride upon the streets, alleys or public places in the communities of Hualapai Nation after sundown. An activity curfew will be between the hours of 10:00 p.m. and 5:00 a.m. of any day unaccompanied, except when attending any church, school or duly organized children's function; and in such event if such function should end after 10:00 o'clock p.m., then the person shall proceed immediately to go directly to his or her place of residence.

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 \$ 5,000.00 and any other penalties provided under Section 5.20 Nature of Sentences in Chapter 5 of the Hualapai Law and Order Code. "

BE IT FURTHER RESOLVED, The Hualapai Tribal Council hereby adopts said addition to the Law and Order Code to be used to govern the administration of the justice by the tribe's criminal and juvenile justice system and to promote safe and secure Hualapai communities.


BE IT FINALLY RESOLVED that Sections 6.203 & 6.204 of the Hualapai Law and Order Code shall go into affect immediately.

C E R T I F I C A T I O N

I, the undersigned as Chairwoman of the Hualapai Tribal Council hereby certify that a Hualapai Tribal Council of the Hualapai Tribe is composed of nine (9) members of whom 9 constituting a quorum were present at a **SPECIAL COUNCIL MEETING** thereof held on this **28th day of December, 2006**; and that the foregoing resolution was duly adopted by a vote of 7 in favor, 2 opposed, 0 not voting, 0 excused pursuant to authority of Article V, Section (a) of the Constitution of the Hualapai Tribe approved March 13, 1991.


Charles Vaughn, Chairperson
Hualapai Tribal Council

ATTEST:


Christine Lee, Secretary
Hualapai Tribal Council

The Great Spirit created Man and Woman in His own image. In doing so, both were created as equals. Both depending on each other in order to survive. Great respect was shown for each other; in doing so, happiness and contentment was achieved then, as it should be now.

The connecting of the Hair makes them one person; for happiness or contentment cannot be achieved without each other.

The Canyons are represented by the purples in the middle ground, where the people were created. These canyons are Sacred, and should be so treated at all times.

The Reservation is pictured to represent the land that is ours, treat it well.



The Reservation is our heritage and the heritage of our children yet unborn. Be good to our land and it will continue to be good to us.

The Sun is the symbol of life, without it nothing is possible - plants don't grow - there will be no life - nothing. The Sun also represents the dawn of the Hualapai people. Through hard work, determination and education, everything is possible and we are assured bigger and brighter days ahead.

The Tracks in the middle represent the coyote and other animals which were here before us.

The Green around the symbol are pine trees, representing our name Hualapai - PEOPLE OF THE TALL PINES -

Charles Vaughn
Chairman

HUALAPAI NATION OFFICE OF THE CHAIRMAN

P.O. Box 179 • Peach Springs, Arizona 86434 • (928) 769-2216
1-888-769-2221

Sherry J. Counts
Vice-Chairwoman

December 29, 2006

Dear Tribal Member

As we come to the end of another year it is regretful to note that the vitality of our tribal community continues to be threatened by youth and adults who seem to think that no one has authority over them. Indeed, the tribal community has broken down to the point that it has become necessary to act as the Tribal Council to ensure that we are safe from the uncontrolled behavior of children whose parents have lost the ability to govern them.

On December 28, 2006, the Hualapai Tribal Council met in special session to amend the **Hualapai Law and Order Code at 6.203 Curfew for Persons: Accompaniment by Proper Adult, Exception. Effective immediately it shall be unlawful for any person under the age of 18 years to be loitering upon the streets, alleys or in public places or for such person to ride upon the streets, alleys, or public places in the communities of Hualapai Nation after sundown.** However, the Tribal Council has provided an exception to the curfew that allows participation in community activities. That provision reads as follows **'an activity curfew will be between the hours of 10:00 p.m. and 5:00 a.m. of any day, unless such person is accompanied by a parent, guardian, or adult relative, except when such person is attending any church, school or duly organized children's function; and in such event, if such function should end after 10:00 o'clock p.m., then such person shall proceed immediately to go directly to his or her place of residence.**

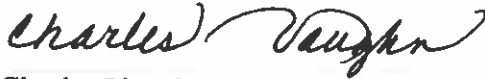
Any person guilty of this offense may be sentenced to imprisonment for a period not to exceed 90 days, or a fine not to exceed \$5,000.00 and any other penalties provided under Section 5.20-Nature of Sentences in Chapter 5 of the Hualapai Law and Order Code.

6.204 Non-Enforcement of Curfew for Persons by their Parent or Guardian

It shall be unlawful for any parent or guardian to allow any person under the age of 18 years to loiter upon any of the streets, alleys or public places; or for such persons to ride upon the streets, alleys or public places in the communities of Hualapai Nation after sundown. An activity curfew will be between the hours of 10:00 p.m. and 5:00 a.m. of any day unaccompanied, except when attending any church, school or duly organized children's function; and in such event if such function should end after 10:00 o'clock p.m., then the person shall proceed immediately to go directly to his or her place of residence.

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 \$5,000.00 and any other penalties provided under Section 5.20 Nature of Sentences in Chapter 5 of the Hualapai Law and Order Code.

It is regretful that the Tribal Council must take actions such as this to ensure that we are all protected from the escalation in violence and abuse that we all have witnessed in our tribal community. It is my hope that we can all look forward to a New Year that enjoys a new sense of community that builds our character and self esteem as Hualapai People.



Charles Vaughn
Chairman, Hualapai Tribal Council

HUALAPAI TRIBAL COUNCIL
RESOLUTION NO. 63-2005
OF THE GOVERNING BODY OF THE
HUALAPAI TRIBE OF THE HUALAPAI RESERVATION

TRESPASS, EXCLUSION, AND EXPULSION

WHEREAS, authority is vested in the Hualapai Tribal Council by the Constitution of the Hualapai Tribe approved March 13, 1991, at Article V. Powers of the Council (u) to enact ordinances for the removal of any non-member of the Tribe whose presence may be injurious to the members of the Tribe, and to prescribe conditions in which non-members may remain within the territory of the Tribe Provided/That all actions of exclusion shall be done by court proceedings; and

WHEREAS, non-member Indians, non-Indians and Tribal members now reside on the Hualapai Reservation and their conduct is injurious and/or is a threat to the health, welfare, security, or property of the Tribe or any Tribal member, it is therefore necessary to adopt a measure that affords preservation of community safety and a fair process for Trespass, Exclusion and Expulsion for the nation and those accused.

NOW, THEREFORE, BE IT RESOLVED, that the Hualapai Tribal Council in a meeting assembled this 14th day of September, 2005, adopts the Trespass, Exclusion and Expulsion Ordinance entitled Chapter 9, Trespass, Exclusion and Expulsion, Sections 9.1 through 9.9 for immediate implementation.


BE IT FURTHER RESOLVED, that this Resolution No. 63-2005 shall supercede Resolution No. 41-2004 adopted May 19, 2004; and it shall further amend the Hualapai Law and Order Code at Chapter 9 to provide for the exclusion and expulsion of Hualapai Tribal members. The language change that provides for this exclusion will be the addition of the words "or member", "or tribal member" after the word non-member wherever it occurs throughout Chapter 9 of the Law and Order Code adopted June 02, 2004.


BE IT FINALLY RESOLVED, that the Hualapai Office of the Prosecutor is the designated representative of the Hualapai Tribal Council to pursue all matters of exclusion and removals.

CERTIFICATION

I, the undersigned as Chairman of the Hualapai Tribal Council hereby certify that the Hualapai Tribal Council of the Hualapai Tribe is composed of nine (9) members of whom 9 constituting a quorum were present at a **Special Council Meeting** thereof held on this 14th day of September 2005; and that the foregoing resolution was duly adopted by a vote of 9- in favor, 0 - opposed, pursuant to authority of Article V, Section (a), (r) and (u) of the Constitution of the Hualapai Tribe approved March 13, 1991.

ATTEST:


Adeline Crozier, Assist. Secretary


Charles Vaughn, Chairman
HUALAPAI TRIBAL COUNCIL

**HUALAPAI TRIBAL COUNCIL
RESOLUTION NO. 71-2004
OF THE GOVERNING BODY OF THE
HUALAPAI TRIBE OF THE HUALAPAI RESERVATION**

WHEREAS, authority is vested in the Hualapai Tribal Council by the Constitution approved March 13, 1991; and

WHEREAS, the Council adopted on June 1, 2004, Chapter 15, ANIMAL CONTROL, Sections 15-1 through 15-9 for the regulation of animals on the Hualapai Reservation; and

WHEREAS, no penalties are contained in the new Chapter 15 ANIMAL CONTROL, Ordinance, it is therefore necessary to adopt the following:

Section 15.10 Enforcement; civil fines

- A. Any peace officer, community control officer, or any other officer duly appointed by the Hualapai Tribal Council is hereby authorized and empowered to enforce the provisions of Chapter 15 ANIMAL CONTROL Ordinance and to issue citations for violations thereof.

- B. In addition to any penalties prescribed herein under the Criminal Code, any persons who violates any provisions of this Chapter shall be subject to a fine of not less than twenty five dollars (\$25), no more than five hundred dollars (\$500) for each violation. No judge may suspend the imposition of the minimum fine except that Community Service may be substituted in lieu of a fine. Community service shall be served at ten dollars (\$10) per eight hour day. In addition, restitution may be ordered to any victim and this remedy shall not abridge any civil cause of action by the victim.

WHEREAS, Section 15.10 provides a remedy for violations as contained in Chapter 15 ANIMAL CONTROL Ordinance Sections 15.1 through 15.9, and

NOW, THEREFORE, BE IT RESOLVED, that Chapter 15 ANIMAL CONTROL Ordinance, Section 15.10 is hereby adopted.

BE IT FURTHER RESOLVED, that Section 15.10 Enforcement; civil fines shall remain in effect for the life of the Hualapai Tribal Law and Order enacted June 1, 2004.

C E R T I F I C A T I O N

I, the undersigned as Chairman of the Hualapai Tribal Council hereby certify that the Hualapai Tribal Council of the Hualapai Tribe is composed of nine (9) members of whom 9 constituting a quorum were present at a **SPECIAL COUNCIL MEETING** thereof held on this **01st day of September 2004**. The foregoing resolution was duly adopted by a vote of 9 in favor, 0 opposed, 0 not voting, 0 excused pursuant to authority of Article V, Section (a) of the Constitution of the Hualapai Tribe approved March 13, 1991.

Charles Vaughn

Charles Vaughn, Chairman
Hualapai Tribal Council

ATTEST:

Christine Lee
Christine Lee, Secretary
Hualapai Tribal Council

*Superseded by
Resolution # 63-2005
on 9/14/05
ac*

HUALAPAI TRIBAL COUNCIL
RESOLUTION NO. 41-2004
OF THE GOVERNING BODY OF THE
HUALAPAI TRIBE OF THE HUALAPAI RESERVATION

TRESPASS, EXCLUSION, AND EXPULSION ORDINANCE

WHEREAS, authority is vested in the Hualapai Tribal Council by the Constitution of the Hualapai Tribe approved March 13, 1991, at **Article V. Powers of the Council (u) to enact ordinances for the removal or exclusion of any non-member of the Tribe whose presence may be injurious to the members of the Tribe, and to prescribe conditions upon which non-members may remain within the territory of the Tribe. Provided, That all actions of exclusion shall be done by court proceeding; and**


WHEREAS, non-member Indians and non-Indians now reside on the Hualapai Reservation and the conduct is injurious and/or is a threat to the health, welfare, security or property of the Tribe or any Tribal member, it is therefore necessary to adopt a measure that affords a fair process for Exclusion and Expulsion for the nation and those accused.

NOW, THEREFORE, BE IT RESOLVED that the Hualapai Tribal Council in a meeting assembled this 19th day of May, 2004, adopts Ordinance entitled **Chapter 8, Trespass, Exclusion and Expulsion, Sections 8.3 through 8.11**, for immediate implementation.

BE IT FURTHER RESOLVED that the Hualapai Office of the Prosecutor is the designated representative of the Hualapai Tribal Council to pursue all matters of exclusion and removals.

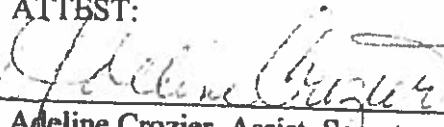
CERTIFICATION

I, the undersigned as Chairwoman of the Hualapai Tribal Council hereby certify that the Hualapai Tribal Council of the Hualapai Tribe is composed of nine (9) members of whom 8 constituting a quorum were present at a **Special Council Meeting** thereof held on this 19th day of May, 2004; and that the foregoing resolution was duly adopted by a vote of 8 - in favor, 1 - excused., pursuant to authority of Article V, Section (a) of the Constitution of the Hualapai Tribe approved March 13, 1991.



Louise Benson, Chairwoman
HUALAPAI TRIBAL COUNCIL

ATTEST:



Adeline Crozier, Assist. Secretary

CHAPTER 8 TRESPASS, EXCLUSION AND EXPULSION

Sec. 8.3 Who may be Excluded or Expelled

Any non-member of the Tribe may be excluded or expelled from the Reservation pursuant to the provisions of this Chapter.

Sec. 8.4 Trespass; Grounds for Exclusion or Expulsion

The commission of any of the following acts by a non-member of the Tribe constitutes a trespass punishable, in addition to any other sanction imposed under applicable federal or Tribal law, by exclusion or expulsion from the Reservation.

- A. Entering an area of the Reservation for which a permit is required under any Tribal law, without first obtaining the requisite permit.
- B. Failure or refusal to pay any taxes, rents, fees, or other charges due the Tribe after reasonable notice and opportunity to pay.
- C. The commission of any offense defined under Tribal or federal law, including violation of any provision of the Tribal Environmental Review Code and/ or any of its Subtitles.
- D. Unauthorized taking of any property from the Reservation.
- E. Any other act causing physical loss or damage of any nature to Tribal property or to the property of any Tribal member.
- F. Any other action which constitutes a threat to the health, welfare, security, or property of the Tribe or any Tribal member.

Sec. 8.5 Initiation of Expulsion or Exclusion Proceeding by Petition

An expulsion or exclusion proceeding shall be initiated by the filing of a written petition with the Tribal Court by any Tribal member, Peace Officer, Prosecutor, or counsel for the Tribe. The petition shall state in plain terms the reason(s) for the proposed exclusion or expulsion.

Sec. 8.6 Notice of Proposed Expulsion or Exclusion; Service

Upon receipt of an expulsion or exclusion petition, the Clerk of the Tribal Court shall issue a notice of proposed expulsion or exclusion, stating the date, time and place at which the non-member may appear before the Court to show cause why he or she should not be excluded or expelled from the Reservation. The notice shall also state the time

and manner in which the non-member may re-enter the Reservation in the company of a Peace Officer for the purpose of attending the hearing, and shall advise the non-member that he must be accompanied by a Peace Officer at all times during his presence on the Reservation pending the outcome of the hearing. The clerk shall cause the notice, along with a copy of the petition, to be served on the non-member pursuant to the provisions of section 2.11 of this Code.

Sec. 8.7 Timing of Hearing

The hearing shall take place not less than five days after the completion of service of the notice and petition; PROVIDED, that if a judge of the Tribal Court shall have reasonable cause to believe that an emergency exists, and the notice so states, the hearing may be held a minimum of 24 hours after completion of service.

Sec. 8.8 Hearing to Determine Expulsion or Exclusion

The hearing to determine whether the non-member shall be expelled or excluded from the Reservation shall be conducted as provided in this Code. The non-member shall be given an opportunity to present his or her defense at such hearing and may, at his or her own cost, be represented by counsel.

Sec. 8.9 Order of the Court

A. At the conclusion of the hearing, or after the time set for the hearing in the event the non-member fails to appear or obtain a continuance thereof, the Court shall issue an order:

1. Excluding or expelling the non-member from the Reservation, or
2. Permitting the non-member to enter and/or remain upon the Reservation on such conditions as the court sees fit to impose.

B. The order of expulsion or exclusion shall remain in force until revoked by the Court unless the order specifically provides otherwise

Sec. 8.10 Enforcement of Orders of Exclusion or Expulsion

If any non-member ordered excluded or expelled from the Reservation does not promptly obey the order, a Judge of the Tribal Court may order (a) order immediate physical removal of such person from the Reservation, or (b) that the non-member be brought before the Court for a civil contempt hearing under the provisions of Chapter 8 of this Code.

Sec. 8.11 Physical Removal of Trespassers: Emergency

In cases involving immediate danger to the life, health, welfare, security, or property of the Tribe or any of its members, or where any delay would result in irreparable damage, a Judge of the Court may, by written order, authorize any Peace Officer to remove a non-member or any of his property from the Reservation, either before or after the non-member has been ordered excluded or expelled from the Reservation as provided in Section 8.9 above. The Peace Officer executing such emergency removal order shall use only so much force as deemed necessary by the Peace Officer to effect the removal. If service of the notice of proposed expulsion or exclusion has not already been made as provided for in Section 8.6 above, the Court shall cause the Peace Officer to serve the notice upon the non-member at the time of removal or as soon after removal as possible.

**IN THE TRIBAL COURT OF THE HUALAPAI NATION
PEACH SPRINGS, ARIZONA**

Hualapai Tribe

Plaintiff

v.

Defendant

Case No.

CIVIL SUMMONS

(PETITION FOR EXCLUSION/EXPULSION)

TO: _____

Notice is hereby given that a Petition for Exclusion and Expulsion has been filed against the named Defendant in the Hualapai Tribal Court.

Pursuant to the adopted TRESPASS, EXCLUSION, AND EXPULSION Ordinance the Defendant is hereby informed that in this matter you have the following rights:

- 1) The right to representation at your own expense.
- 2) The right to bring to the hearing any papers, documents or witnesses which will assist you in your defense.
- 3) The right to challenge the witnesses or evidence that will be used against you at the hearing.

You are hereby given notice that the hearing will be held on: _____, 200__, at ____: ____ . M.

IF THE DEFENDANT FAILS TO APPEAR at the time and date set for hearing a Judgment by Default can be entered and the exclusion and removal shall be granted and enforced.

IF THE PLAINTIFF FAILS TO APPEAR at the time and date set for hearing the Petition shall be dismissed.

Issued on this _____ day of _____, 200__.

VERIFICATION OF SERVICE

Clerk of Court

SERVED TO: _____

SERVED BY: _____

DATE/TIME: _____

**HUALAPAI TRIBAL COUNCIL
RESOLUTION NO. 21-2018
OF THE GOVERNING BODY OF THE
HUALAPAI TRIBE OF THE HUALPAI INDIAN RESERVATION
PEACH SPRINGS, ARIZONA**

Revision to the Hualapai Law and Order Code
Adding new Chapter 20 – Grandparents’ Contact and Visitation Rights

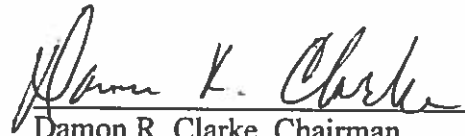
- WHEREAS,** the Hualapai Tribal Council is the legislative body of the Hualapai Tribe and is empowered by the Hualapai Constitution to enact legislation regarding the health, welfare, and safety of the Hualapai Tribe; and
- WHEREAS,** the Hualapai Tribal Council adopted a Revised Law and Order Code on June 2, 2004, pursuant to the Constitution of the Hualapai Indian Tribe; and
- WHEREAS,** the Preamble of the Hualapai Constitution declares that the Constitution was adopted in order to “maintain our culture, language and tribal identity” and to “Protect the individual rights of our members; and
- WHEREAS,** the Revised Law and Order Code, Chapter 12-Domestic Relations, addresses visitation rights between the parents of children; and
- WHEREAS,** the Revised Law and Order Code at Chapter 13-Juvenile Court and Procedure, addresses visitation rights of parents in child dependency, neglect and guardianship cases; and
- WHEREAS,** the Tribal Council recognizes the valuable social and cultural contributions of grandparents to the care, development and nurturance of their grandchildren; and
- WHEREAS,** several other Indian tribes throughout the United States have enacted tribal laws to affirm and guarantee the visitation rights of grandparents; and
- WHEREAS,** the Revised Law and Order Code does not contain any provisions for grandparents’ visitation rights; and
- WHEREAS,** the Tribal Council wants to ensure that grandparents’ visitation rights are affirmed and guaranteed under Hualapai Tribal law.

NOW, THEREFORE, BE IT RESOLVED that the Hualapai Tribal Council assembled this 7th day of April 2018 does hereby approve the addition of Chapter 20 - Grandparents’ Contact and Visitation Rights to the Revised Law and Order Code, which is attached hereto and incorporated herein by reference.

BE IT FINALLY RESOLVED that Chapter 20 - Grandparents’ Contact and Visitation Rights of the Revised Law and Order Code shall become effective immediately

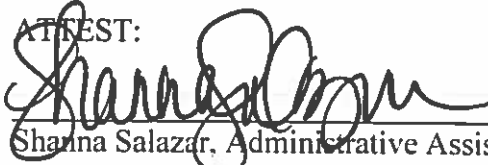
CERTIFICATION

I, the undersigned as Chairman of the Hualapai Tribal Council hereby certify that the Hualapai Tribal Council of the Hualapai Tribe is composed of (9) nine members of whom (7) members were present at a **Regular Council Meeting** thereof, held on this 7th day of **April, 2018**; and that the foregoing resolution was duly adopted by a vote of 7 in favor, 0 opposed, 0 not voting, 2 excused; pursuant to authority of Article V, Section (a) of the Constitution of the Hualapai Tribe approved March 13, 1991.



Damon R. Clarke, Chairman
HUALAPAI TRIBAL COUNCIL

ATTEST:



Shanna Salazar, Administrative Assistant
HUALAPAI TRIBAL COUNCIL

CHAPTER 20. GRANDPARENTS' CONTACT AND VISITATION RIGHTS.

Sec. 20.1. Purpose.

Grandparents, as Tribal elders, are very important and highly respected within the Hualapai social structure. They are the caretakers of the rich culture and traditions of the Tribe, and historically played a significant role in the raising of their young grandchildren. Therefore, the Tribe in recognition desires to emphasize the importance of that traditional role by formally establishing in Hualapai tribal law a grandparent's right to visitation and contact with their minor grandchildren.

The purpose of this Chapter is to preserve the opportunity of minor children, especially tribal member children and those children eligible for enrollment in the Hualapai Tribe, to form and maintain continuing relationships with grandparents, who play such a vital role in their care, development, cultural education, and nurturance.

Sec. 20.2. Definitions.

- A. "Child" or "minor child" means a person under the age of 18 years.
- B. "Code" means the Hualapai Law and Order Code.
- C. "Court" means either the Hualapai Tribal Court or the Hualapai Juvenile Court as the context may require.
- D. "Grandparent" as used in this Chapter includes the legal or biological grandparent, great-grandparent, or great-great-grandparent of a minor child.
- E. "Guardian" means a person appointed as the legal guardian of a minor child by order of any court of competent jurisdiction.
- F. "Legal Parent" includes an adoptive parent, but does not include a step-parent.
- G. "Parent" means the legal or biological parent of a minor child, but does not include a step-parent.
- H. "Petition" as used in this Chapter means a petition filed in the Hualapai Tribal Court pursuant to Sec. 20.7 of this Chapter.
- I. "Tribe" means the Hualapai Indian Tribe.

Sec. 20.3. Contact and Visitation Rights.

A. The Hualapai Tribe recognizes that grandparents have an inherent right to reasonable contact and visitation with their grandchildren, which right can be promoted, preserved, protected, modified, restricted or terminated by order of the Court.

B. In any case pending before the Court pursuant to Chapter 12 or Chapter 13 of the Code, the Court, in its discretion, may grant visitation rights with or without a petition by the grandparent(s) pursuant to this Chapter.

C. In any case between the parents of a child pursuant to Chapter 12 of the Code where the legal and physical custody of a child has been adjudicated, a grandparent may petition the Court to assert his or her grandparent contact or visitation right regardless of the disposition of the custody adjudication between the parents.

D. A grandparent may petition the Court to assert his or her grandparent contact or visitation right subsequent to the adjudication or other final disposition of the following matters pursuant to Chapter 13 of the Code:

1. An action to establish paternity filed pursuant to Sec. 13.3(D);
2. An action regarding child dependency or child neglect initiated by the Hualapai Tribe pursuant to Sec. 13.5(F) or (M);
3. A private action for 3rd party custody based on child dependency or child neglect pursuant to Sec. 13.5(F) or (M);
4. A private action for guardianship pursuant to Sec. 13.25(C) and (I).

E. A grandparent may petition the Court to assert his or her grandparent contact or visitation right prior to the adjudication or other final disposition of an action for termination of parental rights pursuant to Hualapai Code Chapter 13, Sec. 13.28 and 13.32.

Sec. 20.4. Personal and Territorial Jurisdiction.

A. In an action to establish grandparents' visitation rights pursuant to this Chapter, the Court may only exercise personal jurisdiction over the parties if the Court first determines:

1. That personal jurisdiction is proper pursuant to the Hualapai Law and Order Code, Sec. 1.4, Sec. 2.2, Sec. 2.4, Sec. 12.1, Sec. 12.29, or Sec. 13.3, whichever provision(s) may apply and control; and
2. Whether there exists a preferred forum in the event that any court in any other jurisdiction may have concurrent jurisdiction over the parties and subject matter of the Petition; and
3. That no court in any other jurisdiction has previously assumed or exercised jurisdiction regarding custody of the child or children who are the subject of the Petition.

Sec. 20.5. Exceptions and Miscellaneous.

The provisions of Sec. 20.3 do not apply in the following circumstances:

- A. To the parents of a putative father of a child if paternity has not been established by operation of law or by order of a court of competent jurisdiction.
- B. To the parents of a child's parent if the parental rights of the child's parent have been terminated prior to the filing of a petition pursuant to this Chapter.
- C. If the child has been placed for adoption with a person other than the child's stepparent or grandparent.
- D. Any grandparent visitation rights granted pursuant to this Chapter prior to the placement for adoption of the child are terminated upon the adoption unless otherwise specified in the adoption decree and order.

Sec. 20.6. Factors and Standards.

A. Prior to issuing an order establishing a grandparent's visitation right, the Court shall take into consideration all of the following factors:

- 1. The family relationship of the petitioner to the child;
- 2. The length and quality of the relationship of the petitioner with the child;
- 3. The family relationship and quality of the relationship between the petitioner and each of the child's parents or guardians;
- 4. The relationship between the child's parents, provided that visitation rights may be awarded, whether or not the parents' relationship is intact;
- 5. The child's wishes, taking into account the age of the child;
- 6. The benefits and detriments to the child of awarding visitation rights to the petitioner;
- 7. The feasibility of fashioning an award of visitation rights while minimizing interference with the parents' custodial or visitation rights;
- 8. The reason(s) that the child's parent, guardian, or legal custodian has previously restricted contact or visitation with the grandparent(s);
- 9. Any other reliable information presented to the Court that is relevant to the petitioner's ability to provide a safe and nurturing environment that will protect the safety and welfare of the child if visitation is awarded; and,
- 10. Whether the petitioner has shown sufficient information to rebut that the child's parent, guardian, or legal custodian was acting in the best interest of the child by previously denying visitation to the petitioner.

B. The Court may issue an order establishing a grandparent's visitation rights if, after a hearing for which all necessary parties were provided adequate notice, and upon consideration of all of the factors in Subsection (A) of this Section, the Court finds by a preponderance of the evidence that the best interests of the child will be served by granting visitation.

C. Any visitation schedule offered by the parties for consideration, or judicially created, must also be judicially determined to be in the best interests of the child and cannot work an unreasonable hardship upon any party.

Sec. 20.7. Petition.

A. A grandparent initiates a request to secure contact and visitation rights by filing a petition with the Court.

1. Pursuant to Sec. 20.3(B), a grandparent shall file a petition using the same court and same case number as the pending action.
2. Pursuant to Sec. 20.3(C), a grandparent may file a petition with the Tribal Court using the same case number as the adjudicated action.
3. Pursuant to Sec. 20.3(D), a grandparent may file a petition with the Juvenile Court using the same case number as the adjudicated action.

B. A petition to establish grandparents' contact and visitation rights shall contain the information listed below, and if any required information is unknown to the petitioner, the petition shall identify what information is unknown.

1. The name, date of birth, and tribal affiliation of each child for which the petitioner wants to establish contact and/or visitation.
2. The names, addresses (both mailing and physical street address), and tribal affiliation of each parent of the child for which the petitioner wants to establish contact and/or visitation.
3. The names, addresses (both mailing and physical street address), and tribal affiliation of each legal guardian (if applicable) of the child for which the petitioner wants to establish contact and/or visitation.
4. The names, addresses (both mailing and physical street address), and tribal affiliation of each legal custodian pursuant to a 3rd Party Custody Petition (if applicable) of the child for which the petitioner wants to establish contact and/or visitation.
5. Whether the child is the subject of an on-going dependency or neglect petition filed by the Tribe and the child is a temporary ward of the Court with care, supervision, and placement of the child awarded to Hualapai Human Services.
6. The petitioner's tribal affiliation and relationship to the child (maternal or paternal).

7. A list or brief narrative account of the previous efforts by the petitioner to establish visitation through the parent, guardian, legal custodian, or Hualapai Human Services (as applicable).
8. The specific details of the visitation requested including, but not limited to:
 - (a) the type of desired visitation (e.g., telephonic visitation, internet electronic visitation, in-person visitation, etc.);
 - (b) the frequency of the desired visitation (e.g., weekly, biweekly, monthly, etc.);
 - (c) the nature and duration of the desired visitation (e.g., specific day(s) and time, full day, overnight, extended visit, specific holidays, etc.);
 - (d) the location of the proposed visitation (e.g., at the child's current residence, at the petitioner's residence, at a neutral location (such as a park or shopping mall));
 - (e) whether the visitation should be supervised by a third party (e.g., family friend, another relative, Hualapai Human Services, etc.);
 - (f) any other desired details, terms, or conditions of the proposed visitation, including a specific schedule, if applicable.

C. The petition must be verified by a court clerk or notary public.

Sec. 20.8. Procedure.

A. A request to assert grandparents' contact and visitation rights is initiated by the filing of a petition pursuant to Sec. 20.7(A).

1. The Tribal Court will make available a self-help petition form for use by petitioners who have not retained legal counsel.
2. Any petition that meets the requirements set forth in Sec. 20.7(B) and incorporates any additional information consistent with information identified on the self-help petition form will be accepted for filing except as provided in Subsection (A)(3)(a) below.
3. Every petition submitted must be completed in full or, pursuant to Sec. 20.7(B), must state on the petition that any required information is "unknown."
 - (a) The Clerk of the Court may reject any petition that, on its face, is clearly substantially incomplete, or does not contain the designation of "unknown" for all required information that is unknown to the petitioner at the time of filing.
 - (b) The petitioner has the responsibility to obtain all required information that was unknown to the petitioner at the time of filing of the petition and to provide such information to the Court in writing upon its discovery.

(c) If any required information that was identified as "unknown" at the time of filing has not been provided to the Court by the time of the hearing on the petition and the lack of such information does not allow the Court to make findings as provided in Sec. 20.6(A), or make a finding of whether the proposed visitation is in the child's best interest consistent with Sec. 20.6(B), the Court *sua sponte* may stay further proceedings regarding the petition until such required information is provided.

B. There shall be no filing fee for a petition filed pursuant to this Chapter, however, if the grandparent uses the services of an attorney or advocate, the attorney/advocate appearance fee is still required before the Court will allow the attorney/advocate to file any documents or to appear at any hearing in a representative capacity.

C. The Clerk of the Court shall schedule a hearing on the petition within forty-five (45) days of its filing and prepare a notice of hearing.

(1) The time for hearing on the petition may be continued or extended by order of a judge only upon timely written request by the petitioner or any other party, or upon the court's own motion, and only for good cause.

D. The Clerk of the Court will cause a copy of the petition and the notice of hearing to be served upon each parent, guardian, legal custodian, or Hualapai Human Services (if the child is the subject of a pending dependency or neglect action) without undue delay.

E. Hearings on petitions to establish grandparents' visitation shall be confidential and closed to the public. Only the parties, those persons to whom the Court issues a notice of hearing, and those persons approved by the judge shall be allowed in the courtroom during the hearing.

F. At the hearing, the petitioner has the burden of demonstrating to the Court by a preponderance of the evidence that all factors to be considered pursuant to Sec. 20.6(A) support the requested visitation, and that the requested visitation is in the best interests of the child.

G. The judge presiding over the hearing may announce his or her decision on the petition at the conclusion of the hearing, or the judge may take the matter under advisement for further consideration, provided that the judge must render his or her decision consistent with Sec. 20.9(A) below.

Sec. 20.9. Orders.

A. Within thirty (30) calendar days after the hearing, the Court shall grant or deny the petition, or grant the petition conditionally or with such modifications as are in the best interest of the

child. All orders shall be in writing and shall specify to the greatest extent practicable the particular rights, if any, which are awarded.

B. An order may award:

1. Visitation rights under the circumstances prevailing at the time of the order; and
2. Contingent visitation rights under circumstances prevailing at the time of the order; and
3. Contingent visitation rights under circumstances that may reasonably be expected to occur at a future time, provided that any such award of contingent rights is reviewable under Sec. 20.10.

C. The Court may order reasonable restrictions on the visitations, such as requiring that visits be supervised, or restricting the petitioner's use or consumption of alcohol during and within 12 hours prior to the start of the visit, or any other restrictions the Court deems necessary or prudent.

D. A written order awarding or denying visitation to the petitioner must state the findings of the Court regarding evidence presented to the Court as it applies to any applicable factors in Sec. 20.6(A) supporting the Court's conclusion by a preponderance of the evidence whether awarding or denying visitation is the best interests of the child.

E. Any person served with a copy of a notice and petition under this Chapter, and with a copy of an order under this section, shall be required to comply with the terms of the order, and is subject to contempt of court proceedings for any noncompliance or interference therewith.

Sec. 20.10. Modification.

A. Any order issued pursuant to this Chapter may be modified upon motion submitted to the Court. The individual submitting the motion must provide a copy of the motion to all other interested persons and parties.

B. After a motion to modify has been submitted to the Court, a hearing will be scheduled as soon as practical and notice of the hearing will be provided to all interested persons and parties.

C. If, after the hearing, the Court finds by a preponderance of the evidence that the best interests of the child will be served by granting the proposed modification of grandparental visitation, the Court will issue a modified visitation order. A modified visitation order will supersede all previous grandparents' visitation orders unless otherwise provided in the modified order.

Sec. 20.11. Enforcement.

If, after an award of grandparental visitation by order of the Court, the child's parent, guardian or custodian fails or refuses to allow the grandparent visitation as required by the court order, the grandparent may file a Motion for Order to Show Cause with the Court, detailing the specific dates, times and circumstances of the denial of visitation. If the Court grants the Motion, an Order to Show Cause shall be issued to the alleged non-compliant person setting forth a date and time of hearing when the alleged non-compliant person shall appear before the Court to show cause why he or she should not be held in contempt of court for failing or refusing to comply with the visitation order.

Sec. 20.12. Costs of Visitation.

Unless otherwise agreed upon between the petitioner(s) and the child's parent(s), guardian(s), or legal custodians, any transportation costs or other costs arising from any visitation ordered pursuant to this Chapter shall be paid by the grandparent(s) who requested such visitation.

Sec. 20.13. Full Faith and Credit.

A. Orders of any state court or other tribal court involving a grandparent's visitation rights shall be recognized and given full faith and credit by the Hualapai courts if:

1. The issuing court properly possessed and exercised jurisdiction over all parties and the subject matter;
2. All procedures specified in the Indian Child Welfare Act, 25 U.S.C. §1901 *et seq.*, and all regulations contained in 25 C.F.R. §23.1 *et seq.*, if applicable, were properly followed; and,
3. Due process and other rights guaranteed by the Hualapai Constitution, Hualapai Law and Order Code, the Indian Civil Rights Act, 25 U.S.C. §1301 *et seq.*, and the United States Constitution, if applicable, were afforded to all interested parties.

###

HUALAPAI TRIBAL COUNCIL
RESOLUTION NO. 18-2017
OF THE GOVERNING BODY OF THE
HUALAPAI TRIBE OF THE HUALAPAI RESERVATION
PEACH SPRINGS, ARIZONA

(Amendment to Hualapai Law and Order Code, Chapter 9, Section 6.242 (c) and Section 6.154)

WHEREAS, the Hualapai Tribal Council is the legislative body of the Hualapai Tribe and is empowered by the Constitution of the Hualapai Indian Tribe to enact laws for the preservation of health, safety, and welfare of the Hualapai Tribe and to enact ordinances governing law enforcement on lands within the jurisdiction of the Tribe; and;

WHEREAS, the Hualapai Tribal Council has the power to exclude Non-Members of the Hualapai Indian Tribe from the Hualapai Reservation to the full extent of Federal Law; and

WHEREAS, the Hualapai Tribal Council has the power to enact laws regulating the exclusionary process, procedure, and enforcement within the exterior boundaries of the Hualapai Reservation.

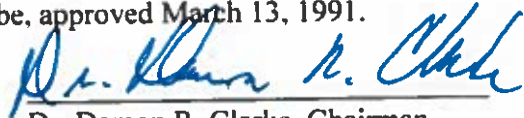
NOW THEREFORE BE IT RESOLVED, that the Hualapai Tribe desires to enact amendments to Chapter 9 of the Hualapai Tribal Code, attached as Exhibit A, to regulate the exclusionary process, procedure, and enforcement of Non-Members:

BE IT FURTHER RESOLVED, that the Hualapai Tribal Council desires to enact Section 6.242(c) of the Hualapai Law and Order Code, attached as Exhibit B, such that Orders of Exclusion against Non-Members may be enforced by the criminal code.

BE IT FURTHER RESOLVED, that the Hualapai Tribal Council desires to enact Section 6.154 of the Hualapai Law and Order Code, attached as Exhibit C, such that Orders of Exclusion against Non-Members may be enforced by the criminal code.

CERTIFICATION

I, the undersigned as Chairman of the Hualapai Tribal Council hereby certify that the Hualapai Tribal Council of the Hualapai Tribe is composed of nine (9) members of whom (8), constituting a quorum, were present at a Regular Council Meeting held on the 4th Day of March, 2017; and that the foregoing resolution was duly adopted by a vote of (7) in favor, (0) opposed, (0) not voting, (2) excused, pursuant to authority of Article V, section (a), (f), (g), (j), (o), and (r) of the Constitution of the Hualapai Tribe, approved March 13, 1991.


Dr. Damon R. Clarke, Chairman

Hualapai Tribal Council


Shanna Salazar, Administrative Assistant
Hualapai Tribal Council

CHAPTER 9

NON-HUALAPAI MEMBER

EXCLUSION OFF THE HUALAPAI INDIAN RESERVATION

Sec. 9.1 – Jurisdiction.

Under Hualapai Constitution Article V and the inherent sovereignty of the Hualapai Indian Tribe, the Tribal Council enacts this Chapter authorizing, recognizing, and vesting to the full extent of Federal Law the Hualapai Tribal Courts with civil jurisdiction over all Non-Members of the Hualapai Tribe with respect to the exclusion and removal of Non-Members from the Hualapai Indian Reservation.

Sec. 9.2 – Who May Be Excluded from the Hualapai Indian Reservation.

Any Non-Member of the Hualapai Tribe may be excluded or removed from the Hualapai Indian Reservation pursuant to the provisions of this Chapter. A Non-Member is any person who is not enrolled as a member of the Hualapai Tribe pursuant to Article II of the Hualapai Constitution.

Sec. 9.3 – Grounds for Exclusion.

The commission of any of the following; by a Non-Member of the Hualapai Tribe constitutes a basis for exclusion of the Non-Member from the Hualapai Indian Reservation:

- A. Entering an area of the Hualapai Reservation for which a permit is required under any tribal law, without first obtaining the requisite permit.
- B. Failure or refusal to pay any taxes, rents, fees, or other charges due the Tribe after reasonable notice and an opportunity to pay;
- C. The commission of any offense defined under tribal, state or federal law, including violation of any provision of the Hualapai Environmental Review Code and/or any of its subtitles. Commission, as used in this Chapter, includes the past commission of any offense defined under tribal, state or federal law evidenced by a non-member's history for which there was a conviction, plea of guilt or no-contest to involving the violation of an offense under tribal, state or federal law;
- D. Unauthorized taking of any property from the Reservation;
- E. Any act causing physical loss or damage of any nature to any property or to the property of any person lawfully on the Hualapai Reservation;
- F. Any action, cause, or condition constituting a threat to the health, welfare, security, or property of the Hualapai Tribe or any person lawfully on the Hualapai Reservation.
- G. Where any statute or resolution of the Hualapai Tribe or statute or order of the United States now or in the future provides for a criminal penalty or for the exclusion of Non-Members of the Hualapai Tribe, such statute, resolution or other provision shall provide grounds for proceedings under these rules.

Sec. 9.4 – Detainment or Arrest of Non-Members of the Hualapai Tribe.

- A. Any Hualapai law enforcement officer, including any Hualapai Police officer or other law enforcement official vested with the authority to enforce the laws of the Hualapai Tribe, and any person authorized by the Bureau of Indian Affairs, may detain any person alleged to be in violation of an Exclusion Order, or any criminal law of the Hualapai Tribe even though such person may not be a member of the Hualapai Tribe

or may not be an Indian. Such civil detainment powers are pursuant to the sovereign powers of the Hualapai Tribe to effect the lawful exclusion of Non-Members so as to provide for public safety, health and welfare of the Hualapai Tribe.

B. Non-Indian Non-Member

1. Any Non-Indian Non-Member of the Hualapai Tribe may be civilly detained, after verification that the Non-Indian Non-Member has a lawful Exclusion Order against them, under the same standards and with the same procedures as are provided by the Hualapai Tribal Code and the Rules of the Hualapai Tribal Courts.
2. Any Non-Indian Non-Member detained shall be immediately brought before a Judge of the Hualapai Tribal Court. "Immediately" shall mean no later than the first day of regular court business following detainment.
3. Upon the detainment of a Non-Indian Non-Member offender, the appropriate jurisdictional authority having criminal jurisdiction over such offender should be notified.

C. Non-Member Indians

1. Any Non-Member Indian may be civilly detained or arrested, after upon verification that the Non-Member has a lawful Exclusion Order against them, upon the same standards and with the same procedures as are provided by the Hualapai Tribal Code and the Rules of the Hualapai Tribal Courts.
2. Any Non-Member Indian detained or arrested shall be immediately brought before a Judge of the Hualapai Tribal Court. "Immediately" shall mean no later than the first day of regular court business following detainment.
3. Pending a hearing on the interim (temporary) or permanent exclusion of a Non-Member Indian from the Hualapai Reservation, bond to secure the appearance of such person in the same amount as is normally required for the corresponding criminal offense for which the person was detained may be posted with the Hualapai Police or the Clerk of Court, and the person detained may be released.

Sec. 9.5 – Nature of Exclusion Actions.

All exclusion actions are civil in nature. Court proceedings for exclusion shall be summary in nature, and the rules of civil procedure as to motions; the time for making and hearing motions, initial hearings, and all other provisions inconsistent with summary proceedings shall not apply. The summary proceeding shall be a one-time hearing concluded within the same day. If a general rule of civil procedure is inconsistent with this Chapter 9, the Chapter 9 provision shall prevail. Due process is provided through service of the petition which provides notice of grounds for exclusion, and the hearing which provides, upon appearance, for the Respondent an opportunity to respond to the grounds for exclusion.

Sec. 9.6 – Initiation of Civil Permanent Exclusion Proceedings.

An exclusion action under this Chapter shall be initiated by the filing of a written Petition with the Hualapai Tribal Court by any Tribal Prosecutor or the Hualapai Tribal Council by and through their legal counsel. The Petition shall state in plain terms the reason(s) for the proposed exclusion.

Sec. 9.7 – Contents of Petition for Permanent Exclusion.

- A. Terms for parties.** All actions will be brought in the name of the Hualapai Tribe and it shall be referred to in all court documents as the Petitioner. The Non-Member against whom civil proceedings are brought under these rules shall be referred to as the Respondent.

- B. **Time of filing.** Petitions for Exclusion must be filed and served upon Respondents no later than ten days prior to an exclusion hearing. The petition need not be filed at the time of the presentation of a respondent before the court upon detain.
- C. **Contents.** All Exclusion Petitions must contain the following:
 - 1. Name and address of last known residence for Non-Member and;
 - 2. Clear explanation of the grounds for exclusion including any citations to Tribal, state, or Federal statutes which the Non-Member may be in violation of and;
 - 3. The facts, events, or conduct which allegedly provide grounds for exclusion, including a statement of any injury or damages caused to or suffered by the Tribe, or to Tribal, Federal or State property, or Tribal members resultant from the Non-Member's actions and;
 - 4. Names of witnesses who will appear in support of the petition and;
 - 5. The name and title of the individual(s) filing the petition.
- D. **Verification of petition.** All petitions must be verified under oath by an individual responsible for the prosecution of the exclusion action. Verifications need not be made by persons having direct knowledge but may be made by persons who base their verification upon investigation in the performance of official duties.

Sec. 9.8– Notice of Proposed Permanent Exclusion and Service of Process.

Upon the filing of a Petition for Permanent Exclusion; the Clerk of Court shall immediately, without undue delay, bring the petition to the attention of the presiding Tribal judge. If the presiding judge is satisfied that the petition complies with the requirements of Section 9.7 of this Chapter, such judge shall immediately issue a Notice of Proposed Permanent Exclusion to the named Respondent to appear before the court at a time, date and place certain to respond to the petition. The Notice of Proposed Permanent Exclusion to Respondent shall indicate that the proceedings are for the purpose of permanently excluding the Respondent from the Hualapai Reservation and that an exclusion order may be entered by default judgment if he or she fails to appear. Service of the Notice of Proposed Permanent Exclusion upon the Respondent shall be made in accordance with the Hualapai Law and Order Code Section 4.5 to the extent Section 4.5 does not conflict with this Chapter 9. The Notice of Proposed Permanent Exclusion must inform the Respondent of the following information:

- A. A copy of the Petition for Permanent Exclusion shall be included in the Notice of Proposed Permanent Exclusion; and
- B. The date, time and place at which the Non-Member proposed to be permanently excluded may appear; and
- C. The nature of the proceeding to be heard (hearing on Petition for Permanent Exclusion); and
- D. Right to representation at own expense of the Non-Member proposed to be permanently excluded;
- E. Notice that his/her failure to appear may result in entry of default judgment against the Non-Member proposed to be permanently excluded;
- F. If the Tribe applied for an Ex Parte Temporary Emergency Order of Exclusion a copy of such as well as any order rendered will accompany the Notice of Proposed Exclusion and Petition served on the Non-Member proposed to be excluded.
 - 1. If any Ex Parte Emergency Temporary Exclusion Order is granted for the Tribe; the Court shall instruct the manner in which the Non-Member proposed to be excluded shall enter the Hualapai Reservation for the purpose of attending his/her Permanent Exclusion hearing.

Sec. 9.9 – Timing of Hearing.

The hearing shall take place no less than five business days after the completion of service of the Petition for Exclusion and Notice of hearing on the Non-Member Proposed to be excluded. If a Judge of the Hualapai Tribal Court believes that an emergency exists, and the notice so states, the hearing may be held a minimum of 24 hours after completion of service.

Sec. 9.10 – Pleadings by Respondents.

Respondents need not file any pleadings in response to a petition for exclusion. However, a respondent may file a motion to dismiss the petition for any defense available at any time prior to the exclusion hearing or at the time of hearing.

Sec. 9.11 – Hearings.

- A. **Generally.** The hearing to determine whether the Non-Member shall be excluded from the Hualapai Reservation shall be conducted as a summary hearing as provided in Section 9.5 above and under Chapter 4, Section 4.12 – Civil Trial Proceedings to the extent Section 4.12 does not conflict with Section 9.5. The Non-Member shall be given an opportunity to present his/her defense and may at his/her own cost, be represented by legal counsel.
- B. **Preponderance of evidence.** A Permanent Order of Exclusion may be based upon a showing of one of the grounds for exclusion under Section 9.3 by a preponderance of the evidence. A “preponderance of the evidence” is defined to mean evidence, which leads the court to find that the existence of a contested fact upon which one of the grounds for exclusion can be based is more probable than its non-existence. A “preponderance of the evidence” is also defined to mean evidence, which is more convincing to the court than the opposing evidence.
- C. **Admission.** An order of the exclusion may be based upon an admission, either in open court or in a document or pleading filed with the court, that he or she committed the act in question which would constitute one of the grounds for exclusion under Section 9.3.
- D. **Consent.** A court may make an order excluding a Non-Member upon a written consent to exclusion acknowledged by the Non-Member and filed with the court as provided in Section 9.13.
- E. **Upon arrest.** Where any Indian Non-Member is arrested under the provisions of Section 9.3, he or she shall be brought before a Tribal judge for a hearing upon the following matters:
 - 1. Release upon bond or personal recognizance;
 - 2. Immediate exclusion by consent;
 - 3. The setting of an exclusion hearing prior to the filing of a petition for exclusion.
- F. **Upon detainment.** Where any Non-Member is detained under the provisions of Section 9.3, he or she shall be brought before a Tribal judge for a hearing upon the following matters:
 - 1. Release upon personal recognizance;
 - 2. Transfer to authorities with criminal jurisdiction over the Non-Member;
 - 3. Immediate exclusion by consent;
 - 4. The setting of an exclusion hearing prior to the filing of a petition for exclusion.
- G. **Permanent Exclusion Hearing.** At the time of the permanent exclusion hearing the court will conduct such hearing as follows:
 - 1. The court will ascertain the respondent’s correct name, residence and employment;
 - 2. The court will ask the respondent whether he or she consents to exclusion;
 - 3. The court will ask whether the Non-Member admits the act or acts alleged in the petition;

4. If the allegations are denied and no facts are admitted which form a basis for the courts to conclude a ground for exclusion exists, the petitioner will present its case;
5. At the close of the petitioner's case the respondent may move for dismissal for failure to state a case;
6. The respondent may present his or her defense;
7. The court will immediately make its decision and order the preparation of an appropriate judgment.

Sec. 9.12 – Order of the Court after Exclusion Hearing.

- A. At the conclusion of the hearing, or after the time set for the hearing in the event the Non-Member fails to appear or obtain a continuance thereof, the Court shall issue an order:
 1. Excluding the Non-Member from the Hualapai Reservation if the elements for the basis of the exclusion is substantiated through the summary evidentiary proceedings heard;
 2. Deny and dismiss the action of the Tribe if the elements for the basis of exclusion have not been met; or
 3. Enter an order upon any stipulated terms reached by the parties found to be proper.
- B. All Orders of Exclusion, except those not upheld or vacated on appeal under Section 9.20, shall remain in force until such time the Hualapai Tribal Council has agreed by resolution to lift the exclusion order; the Non-Member affected shall be the moving party to revoke or modify the terms of the Court's order only after he or she has secured a resolution from the Hualapai Tribal Council.
- C. **Contents of order.** Any order or judgment excluding a Non-Member from the Hualapai Indian Reservation must contain:
 1. A statement of the conclusions to be drawn from the evidence as to the facts of the case;
 2. A statement of the applicable statute or statutes which form the grounds for exclusion;
 3. A statement of how or why the concluded facts constitute a violation of the applicable statute or statutes;
 4. A statement of the status of the Respondent as a Non-Member;
 5. A statement of any particular considerations found by the court as a basis for the order or judgment given;
 6. Where appropriate, an order to a law enforcement officer of the Hualapai Tribe to remove the Respondent from the exterior boundaries of the Hualapai Reservation;
 7. A clear order or direction to the Respondent that he or she must not enter the Hualapai Reservation upon exclusion; and

Sec. 9.13 – Immediate Exclusion by Consent.

A Non-Member of the Hualapai Tribe may be immediately excluded from the Hualapai Reservation by means of written consent. The consent shall contain the following information:

- A. A brief statement of the facts or charges against the Non-Member and the citation to the statute which the Non-Member has allegedly violated;
- B. A statement of the Non-Member's right to a hearing before his/her exclusion;
- C. A clear waiver of rights statement;
- D. Notice of the time, date and place of the exclusionary hearing;
- E. Notice that the person may not re-enter the Hualapai Indian Reservation until the time and date of the exclusion order;

- F. Upon execution, the Consent will be filed with the court. If the Court is satisfied that the above listed criteria are met, the court will enter a judgment on the validity of the Exclusion by Consent and serve a copy of the judgment, with the Consent attached, to the Prosecutor and Non-Member.

Sec. 9.14 – Emergency Temporary Exclusion.

In situation where the presence of a Non-Member within the exterior boundaries of Hualapai Reservation causes a danger to public health or safety, or property of the Tribe or any of its members, or to others lawfully residing in the Hualapai Reservation, or where any delay would result in irreparable damage, the Non-Member may be immediately, temporarily excluded from the Hualapai Reservation by written order of any Hualapai Tribal Judge authorizing any Peace Officer to remove the Non-Member or any of his/her property from the Reservation, either before or after the Non-Member has been ordered Permanently Excluded from the Reservation, as provided in Sections 9.16 and 9.17. The Peace Officer executing such Emergency Temporary Exclusion order shall use only so much force as deemed necessary by the Peace Officer to effect removal of the Non-Member from the Hualapai Reservation. If service of the Notice of Proposed Permanent Exclusion has not already been made as provided for in Section 9.8 above, the Court shall cause the Peace Officer to serve the notice upon the Non-Member at the time of removal, or to effect service in accordance with Hualapai Law and Order code Section 4.5 as soon after removal as reasonably possible to the extent that Section 4.5 does not conflict with this Chapter 9. Any Emergency Temporary Exclusion order may only be for a period of time necessary for arrangements to be made for a Permanent Exclusion hearing, which shall be no longer than fifteen days from the date of the Emergency Temporary Exclusion.

Sec. 9.15 – Initiation of Civil Emergency Temporary Exclusion Proceedings.

An Ex Parte Motion may be made requesting an Emergency Temporary Exclusion Order prior to filing a Petition for Permanent Exclusion. The Court will consider the Ex Parte Emergency Temporary Exclusion request immediate to its filing and issue any orders deemed necessary and appropriate.

Sec. 9.16 – Proceedings for Emergency Temporary Exclusion Order.

Any Emergency Temporary Exclusion order may be made only upon the filing of a sworn motion or petition showing specific facts which, taken as true for the purpose of an order, show grounds for exclusion under Section 9.3 of this Chapter and which clearly and convincingly shows that the presence of the Non-Member within the Hualapai Reservation causes a danger to public health or safety.

- A. The sworn motion, petition or affidavits of witnesses in support of a petition or motion must give specific facts showing grounds for exclusion and danger to public health or safety, and broad conclusory statements will not provide grounds for an Emergency Temporary Exclusion Order.
- B. Any Non-Member may be subject to an immediate Emergency Temporary Exclusion Order without the filing of a Petition for Permanent Exclusion under this Chapter, but such Petition for Permanent Exclusion must be filed and served upon the Non-Member no less than ten days prior to a scheduled exclusion hearing.
- C. Proceedings for a Temporary Exclusion Order may be Ex Parte in nature without prior notice to the Non-Member, but any application for an Emergency Temporary Exclusion Order which is Ex Parte must show good cause why no notice was given or can be given.

- D. A Non-Member who is excluded from the Hualapai Reservation under an Emergency Temporary Exclusion Order may move the court to withdraw or modify the order at any time by telephone motion or a motion made by attorney. Any such motion may be ex parte, and the judge considering any telephone motion shall prepare minutes of the telephone conversation and file them the same date as the motion is made.
- E. If any Ex Parte Emergency Temporary Exclusion Order is granted for the Tribe; the Court shall instruct the manner in which the Non-Member proposed to be excluded shall enter the Hualapai Reservation for the purpose of attending his/her Permanent Exclusion hearing.

Sec. 9.17 – Contents of Emergency Temporary Exclusion Order.

An Emergency Temporary Exclusion order must contain the following information:

- A. The name and title of the person petitioning for the Emergency Temporary Exclusion order;
- B. A citation to the statute which the Non-Member has allegedly violated;
- C. A summary of the facts upon which the Emergency Temporary Exclusion order is based;
- D. A brief statement of the facts which show the person is a danger to public health or safety;
- E. Whether or not a petition has been filed for Permanent Exclusion and any order for the filing and service of such petition;
- F. The date, time and place for the Permanent Exclusion hearing;
- G. A clear order to not re-enter the Hualapai Indian Reservation until the time and date of the Permanent Exclusion hearing; and
- H. The manner in which the Non-Member proposed to be excluded shall enter the Hualapai Reservation for the purpose of attending his/her Permanent Exclusion hearing.

Sec. 9.18 – Enforcement of Orders of Exclusion and Sanctions for Non-Compliance

Any Non-Member ordered excluded from the Hualapai Reservation who does not comply with his/her Permanent Order of Exclusion or Emergency Temporary Exclusion Order from the Hualapai Indian Reservation, shall be subject to the following process: the Hualapai Police or other law enforcement official vested with the authority to enforce the laws of the Hualapai Tribe shall enforce any exclusion order by one or both of the following processes:

- A. **CRIMINAL ENFORCEMENT** - any law enforcement official vested with the authority to enforce the laws of the Hualapai Tribe shall immediately seize the Non-Member Indian who is not complying with their exclusion order from the Hualapai Indian Reservation and file criminal charges against him/her under either Section 6.242(C), Or Section 6.154(C) (this subsection 9.18(A) does not apply to Non-Indians); and/or
- B. **CIVIL CONTEMPT ENFORCEMENT** – any law enforcement official vested with the authority to enforce the laws of the Hualapai Tribe shall civilly detain the Non-Member Indian or Non-Member Non-Indian violating his/her exclusion order and hold him/her until the following processes are completed.
 - 1. Immediately submit a report and an affidavit to the Hualapai Prosecutor or Tribe's Attorney who will immediately initiate civil contempt proceedings under Chapter 8 of the Hualapai Law and Order Code against the non-compliant excluded Non-Member to be filed with the Tribal Court for immediate review;
 - 2. The Tribal Court shall review the Tribe's request immediately. Upon a filing with the court under this provision; the clerk of court shall deliver the request of the Tribe to the Tribal Court Judge notifying the Judge of the emergency nature of the filing and informing the Judge of the civil detainment; the Judge shall immediately convene an evidentiary hearing ordering law

enforcement officials civilly detaining the alleged offender to be brought before the court for the Court to determine whether the Non-Member violated the Court's Order of Exclusion.

- i. Should an emergency civil contempt hearing be demanded on a day when court is not open for regular business, the request of the Tribe may be received by the Court by electronic means (i.e. via email or facsimile) and the parties may convene the hearing by telephonic means as necessary to immediately review the merit of request of the Tribe and determine the disposition of the detained alleged non-compliant person.
- C. Upon a finding by the Tribal Court under 9.18 (b) above that the lawfully excluded Non-Member has violated his/her exclusion order; the Tribal Court shall impose the following sanction(s):
 1. If the Tribe acted under the provision of 9.18 (a) above; the applicable criminal penalties at either Section 6.242(C), Or Section 6.154(C) shall apply; upon completion of any imprisonment term, the Hualapai Adult Detention Director must notify the Hualapai Law Enforcement Chief who shall arrange to escort the Non-Member off the Hualapai Reservation upon his/her release from Hualapai Adult Detention Center.
 2. If the Tribe acted under the Section of 9.18(b); the applicable civil penalties that may be imposed shall be as follows:
 - i. The original exclusion order may be modified to a Permanent Exclusion Order from the Hualapai Indian Reservation for failure to comply with his/her Emergency Temporary Exclusion Order; and
 - ii. The non-compliant offender shall pay any reasonable expenses incurred by the Tribe to remedy the non-compliance; and
 - iii. A fine up to \$500; and
 - iv. Imprisonment as deemed necessary and appropriate to gain compliance by the offender with any court order related to a non-compliance action including but not limited to collection of fines or costs imposed for non-compliance; and
 - v. The appropriate jurisdictional authority having criminal jurisdiction over such offender is notified that the offender criminally trespassed upon the Hualapai Reservation under Hualapai Law and Order Code Section 6.154(C).
 - vi. The non-compliant offender shall be escorted off the Hualapai Reservation by Hualapai Law Enforcement Officials or other law enforcement officials vested with the authority to enforce the laws of the Hualapai Tribe and may be transferred into the custody of the appropriate jurisdictional authority having criminal jurisdiction over such offender.

Sec. 9.19 – Priority on Court Dockets.

Actions for exclusion shall take priority over all normal matters on court dockets.

Sec. 9.20 – Appeals.

Appeals from orders excluding individuals from the Hualapai Reservation shall be filed within 10 days of the date of the final order or judgment and shall take precedence over all ordinary appellate cases and shall be set for hearing at the time of the filing of the appeal. The Court of Appeals may order a short briefing schedule in order to expedite the appeal.

Sec. 9.21 – Forms.

The Chief Judge may adopt court forms or model forms to implement these rules at any time.

Hualapai Law and Order Code CHAPTER 6, SEC. 6.242**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.
- C. It shall be unlawful for any person excluded from the Hualapai Indian Reservation, pursuant to provisions of Chapter 9, to disobey any term of his/her Exclusion Order or Temporary Exclusion Order from the Hualapai Indian Reservation.

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.

Special release conditions for an alleged violation of Sec. 6.242(C): the Tribal Court must set or conduct an immediate detention hearing if the offender has denied the charge and further proceedings are scheduled. The Court will consider the strength of the Tribe's case to determine if the offender must be remanded pending the further scheduled proceedings. The Court may take judicial notice of its exclusion order and the fact of the defendant's presence on the Hualapai Reservation as prima facie evidence to set bond to secure the defendant's future appearance. The bond shall be set in a reasonable amount that will assure the defendant's appearance and not exceed two times the amount of the fine that could be imposed; the Court may remand a defendant without bond if the evidence shows there is no reasonable assurance the defendant will appear for future proceedings. If the defendant posts bond; the Court shall provide for orders directing the Detention Center Director to immediately notify law enforcement officials so the defendant may be escorted off the Hualapai Reservation; the Tribal Court shall also inform the defendant the conditions upon which he is to return for any future court proceedings.

HUALAPAI LAW AND ORDER CODE 6.154

Sec. 6.154 Trespass

It shall be unlawful for any person to willfully:

- 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's agent, upon the property of another; or
- C. Violate an Exclusion Order or Temporary Exclusion Order from the Hualapai Indian Reservation.

HUALAPAI TRIBAL COUNCIL
RESOLUTION NO. 90-2016
OF THE GOVERNING BODY OF THE
HUALAPAI TRIBE OF THE HUALAPAI RESERVATION

(Amendment to Chapter 10, Section 10.10 A-E of the Hualapai Law and Order Code)

WHEREAS, the Hualapai Tribal Council is the governing body of the Hualapai Tribe and is empowered by the Hualapai Constitution to legislate in matters regarding the Hualapai Court of Appeals.

WHEREAS, The Tribal Council Enacted Chapter 10, Section 10.10 A-E, Duties of the Chief Justice in order to institutionalize the position and provide general direction.

WHEREAS, Chapter 10, Section 10, 10.10 C, of the Law and Order Code states, *"The Chief Justice's powers and duties shall include, (c) Filling any vacancy in a judicial panel by either selecting another Justice for the panel or by appointing a visiting judge or judges with qualifications corresponding to those of the absent members of the panel."*

WHEREAS, Article VII, Section 7 of the Hualapai Constitution states in part, "The Hualapai Court of Appeals shall consist of one or more judges **selected in sequential order from a list of available Court of Appeals Judges compiles by the Tribal Council**".

WHEREAS, The Chief Justice cannot appoint a visiting judge to sit in the panel and the judge must be on the 'list' of available Court of Appeals judges.

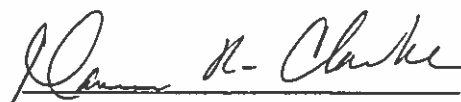
WHEREAS, Chapter 10, Section 10.10 (c) of the Law and Order Code must be revised in order to correspond with the Hualapai Constitution.

NOW THEREFORE, BE IT RESOLVED, that the Hualapai Tribal Councils hereby revises Chapter 10, Section 10.10 (c) of the Law and Order Code.

BE IT FURTHER RESOLVED, that the second clause of Section 10.10 (c) shall be revised to simply read "The Chief Justice's powers and duties shall include filling any vacancy in a judicial panel by selecting another judge for the panel from the list of available Court of Appeals judges".

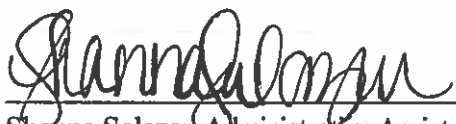
C E R T I F I C A T I O N

I, the undersigned as Chairman of the Hualapai Tribal Council hereby certify that the Hualapai Tribal Council of the Hualapai Tribe is composed of nine (9) members of whom (9) constituting a quorum were present at a **Special Council Meeting** thereof held on this **2nd Day of November, 2016;** and that the foregoing resolution was duly adopted by a vote of **9 approve, 0 opposed, 0 not voting, 0 excused;** pursuant to authority of Article V, Section (a) of the Constitution of the Hualapai Tribe approved March 13, 1991.



Damon Clarke, Chairman
Hualapai Tribal Council

ATTEST:



Shanna Salazar, Administrative Assistant
Hualapai Tribal Council

**HUALAPAI TRIBAL COUNCIL
RESOLUTION NO. 54-2013
OF THE GOVERNING BODY OF THE
HUALAPAI TRIBE OF THE HUALAPAI RESERVATION**

(Modification to Law & Order Code, Chapter 15, Animal Control, Section 15.9)

- WHEREAS,** authority is vested in the Hualapai Tribal Council by the Constitution approved March 31, 1991; and
- WHEREAS,** the Council adopted on June 2004, Chapter 15, Animal Control, Sections 15-1 through 15-9 for the regulation of animals on the Hualapai Reservation; and
- WHEREAS,** *Section 15.9 Fees, Policies and Procedures* currently states; "The Hualapai Tribal Council will review annually, fees for licensing and will develop policies and procedures regarding animal control".
- WHEREAS,** this section shall establish daily fees separate from those who are liable for violations as order by the Tribal Court of the Animal Control Ordinance as follows:

"Section 15.9 Fees

A. the Hualapai Tribal Council will review Fees for Licensing and Boarding, and policies and procedures as recommended by Hualapai Animal Control.

B. All Fees for the Animal Control Program will be paid to the Hualapai Tribe.

Fees are based on the following:

1. License/Tag Registration: Annual Fee \$10.00 per canine

License will be renewed annually through the Hualapai Tribe. The fee may be waived if the owner of the animal can provide proof that the animal has been spayed/neutered. No animal will be licensed without proof of current vaccinations and immunizations of dogs and cats, four months of age and older must be vaccinated for rabies.

Reissued Tag Fee:

Any reissued tag (lost, stolen, replaced) during the annual period must pay replacement; regardless if the animal been spayed or neutered. Replacement fee will be \$5.00 per license tag.

Boarding Fee:

Any animal picked up and held at the animal control kennel, the responsible owner will be charged a boarding fee; Boarding Fee \$5.00 per day. Animals picked up will be released to the owner only after proof of licensing and payment of impoundment fees are provided.

No animal shall be held over seventy two hours, any animal held beyond the seventy two hour period (three days) shall be deemed abandoned and become property of the Hualapai Tribe; the animal will be accessed for adoption as recommend by the animal control officer.

2. Rabies Control Boarding Fee: Any canine (vaccinated or unvaccinated) that bites a person or animal must be confined for ten (10 days) rabies observation. Owner of the

animal quarantined for observations shall be charged a daily impoundment fee for the minimum of ten days. The owner will be responsible for the fee assessed during the quarantined period. Rabies control boarding fee: \$75.00

All boarding fees must be paid by the responsible owner at the conclusion of the observation quarantine period.

If any such animal is not redeemed by the owner within three days after the quarantine period ends, it shall be deemed abandoned and the animal may be euthanized by the animal control officer.

Animals involved in three or more offenses that involve bites against humans or attacks on other animals, ownership must be forfeited immediately and the animal become property of the Hualapai Tribe for the duration of the quarantine observation period. Following the ten day observation, the animal will be humanely euthanized.

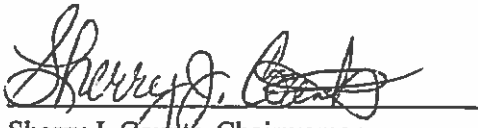
3. Surrender Fee: Any owner of a canine or feline may surrender their rights to an animal to circumstances beyond their control. Owner must sign a surrender waiver disclaimer provided by the animal control officer. Owner must pay a surrender fee in the amount of \$3.00 per animal excluding puppies and kittens under age of four months.

NOW, THEREFORE BE IT RESOLVED that the Hualapai Tribal Council approves the modification to Chapter 15, Animal Control Ordinance, Section 15.9 by establishing fees.

BE IT FURTHER RESOLVED, that Section 15.9 Fees, Policies and Procedures shall remain in effect for the life of the Hualapai Tribal Law and Order Code enacted June 1, 2004.

CERTIFICATION

I, the undersigned as Chairwoman of the Hualapai Tribal Council hereby certify that the Hualapai Tribal Council of the Hualapai Tribe is composed of nine (9) members of whom (9) constituting a quorum were present at a Regular Council Meeting thereof held on this 5th day of August, 2013; and that the foregoing resolution was duly adopted by the affirmative vote of (5)- in favor, (1)- opposed, (2) not voting. (1) excused, pursuant to the authority of Article V, Section (a) of the Constitution of the Hualapai Tribe approved March 13, 1991.


Sherry J. Counts, Chairwoman
HUALAPAI TRIBAL COUNCIL

ATTEST:


Ronald TwoBulls, Secretary

**HUALAPAI TRIBAL COUNCIL
RESOLUTION NO. 53-2013
OF THE GOVERNING BODY OF THE
HUALAPAI TRIBE OF THE HUALAPAI RESERVATION**

(Modification to Law & Order Code, Chapter 15, Animal Control, Section 15.2A)

- WHEREAS,** authority is vested in the Hualapai Tribal Council by the Constitution approved March 31, 1991; and
- WHEREAS,** the Council adopted on June 2004, Chapter 15, Animal Control, Sections 15-1 through 15-9 for the regulation of animals on the Hualapai Reservation; and
- WHEREAS,** *Section 15.2(H) GENERAL ANIMAL CONTROL currently states "Following the adoption of this code, dogs will be limited to two per residence. Those currently owning more than two dogs will be excused from this requirement for the life of the current dog(s), but those animals must be licensed through the Hualapai Tribe. This does not apply to those living in Tribal housing, where a two pet limit is already in effect. Excessive animal may be confiscated and humanely destroyed by an animal control office."*

This section shall be modified to read the following to ensure vaccinations are administered by an animal control officer or veterinarian.

"Dogs will be limited to two per residence, animals must be licensed through the Hualapai Tribe; however excessive animals may be confiscated and become property of the Hualapai Tribe; the animal(s) will be accessed for adoption as recommended by the animal control officer."

- WHEREAS,** Section 15.2 (H) provides enforcement of the two pet ordinance.

NOW, THEREFORE BE IT RESOLVED that the Hualapai Tribal Council approves the modification to Chapter 15, Animal Control Ordinance, Section 15.2 (H) as follows:

"Dogs will be limited to two per residence, animals must be licensed through the Hualapai Tribe; however excessive animals may be confiscated and become property of the Hualapai Tribe; the animal(s) will be accessed for adoption as recommended by the animal control officer."

BE IT FURTHER RESOLVED, that Section 15.2(H) General Animal Control shall remain in effect for the life of the Hualapai Tribal Law and Order Code enacted June 1, 2004.

CERTIFICATION

I, the undersigned as Chairwoman of the Hualapai Tribal Council hereby certify that the Hualapai Tribal Council of the Hualapai Tribe is composed of nine (9) members of whom (9) constituting a quorum were present at a Regular Council Meeting thereof held on this 5th day of August, 2013; and that the foregoing resolution was duly adopted by the affirmative vote of (5)- in favor, (1)- opposed, (2) not voting, (1) excused, pursuant to the authority of Article V, Section (a) of the Constitution of the Hualapai Tribe approved March 13, 1991.

ATTEST:

Ronald TwoBulls
Ronald TwoBulls, Secretary

Sherry J. Counts
Sherry J. Counts, Chairwoman
HUALAPAI TRIBAL COUNCIL

**HUALAPAI TRIBAL COUNCIL
RESOLUTION NO. 52-2013
OF THE GOVERNING BODY OF THE
HUALAPAI TRIBE OF THE HUALAPAI RESERVATION**

(Modification to Law & Order Code, Chapter 15, Animal Control, Section 15.3A)

- WHEREAS,** authority is vested in the Hualapai Tribal Council by the Constitution approved March 31, 1991; and
- WHEREAS,** the Council adopted on June 2004, Chapter 15, Animal Control, Sections 15-1 through 15-9 for the regulation of animals on the Hualapai Reservation; and
- WHEREAS,** *Section 15.3(A) Rabies Control currently states "All domesticated animal four month of age and older of a species susceptible to rabies must have a rabies vaccination from a licensed veterinarian."*

This section shall be modified to read the following to ensure vaccinations are administered by an animal control officer or veterinarian.

"All domesticated animal four month of age and older of a species susceptible to rabies must have a rabies vaccination provided on the Hualapai Reservation and administered by a licensed veterinarian or an Animal Control Officer as recognized by the Hualapai Tribal Council".

- WHEREAS,** Section 15.3 (A) provides and ensures all canines will receive the rabies vaccination for the wellbeing of the animals and health and safety of the community members of the reservation.

NOW, THEREFORE BE IT RESOLVED that the Hualapai Tribal Council approves the modification to Chapter 15, Animal Control Ordinance, Section 15.3 (A) as follows:

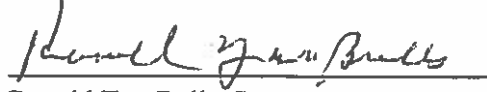
"All domesticated animal four month of age and older of a species susceptible to rabies must have a rabies vaccination provided on the Hualapai Reservation and administered by a licensed veterinarian or an Animal Control Officer as recognized by the Hualapai Tribal Council".

BE IT FURTHER RESOLVED, that Section 15.3(A) Rabies shall remain in effect for the life of the Hualapai Tribal Law and Order Code enacted June 1, 2004.

C E R T I F I C A T I O N

I, the undersigned as Chairwoman of the Hualapai Tribal Council hereby certify that the Hualapai Tribal Council of the Hualapai Tribe is composed of nine (9) members of whom (9) constituting a quorum were present at a **Regular Council Meeting** thereof held on this 5th day of August, 2013; and that the foregoing resolution was duly adopted by the affirmative vote of (7) in favor, (1) not voting, (1) excused, pursuant to the authority of Article V, Section (a) of the Constitution of the Hualapai Tribe approved March 13, 1991.

ATTEST:


Ronald TwoBulls, Secretary


Sherry J. Counts, Chairwoman
HUALAPAI TRIBAL COUNCIL

**HUALAPAI TRIBAL COUNCIL
RESOLUTION NO. 38-2013
OF THE GOVERNING BODY OF THE
HUALAPAI TRIBE OF THE HUALAPAI RESERVATION**

WHEREAS, the Hualapai Tribe is presently operating its Domestic Violence Program under an outdated Domestic Violence Code; and

WHEREAS, considerable time and work has been expended by the Domestic Violence Task Force in working to develop and finalize a new Hualapai Domestic Violence Code based on the community's needs, as amended; and

WHEREAS, a 30 day comment period regarding the amendments was given and a public meeting was held on April 11, 2013.

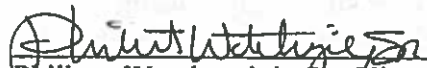
NOW, THEREFORE, BE IT RESOLVED, that the Hualapai Tribal Council assembled this 23rd day of May 2013, does hereby approve the attached revised Ordinance 7, Hualapai Domestic Violence Code, and hereby adopts said revised and updated Domestic Violence Code to be used to govern the administration of the justice for domestic violence crimes, to ensure civil protections for domestic violence victims, and to promote healing for those who are convicted of domestic violence crimes.

BE IT FURTHER RESOLVED, that this revised Ordinance 7, Hualapai Domestic Violence Code, supersedes and replaces any and all prior Hualapai Domestic Violence Codes.


BE IT FURTHER RESOLVED, that this revised Ordinance 7, will go into effect midnight, June 20, 2013.

C E R T I F I C A T I O N

I, the undersigned as Vice-Chairman of the Hualapai Tribal Council hereby certify that a Hualapai Tribal Council of the Hualapai Tribe is composed of nine (9) members of whom 7 constituting a quorum were present at a **SPECIAL COUNCIL MEETING** thereof held on this **23rd day of May, 2013**; and that the foregoing resolution was duly adopted by a vote of 6 in favor, 0 opposed, 1 not voting, 2 vacant pursuant to authority of Article V, Section (a) of the Constitution of the Hualapai Tribe approved March 13, 1991.


Philbert Watahomigie Sr., Vice Chairman
Hualapai Tribal Council

ATTEST:


Ronald TwoBulls, Secretary
Hualapai Tribal Council

Pertains to
Chapter 7

CHAPTER 7
DOMESTIC VIOLENCE

Amended May 2013

Sec. 7.1 Findings and Intent

The Hualapai Tribal Council finds that:

- domestic violence is a serious crime;
- domestic violence is NOT traditionally acceptable; and
- domestic violence is a danger to the mental, physical and cultural well-being of people on the Hualapai Reservation.

It is the intent of the Hualapai Tribe:

- to break the generational cycle of domestic violence;
- to protect families;
- to hold offenders accountable, with responsible, fair sentencing and treatment;
- to foster wellness and healthy relationships within families;
- to utilize both our criminal and our civil jurisdiction over domestic violence offenses;
- to protect Hualapai culture and tradition; and
- to work towards eliminating domestic violence.

Sec. 7.2 Definitions

- A. "Abuse means (1) intentionally, recklessly, or negligently causing or attempting to cause physical harm, emotional harm, or mental anguish to another person; (2) intentionally, willfully, or knowingly causing or attempting to cause financial harm to any person; or (3) threatening or placing another person in reasonable apprehension of imminent serious physical injury.
- B. "Counseling" means services provided by any authorized program that provides services for, but not limited to domestic violence, alcohol and drug rehabilitation, parenting, and mental health education.
- C. "Court" means the Hualapai Tribal Court or the Hualapai Court of Appeals.

- D. "Domestic Violence" means abuse, mental anguish, physical harm, bodily injury, assault, or the infliction of reasonable fear of bodily injury between family or household members, or sexual assault of one family or household member by another. "Domestic Violence" does not include acts of self-defense reasonably taken in response to acts of domestic violence or acts taken in defense of another reasonably taken in response to acts of domestic violence.
- E. "The Hualapai Domestic Violence Shelter" means is a location which provides emergency housing-and protection for victims of, domestic violence
- F. "Family or Household Member" means spouses, former spouses, intimate partners, former intimate partners, same sex partners, domestic partners, parents, grandparents, children siblings, half-siblings, cousins, aunts, uncles, and any persons presently residing together or who have resided together, or who have a child in common regardless of whether they have been married at any time.
- G. "Financial Exploitation" means the act or process of using any person, their resources, or their real or personal property for another person's profit, advantage, gain, or for monetary or personal benefit without legal entitlement to do so.
- H. "Mandatory arrest" means a peace officer shall arrest, with or without a warrant, if there is probable cause to believe the person to be arrested has committed an offense of domestic violence, as defined by this Chapter. The victim need not sign a complaint for an arrest to occur. An arrest must be made even if such arrest may be against the expressed wishes of the victim.
- I. "Probable Cause" means the reasonable belief, based on the officer's observations, statements made by the parties involved, and witnesses, if any, that the suspect committed an act of domestic violence.
- J. "Mental Anguish" means causing a person psychological or emotional damage by physical or verbal intimidation, making threats, verbal abuse, physical abuse, harassment, stalking, or any contact that is detrimental to the psychological and mental well-being of that person or any other family or household member, characterized by behavioral change or physical symptoms.
- K. "Order of Protection" means a Court order granted for the protection of victims of domestic violence.
- L. "Physical Harm" means any unlawful physical contact or the impairment of physical condition. Physical harm does not include harm inflicted in self-defense.

- M. "Perpetrator" means a person who is alleged to have committed or has been convicted of committing an act of abuse or domestic violence on his or her family or household member.
- N. "Police Officer" or "Peace Officer" means a law enforcement officer of the Hualapai Tribal Police Department or other law enforcement officer having legal jurisdiction.
- O. "Primary, Physical Aggressor" means the person(s) who has caused or has threatened to cause significant physical or emotional harm to another in his or her family or household, as compared to other party(ies) involved. This is regardless of which party was the first aggressor. In determining whether one person is a primary physical aggressor, consideration shall include but is not limited to:
1. Prior history of domestic violence;
 2. The relative severity of the injuries inflicted on each person;
 3. The likelihood of future injury to each person;
 4. Whether one of the person acted in self-defense; and
 5. Relative ability to inflict harm between the parties involved.
- P. "Self-defense" means the protection of one's person against some injury attempted by another.
- Q. "Victim" means who has been subjected to domestic violence.

Sec. 7.3 Crime Involving Domestic Violence—Defined

- A. The purpose of this section ~~ordinance~~ is to clarify that domestic violence is a separate crime punishable separate and apart from the underlying crime, and to acknowledge that when the following crimes against a family or household member, a finding of such shall trigger the application of this section ~~ordinance~~. The crime of domestic violence occurs when a family or household member commits one or more of the following offenses against another family or household member.
1. Arson;
 2. Assault Offenses (Battery, Aggravated Assault, Simple Assault, and Intimidation);
 3. Burglary, Breaking and Entering;
 4. Destruction of Property, Damage, Vandalism of Property;

5. Homicide Offenses (Murder and Non-negligent Manslaughter, Negligent Manslaughter, and Justifiable Homicide);
6. Kidnapping, Abduction;
7. Sex Offenses, Forcible (Forcible Rape, Forcible Sodomy, Sexual Assault with an Object, and Forcible Fondling);
8. Stolen Property Offenses;
9. Financial Exploitation ~~Abuse Fraud or Misconduct~~;
10. Weapon Law Violations;
11. Disorderly Conduct;
12. Family Offenses, Non-Violent;
13. Stalking;
14. Trespass of Real Property;
15. Intoxication;
16. Harassment;
17. Home Invasion;
18. Violation of an Order of Protection.

- B. Committing the above stated offenses should not diminish the seriousness of domestic violence or take precedence over the crime of domestic violence since the intent of this Code is to prevent further acts of domestic violence. The commission of one of the above-referenced crimes against a family or household member shall trigger the application of this Code, even if the criminal complaint is also charged as one of these offenses. The purpose of this Code is to address crimes committed against persons involved in an intimate relationship, as defined in Section 7.2(F).
- C. The use of alcohol in the committing of domestic violence or any crime related to domestic violence shall not diminish the seriousness of domestic violence or take precedence over the crime of domestic violence. The fact that the perpetrator was under the influence at the time of the offense shall not be utilized by law enforcement prosecution or the Court to mitigate the severity of the violence. Notwithstanding the definition in Section 7.2(A), voluntary intoxication, shall not be available as a defense to a perpetrator, nor shall it be utilized to lessen the consequences to the perpetrator.

Sec. 7.4 Penalties

- A. Criminal Penalties should be guided by the seriousness of the offense.

1. First Offense:

- a. Any person who commits an act of domestic violence defined by this Chapter shall be deemed guilty of the offense of domestic violence. A person convicted of a first offense of domestic violence may be imprisoned for a term not to exceed six months, and may be fined an amount not less than \$200 or more than \$1,000, or both such imprisonment and fine with costs and restitution to the victim. Mandatory counseling shall be part of sentencing as provided in Section 7.5 of this Chapter, as well as restitution when appropriate.
 - b. The Court may suspend the imposition of fines and imprisonment for the first offense and place the defendant on probation for not less than three months or more than one year. When a sentence is suspended, there must be complete and total compliance with the orders of the Court requiring completion of the domestic violence program and counseling. ~~as ordered.~~
2. Second Offense: A person convicted of a second offense of domestic violence within five years may be imprisoned for a term not to exceed one year and fined an amount not less than \$500 or more than \$3,000, or both such imprisonment and fine. Mandatory counseling shall be part of sentencing as provided in Section 7.5 of this Chapter, as well as restitution when appropriate.
3. Third and Subsequent Offenses: A person convicted of a third or subsequent offense of domestic violence within five years of the last conviction may be imprisoned for a term of not less than one year and fined an amount not less than \$1,000 or more than \$5,000, or both such imprisonment and fine. Mandatory counseling shall be part of sentencing as provided in Section 7.5 of this Chapter, as well as restitution when appropriate. A convicted person under this section 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.
4. For second and subsequent convictions, upon complete and total compliance with the orders of the Court requiring completion of the domestic violence program and/or counseling as ordered, the Court may suspend up to half of the imposition of fines and imprisonment for domestic violence offense(s). Provided: the perpetrator is placed on probation for not less than one year. Failure to comply with terms of probation shall result in the completion of the original sentence.
5. For third and subsequent convictions within five years, the Court may exclude a non-member defendant if the Court finds by clear and convincing evidence that the domestic violence is likely to continue unless either the defendant or victim leaves the Hualapai Reservation. The exclusion may last as long as the judge determines necessary.
6. Failure to attend counseling, violation of an order for protection, commission of any crime during the order for protection period, or violation of any condition of sentencing will result in a violation of probation and upon a finding of such shall

result in the imposition of a sentence no greater than the original sentence and require the perpetrator to complete the entire domestic violence program again.

7. Prosecution for the offense of domestic violence shall not preclude prosecution for any other offense arising from the same circumstances.
 8. A person convicted of domestic violence shall not be released from custody for community service or to attend funeral or wake services unless said services are for a member of the person's immediate family. Immediate family shall mean husband, wife, son, daughter, brother, sister, father, mother, or grandparent.
 9. In cases of failure to comply with the Court's orders of counseling under this section, the Court shall find the person in contempt, shall impose a sentence no greater than the original sentence for the offense, and again require the perpetrator to complete the entire counseling program upon release from jail.
- B. Civil Penalties. A person who is found guilty of domestic violence may be liable for a civil penalty not to exceed \$5,000, to be determined by the Court after a thorough review of the evidence and circumstances. In addition, restitution shall be required when appropriate
- C. Other Offenses; Entering Tribal Jurisdiction and Committing Domestic Violence.
1. A person who enters the tribal jurisdiction and commits an act of domestic violence and thereby causes injury to a family or household member, shall be considered to be in violation of Section 7.3 of this Chapter.
 2. A person who causes a family or household member to enter tribal jurisdiction as a result of domestic violence commits an act of domestic violence and shall be considered to be in violation of Section 7.3 of this Chapter.
- D. Other Conditions in Addition to Penalties.
1. In addition to the penalties above, the Court shall impose any condition it deems necessary to prevent further domestic violence, including but not limited to: restricting the defendant's ability to have contact with the victim and other family or household members and the requirement that defendant make periodic reports to the Court for the duration of the sentence and probation.
 2. A Peace Officer may remove any weapons or firearms that are in plain view or otherwise discovered during the domestic violence related investigation or are in the possession and control of the perpetrator. Such weapons may be subject of the forfeiture proceedings.

- E. Pre-sentencing evaluation. Prior to sentencing a person convicted under this Chapter for a domestic violence offense, the Court shall order a domestic violence evaluation or other personal evaluation deemed necessary upon motion of either party.

Sec. 7.5 Court Ordered Treatment and Counseling

- A. Alcohol and substance abuse. If alcohol, drugs, or other substance abuse, by perpetrator or victim, is a primary factor in the domestic violence arrest, a mandatory chemical dependency evaluation shall be conducted and complete cooperation with recommendations for treatment shall be considered by the Court.
- B. Mandatory Counseling.
 - 1. A person convicted of domestic violence shall be ordered to participate in appropriate counseling, which may include domestic abuse, substance abuse, or family counseling.
 - 2. The Court shall provide that qualified personnel will talk with the victim and discuss the availability of domestic violence services and groups.
- C. Substance Abuse by Victim: Referral to Social Services.
 - 1. If a peace officer has reason to believe that the victim of domestic violence has abused alcohol, drugs, or other substances, and such abuse contributed in part to a domestic violence incident which has occurred in the presence of a child(ren) under the care and control of such victim, the peace officer shall report the circumstances of the incident to Hualapai Human Services within 24 hours.
 - 2. Once Hualapai Human Services receives a report as provided in Subsection (C)(1), Hualapai Human Services shall commence an investigation of the home environment of the victim and the child(ren) within 48 hours and shall take appropriate action as provided in the Juvenile Code.
- D. Religious Consideration. Persons who practice a traditional Indian religion or any other religion may participate in additional counseling or ceremonies at their own expense, as appropriate to their sentence.
- E. Cost for Counseling or Other Treatment. The Court may order the person convicted of domestic violence to pay any cost for counseling or other treatment ordered pursuant to this Section.
- F. Follow-up Assessment
 - 1. A follow-up assessment shall be done at the completion of the mandated counseling.

2. A treatment provider shall do the assessment and shall forward a written copy of the findings and recommendations to the Court.
3. All treatment records will be sealed by the Court and may be reviewed only with written permission of the Judge.

Sec. 7.6 Procedure for Arrest and Disposition

A. Police Department

1. If probable cause exists as described in this Chapter, the officer shall arrest the perpetrator of domestic violence whether or not the victim signs a complaint and whether or not the arrest is against the expressed wishes of the victim.
2. Whenever a police officer investigates an allegation of domestic violence, whether or not an arrest is made, the officer shall make a written incident report of the alleged abuse and submit that report to the Office of the Tribal Prosecutor within 24 hours.
3. If a peace officer receives complaints of domestic violence from two or more persons, circumstances shall be evaluated to determine if there was a primary physical aggressor. If the officer finds that probable cause exists to show that one person was the primary physical aggressor, the officer shall arrest the primary physical aggressor.

B. Office of the Tribal Prosecutor

1. The Office of the Tribal Prosecutor shall evaluate the complaint based upon all available facts. A case shall not be dismissed solely on the grounds that the victim may be an uncooperative witness.
2. The Office of the Tribal Prosecutor shall make reasonable efforts to notify a victim of an alleged crime involving, domestic violence when the prosecutor has decided to decline prosecution of the crime or dismiss the criminal charges filed against the defendant.

C. Court

1. When a defendant is arrested, automatic orders of protection may be issued as provided in Section 7.9 of this Chapter.
2. Anyone immediately arrested under this Chapter shall be held in the custody of the Hualapai Tribal Detention Centers for a period not less than 24 hours as a mandatory "cooling off" period, regardless of when arraignment occurs.

3. Prior to the release of the defendant, the Court shall inform the Police Department, Designated Human Services Advocates, the Office of the Prosecutor, and the Health Department of the defendant's scheduled release date. If the defendant is released prior to conviction or trial, the Court shall immediately notify the above-mentioned agencies of his/her release.
4. Prior to release of the defendant, the Court shall provide for information to the victim regarding the availability of domestic violence services and groups, or refer the victim to appropriate service providers.
5. Because of the serious nature of domestic violence:
 - a. Disposition of cases shall not be delayed or dismissed because of concurrent dissolution of marriage proceedings or other civil actions;
 - b. Any requirement that the victim's location be disclosed shall be waived and communication to victim regarding the domestic violence case shall be conducted through the victim's advocate or the Court;
 - c. Docket sheets of criminal actions arising from acts of domestic violence shall be identified by any reasonable means.

Sec. 7.7 Duties of Peace Officers

- A. Primary duty of officers. The primary duty of officers when responding to a domestic violence situation is to enforce the laws and ensure victim safety.
- B. Notification to victim. If the victim is present when the officer arrests a person for domestic violence, the officer shall advise the victim of reasonable means to prevent further abuse, the availability of a shelter and other services in the tribe, and give the victim immediate notice of any legal rights and remedies available in accordance with policies and protocols adopted in accordance with Section 7.9 of this Chapter.
 1. The victim shall be furnished with a copy of the following statement: "If you are a victim of domestic violence, the Office of the Tribal Prosecutor will be notified of the incident and they shall determine whether to file charges against your abuser. An emergency order of protection will be issued against your abuser at the time of the arrest or at your request. You also have the right to go to Court or the Domestic Violence Program and file a petition requesting any or all of the following temporary orders for relief:
 - b. Any order restraining your abuser from abusing, harassing, stalking, threatening, annoying, telephoning or otherwise contacting you and committing other acts of domestic violence.

- c. Any order directing your abuser to leave your household and to stay away with no contact.
 - d. Any order preventing your abuser from removing any property from your household except for clothing and other such personal effects which may only be removed when the abuser is accompanied by a peace officer.
 - e. Any order awarding you custody or visitation of a minor child or children.
 - f. Any order specifying arrangements for visitation by your abuser, including required supervised visitation.
 - g. Any order restraining your abuser from harassing or interfering with minor children in your custody.
 - h. Any order directing the party not granted custody to pay support of minor children or to pay support of the other party if there is already a legal obligation to do so, and
 - i. Any order protecting other family and household members.”
- C. Protection of the Victim. A peace officer responding to an allegation of domestic violence shall use all reasonable means to protect the victim and prevent further violence, including but not limited to:
- 1. Taking action necessary to provide for the safety of the victim and any family or household member.
 - 2. Transporting or obtaining transportation for the victim or any minor child (or children) to a temporary shelter.
 - 3. Assisting the victim and any minor child (children) in obtaining immediate medical treatment, including obtaining transportation to a medical facility.
 - 4. Issuing an emergency order of protection pursuant to 7.9(E)(2).
- D. Notification of Release of a Perpetrator. When a perpetrator is scheduled to be released from custody, the Police Department and/or Tribal Prosecutor shall make reasonable efforts to notify the victim prior to, or upon release of, the perpetrator from custody.

Sec. 7.8 Special Court Rules

In addition to the Rules of Court generally applicable to such proceedings, the Court is authorized to take the following actions in a proceeding, involving alleged domestic violence offenses.

- A. **Conditions of Release.** The Court shall, at the earliest stage of the proceedings, impose release conditions restraining the accused from committing further acts of violence against the alleged victim or any other person, regardless of whether the Court orders bond release, recognizance release, or denies bond.
- B. **Arraignment.** At the arraignment, any domestic violence victim advocate may accompany the alleged victim to the hearing and may accompany the victim to all other subsequent hearings.
- C. **Admissibility of Victim's Allegations.** Any written statement made by the alleged victim under oath and signed by the victim describing the alleged acts of domestic violence shall not be considered inadmissible solely because of an hearsay objection, but shall be subject to ordinary judicial analysis for admissibility of evidence in the Tribal Court.
- D. **Victim Impact Statement.** When offered to the Court, input from the victim shall be considered when determining the sentence to be imposed.
- E. **Conviction.** Upon conviction, the perpetrator shall be ordered to participate in an appropriate counseling program.
- F. **Failure to Comply with Court Order.** Failure to comply with a court order requiring a perpetrator to attend and cooperate in evaluation and/or undergo treatment, as described in a treatment plan, shall constitute contempt of court punishable as such. The Court may also order the imposition of any sentence that has been suspended.
- G. **Documents.** The Court shall provide all civil court documents requested by victims' advocates entered on the case.

Sec. 7.9 Civil Orders of Protection

Any person may seek relief under this section by filing a petition, as a civil action, with the Court, alleging that the person has been a victim of domestic violence committed by the Respondent. The person may petition for relief on behalf of himself or herself and on behalf of minors within the family or household members.

- A. **Availability of Civil Petition for Orders of Protection in General.**
 - 1. A civil petition to obtain an Order of Protection under this section may be filed by:
 - a. Any person claiming to be the victim of domestic violence;
 - b. Any family member or household member of a person claimed to be the victim of domestic violence on behalf of the alleged victim;
 - c. A police officer/peace officer;

- d. A Victim Advocate; or
 - e. The Tribal Prosecutor.
2. A Petition shall briefly describe the incident(s) of domestic violence and shall be a verified petition or supported by an affidavit made under oath stating the specific facts and circumstances justifying the requested order.
- a. No filing fees shall be required for filing a petition nor shall a bond be required to obtain relief under this section.
 - b. The Petitioner, or the victim on whose behalf a petition has been filed, is not required to file for annulment, separation, or divorce as a prerequisite to obtaining an order of protection.
 - c. Standard petition forms with instructions for completion shall be available upon request from the Court Administrator.
 - d. Mutual restraining orders of protection are permitted as determined by the Court.
 - e. An order for protection does not preclude the rights of any party or child which are to be adjudicated at subsequent hearings in the proceeding.
 - f. An order for protection may be revoked, modified, or extended.
 - g. An order for protection may be presented in a proceeding for the modification of an existing order, judgment, or decree.

B. Procedure for Issuance of an Order of Protection in General

- 1. The order shall include the immediate granting of an ex parte order of protection based on the specific facts stated under oath, and if the Court has reasonable cause to believe that the Petitioner, or the person on whose behalf the petition is filed, is the victim of an act of domestic violence committed by the Respondent.
- 2. Within five days of the issuance of an ex parte order, excluding holidays and weekends, a hearing shall be held to determine whether the order should be vacated, extended for an additional period of time, made permanent, or modified in any respect, with reasonable notice to the Respondent.
- 3. If the Court does not find sufficient reasonable cause to grant an ex parte order, the Court shall serve notice to appear upon both parties and hold a hearing on the

Petition for an Order of Protection within five days after the filing of the Petition, excluding holidays and weekends.

4. An Order of Protection granted pursuant to this section shall be forwarded by the Court to the Police Department within 24 hours of issuance. In the case of an emergency Order for Protection, it shall be filed immediately upon issuance. The Police Department shall make available to each officer information as to the existence and status of every Order for Protection issued under this section.

C. Content of an Order of Protection in General

1. An Order of Protection shall include provisions:

- a. Restraining the Respondent from committing any acts of domestic violence.
- b. Restraining the Respondent from harassing, stalking, threatening, telephoning, any form of electronic contact or otherwise contacting, the Petitioner, directly or indirectly, or engaging in any other conduct that would place any named family or household members in reasonable fear of bodily injury.
- c. Prohibiting the use, attempted use, or threatened use of physical force that would reasonably be expected to cause bodily injury.
- d. Restraining Respondent from receiving, possessing, or transporting a firearm or ammunition.
- e. Restraining one or both parties from transferring, removing, encumbering, mortgaging, concealing, disposing, altering of property except as authorized by the Court for all authorized transfers, encumbrances, disposition, and expenditures.
- f. Notifying the parties involved that the knowing violation of any provision of the order may constitute contempt of court punishable by fines, imprisonment, or both.

2. An Order of Protection may include any other relief the Court deems appropriate, including but not limited to:

- a. Excluding the Respondent from the residence of the victim (whether or not the Respondent and the victim share the residence), school, place of employment, or a specified place frequented by the Petitioner and any named family or household member.

- b. Awarding temporary child custody, temporary child support, or establishing temporary visitation rights of the minor children of the parties, with the primary consideration of the least disruption of the children, including, but not limited to, health, safety, education, and normal routines of the children.
- c. If visitation is granted, there shall be set rules for exchange of children for visitation, including but not limited to times, places, persons, and the non-custodial parent may be required to post a bond as determined by the Court.
- d. Ordering temporary possession and use of the parties' property.
- e. Ordering the Respondent to make timely payments on existing debts of the Respondent, including mortgage or rental payments and necessary utilities in order to maintain the petitioner in their residence.
- f. Ordering other lawful relief as the Court deems necessary for the protection of the victim of domestic violence, including orders or directives to the Police Department or other appropriate departments and programs.

D. Duration and Amendments to Orders of Protection in General

- 1. An Order of Protection shall be enforced until further order of the Court, but not to exceed 180 days and may be subject to amendment for extension at the discretion of the Court or at the request of one of the parties.
- 2. The Court may, in its discretion, conduct a review of the Order of Protection at the request of the parties.

E. Emergency Orders of Protection

- 1. During the hours that the Court is closed, the Court shall provide for the availability of a judge or other authorized personnel who shall authorize the issuance of emergency and temporary orders for protection by any appropriate and effective method.
- 2. If a judge is unavailable to issue an emergency order of protection after Court hours and probable cause exists, any police officer has the authority to issue emergency orders of protection.

- a. The Court shall have an internal procedure in place that ensures that such emergency orders of protection are assigned a docket number once the Court has reopened.
3. If an officer, for any reason, cannot make an arrest under Section 7.6 of this Chapter, but states there is probable cause to believe a person is in immediate and present danger of domestic violence, the judge or other person authorized to issue emergency Orders for Protection may issue an ex parte Order of Protection if such authorized person finds that the officer's grounds are reasonable.

F. Violation of Order of Protection

1. A violation of an Order of Protection is a crime under Chapter 7.
2. In addition to any other penalties available under law or equity, a person, who knowingly violates, or a person who aides and abets another person to knowingly violate an Order of Protection is guilty of an offense and shall be sentenced to a maximum of six months imprisonment or fined an amount not to exceed \$4,000, or both.
3. A person who enters tribal jurisdiction with the intent to engage in conduct that violates the portion of a protection order shall be punished as provided in Subsection (F)(2) above.
4. A person in violation of a valid protection order issued by any court who causes a family or household member to enter tribal jurisdiction shall be punished as provided in Subsection (F)(2).

Sec. 7.10 Reporting of Domestic Violence

- A. **Reporting Requirements.** Any physician, physician's assistant, nurse, community health representative, social worker, dentist, school teacher, adult services worker, peace officer, substance abuse counselor, or domestic violence program worker who has reasonable basis to believe that a person has been a victim of domestic violence shall report in accordance with Subsection B of this section.
- B. **Report to Law Enforcement.** The report required by Subsection A. of this section shall be made orally and immediately by telephone or otherwise to a peace officer.
- C. **Immunity for Reporting.** Except for malicious acts as described under Subsection D of this section, a person making a report pursuant to this section in good faith shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed and shall have the same immunity with respect to participation in any Court proceeding resulting from such a report.

D. Penalties for Failure to Report or False Reports:

1. Any person who knowingly fails to make a report required under this section is guilty of an offense and shall be imprisoned for a term of not more than 30 days and shall be fined an amount not less than \$100 nor more than \$300, or both.
2. A person who knowingly and intentionally makes a false report or who coerces another person to make a false report of domestic violence is guilty of an offense and shall be sentenced to jail not to exceed 30 days or fined an amount not to exceed \$500, or both.
3. A person not subject to the criminal jurisdiction of the Hualapai Tribal Court, but who violates either Subsections A or B above, is liable for a civil offense and shall be fined not more than \$1,000.

Sec. 7.11 Disclosure of Domestic Violence Shelters

Any person who knowingly publishes, disseminates or otherwise discloses the location of any domestic violence shelter or any place designated as a domestic violence shelter, as defined in Section 7.2, without proper authorization is guilty of a crime and shall be sentenced to jail not less than five days or more than 30 days, or fined an amount not less than \$100 or to exceed \$500, or both.

Sec. 7.12 Jurisdiction

- A. The Hualapai Tribe shall exercise original jurisdiction over, and the provisions of this Chapter shall extend to, all area and persons. The Hualapai Tribe shall exercise jurisdiction over all persons within the territorial jurisdiction of the Hualapai Reservation. Nothing in Chapter shall be construed or read to diminish the jurisdiction of the Hualapai Tribe.
- B. (EFFECTIVE MARCH 7, 2015 AND ONLY IF THE TRIBE HAS ADOPTED THE TRIBAL LAW AND ORDER ACT)

Special Domestic Violence Jurisdiction. The Hualapai Tribe shall exercise special domestic violence jurisdiction over an alleged non-Indian offender who (1) is alleged to have committed a domestic violence offense under this Code against a member of the Hualapai Tribe or an Indian who resides on the Hualapai Reservation; or (2) who violates an Order of Protection under this Code.

1. Alleged Offender. The Hualapai Tribe has special domestic violence jurisdiction over non-Indians who commits an act of domestic violence who:
 - a. reside on the Hualapai reservation;

- b. is employed on the Hualapai Reservation; or
 - c. is a spouse, intimate partner, or dating partner of a member of the Hualapai Tribe or an Indian who resides on the Hualapai Reservation.
- C. All individuals involved as the perpetrator of domestic violence, are subject to the mandatory arrest provisions of Section 7.6. If it is later determined by an official means a non-Indian person has been arrested, the non-Indian person may be released to the proper jurisdiction.
- D. Upon conviction, proceedings for removal and exclusion of the perpetrator shall be initiated by the Tribe with a finding that exclusion is a proper remedy to ensure the safety of the victim(s).
- E. Civil Penalties. A non-Indian person not subject to the criminal jurisdiction of the Criminal Court but who is found responsible of domestic violence is liable for a civil penalty not to exceed \$5,000.00, to be determined by the Court after a thorough review of the evidence and circumstances. In addition, restitution shall be required when appropriate.

Sec. 7.13 Judicial Enforcement of Foreign Protection Orders

- A. Full faith and credit. Pursuant to 18 U.S.C. § 2265, any protection order issued that is valid according to the standards contained in subsection B of this section by the court of a state or another Indian tribe shall be accorded full faith and credit by the District Court and the District Court shall enforce a valid foreign protection order as if it were issued by the District Court.
- B. Requirements for valid orders. A protection order issued by a State or another tribal court shall be valid if:
 - a. The issuing Court had jurisdiction over the parties and matter under the law of such State or Indian tribe; and
 - b. Reasonable notice and opportunity to be heard was given to the person against whom the order was sought sufficient to protect that person's right to due process. In the case of an ex parte order, notice and opportunity to be heard must have been provided within the time required by the State or tribal law, and in any event within a reasonable time after the order was issued, sufficient to protect the respondent's due process rights.

- C. Registration not required. Registration or filing of a foreign protection order shall not be a prerequisite for District Court enforcement of out-of-state or tribal orders of protection.

Sec. 7.14 Severability

If any part or parts, or the application of any part of this Chapter is held invalid, such holding shall not affect the validity of the remaining parts of the Chapter.

**HUALAPAI TRIBAL COUNCIL
RESOLUTION NO. 20-2012
OF THE GOVERNING BODY OF THE
HUALAPAI TRIBE OF THE HUALAPAI RESERVATION**


- WHEREAS,** the Hualapai Tribe of Arizona, is organized pursuant to the Indian Reorganization Act of 1934; and
- WHEREAS,** the Hualapai Tribal Council is the legal governing body of the Hualapai Indian Tribe, organized according to the Constitution and Bylaws of the Hualapai Indian Tribe; and
- WHEREAS,** on July 19, 2007 the Hualapai Tribe passed Resolution 23-2007 and elected by majority vote of the council to become a Sex Offender Registration and Notification Act (SORNA) compliant Registration Jurisdiction; and
- WHEREAS,** on July 9, 2011 the Hualapai Tribal Council passed Resolution No. 40-2011 that enacted the Hualapai Sex Offender Registration Code, codified at Sections 6.126 through 6.139 of the Hualapai Law and Order Code; and
- WHEREAS,** after a review of the Tribe's SORNA compliance package it was found that the Hualapai Sex Offender Registration Code adopted on July 9, 2011 needed further changes in order to comply with federal law.

NOW, THEREFORE, BE IT RESOLVED that the Hualapai Tribal Council hereby replaces the Hualapai Sex Offender Registration Code passed on July 9, 2011 via Resolution No. 40-2011 with the revised Code attached hereto as Exhibit A dated February 16, 2012.

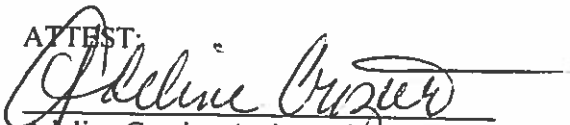
BE IT FURTHER RESOLVED, that the Chairperson and/or Vice-Chairperson of the Tribal Council is authorized to take all steps necessary to implement this resolution.

CERTIFICATION

I, the undersigned as Chairwoman of the Hualapai Tribal Council hereby certify that the Hualapai Tribal Council of the Hualapai Tribe is composed of nine (9) members of whom (7) constituting a quorum were present at a **Special Council meeting** thereof held on this 16th day of February, 2012; and that the foregoing resolution was duly adopted by a vote of (7) in favor, (0) opposed, (2) excused, pursuant to authority of Article V, Section (a) of the Constitution of the Hualapai Tribe approved March 13, 1991.


Louise Benson, Chairwoman
Hualapai Tribal Council

ATTEST:


Adeline Crozier, Assistant Secretary
Hualapai Tribal Council

HUALAPAI TRIBE SEX OFFENDER REGISTRATION CODE TABLE OF CONTENTS

| Title | | |
|-----------------|---|----|
| SECTION 6.126 | Purpose | 1 |
| SECTION 6.127 | Creation of Registries | 3 |
| SECTION 6.128 | Definitions | 3 |
| SECTION 6.129 | Covered Offenses | 3 |
| SECTION 6.130 | TIERING OF OFFENSES | 5 |
| SECTION 6.130 A | Tier I Offenses | 8 |
| SECTION 6.130 B | Tier II Offenses | 8 |
| SECTION 6.130 C | Tier III Offenses | 9 |
| SECTION 6.131 | REQUIRED INFORMATION | 10 |
| SECTION 6.131 A | General Requirements | 10 |
| SECTION 6.131 B | Criminal History | 10 |
| SECTION 6.131 C | Date of Birth | 11 |
| SECTION 6.131 D | DNA Sample | 11 |
| SECTION 6.131 E | Driver's Licenses, Identification Cards, Passports, and Immigration Documents | 11 |
| SECTION 6.131 F | Employment Information | 12 |
| SECTION 6.131 G | Finger and Palm Print | 12 |
| SECTION 6.131 H | Internet Identifiers | 12 |
| SECTION 6.131 I | Name | 12 |
| SECTION 6.131 J | Phone Numbers | 12 |
| SECTION 6.131 K | Picture | 12 |
| SECTION 6.131 L | Physical Description | 12 |
| SECTION 6.131 M | Professional Licensing Information | 13 |
| SECTION 6.131 N | Residence Address | 13 |
| SECTION 6.131 O | School | 13 |
| SECTION 6.131 P | Social Security Number | 13 |
| SECTION 6.131 Q | Temporary Lodging | 13 |
| SECTION 6.131 R | International Travel | 14 |
| SECTION 6.131 S | Offense Information | 14 |
| SECTION 6.131 T | Vehicle Information | 14 |
| SECTION 6.132 | REGISTRATION | 14 |
| SECTION 6.132 A | Where Registration Is Required | 14 |
| SECTION 6.132 B | Initial Registration | 15 |
| SECTION 6.132 C | Retroactive Registration | 15 |
| SECTION 6.132 D | Keeping Registration Current | 16 |
| SECTION 6.132 E | Failure To Appear For Registration and Absconding | 17 |
| SECTION 6.133 | VERIFICATION and APPEARANCE REQUIREMENTS | 18 |
| SECTION 6.133 A | Frequency | 18 |
| SECTION 6.133 B | Requirements for In Person Appearances | 19 |
| SECTION 6.133 C | Sex Offender Acknowledgement Form | 19 |
| SECTION 6.134 | PUBLIC SEX OFFENDER REGISTRY WEBSITE | 19 |
| SECTION 6.134 A | Website | 19 |
| SECTION 6.134 B | Required and Prohibited Information | 20 |
| SECTION 6.135 | COMMUNITY NOTIFICATION | 20 |
| SECTION 6.135 A | Law Enforcement Community Notification | 20 |
| SECTION 6.135 B | Community Notification | 20 |
| SECTION 6.136 | CRIMES AND CIVIL SANCTIONS | 21 |
| SECTION 6.136 A | Indians | 21 |

| | | |
|-------------------|---|----|
| SECTION 6.136 B | Non-Indians | 21 |
| SECTION 6.137 | UNLAWFUL USE OF REGISTRY INFORMATION | 21 |
| SECTION 6.137 A | Unlawful use of registry information for criminal act | 21 |
| SECTION 6.137 B | Unlawful use of registry information for criminal act by an Indian | 21 |
| SECTION 6.137 C | Unlawful use of registry information for criminal act by a Non-Indian | 21 |
| SECTION 6.138 | HINDERENCE OF SEX OFFENDER REGISTRATION | 22 |
| SECTION 6.138 A 1 | Knowingly harboring a sex offender | 22 |
| SECTION 6.138 A 2 | Knowingly assisting a sex offender | 22 |
| SECTION 6.138 A 3 | Providing false information on sex offender to Law Enforcement | 22 |
| SECTION 6.138 B | Violation of Sec. 138 A by an Indian | 22 |
| SECTION 6.138 C | Violation of Sec. 138 A by a Non-Indian | 22 |
| SECTION 6.139 | IMMUNITY | 22 |

SEX OFFENDER REGISTRATION

Sec. 6.126 Purpose

The intent of this code is to implement the federal Sex Offender Registration and Notification Act (SORNA) (Title I of Public Law 109-248) (42 USC 16901 et seq). and shall be interpreted liberally to comply with the terms and conditions of SORNA as presently written or hereafter amended. This Chapter supersedes and replaces Sec. 6.126 to 6.140 of the Hualapai Law and Order Code adopted on July 1, 2004.

Sec. 6.127 Creation of Registries

- A. Sex Offender Registry. There is hereby established a sex offender registry program, which the Hualapai Tribal Police Department shall maintain and operate pursuant to the provisions of this code, as amended.
- B. Public Sex Offender Registry Website. There is hereby established a public sex offender registry website, which the Hualapai Tribal Police Department shall maintain and operate pursuant to the provisions of this code, as amended.

Sec. 6.128 Definitions

The definitions below apply to Sections 6.126 through 6.139 of the Revised Law and Order Code:

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

A juvenile offender is "convicted" for purposes of this code if the juvenile offender is either:

1. Prosecuted and found guilty as an adult for a sex offense; or
 2. Is adjudicated delinquent as a juvenile for a sex offense, but only if the offender is 14 years of age or older at the time of the offense and the offense adjudicated was comparable to or more severe than aggravated sexual abuse (as described in either (a) or (b) of section 2241 of title 18, United States Code), or was an attempt or conspiracy to commit such an offense.
- B. Dru Sjodin National Sex Offender Public Website (NSOPW). The public website maintained by the Attorney General of the United States pursuant to 42 U.S.C. §16920.
 - C. Foreign Convictions. A foreign conviction is one obtained outside of the United States.

- D. Employee. The term "employee" as used in this code includes, but is not limited to, an individual who is self-employed or works for any other entity, regardless of compensation. Volunteers of a tribal agency or organization are included within the definition of employee for registration purposes.
- E. Immediate. "Immediate" and "immediately" mean within 3 business days.
- F. Imprisonment. The term "imprisonment" refers to incarceration pursuant to a conviction, regardless of the nature of the institution in which the offender serves the sentence. The term is to be interpreted broadly to include, for example, confinement in a state "prison" as well as in a federal, military, foreign, BIA, private or contract facility, or a local or tribal "jail". Persons under "house arrest" following conviction of a covered sex offense are required to register pursuant to the provisions of this code during their period of "house arrest".
- G. Jurisdiction. The term "jurisdiction" as used in this code refers to the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, the United States Virgin Islands, and any Indian Tribe that has asserted jurisdiction pursuant to Public Law 109-248 Section 127 of the SORNA (42 USC § 16927).
- H. Minor. The term "minor" means an individual who has not attained the age of 18 years.
- I. National Sex Offender Registry (NSOR). The national database maintained by the Federal Bureau of Investigation pursuant to 42 U.S.C. § 16919.
- J. Resides. The term "reside" or "resides" means, with respect to an individual, the location of the individual's home or other place where the individual habitually lives or sleeps.
- K. Sex Offense. The term "sex offense" as used in this code includes those offenses contained in 42 U.S.C. § 16911(5) (as amended) and those offenses commented in section 6.129 of this code or any other register able offense under Hualapai Tribal law.

An offense involving consensual sexual conduct is not a sex offense for the purposes of this code if the victim was an adult, unless the adult was under the custodial authority of the offender at the time of the offense, or if the victim was at least 13 years old and the offender was not more than 4 years older than the victim.

- L. Sex Offender. A person convicted of a sex offense is a "sex offender".
- M. Sexual Act. The term "sexual act" means:
1. contact between the penis and the vulva or the penis and the anus, and for purposes of this definition contact involving the penis occurs upon penetration, however slight;
 2. contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus;
 3. the penetration, however slight, of the anal or genital opening of another by a hand or finger or by any object, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person; or

4. the intentional touching, not through the clothing, of the genitalia of another person that has not attained the age of 18 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.
- N. Sexual Contact. The intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desires of any person.
 - O. SORNA. The "SORNA" refers to the Sex Offender Registration and Notification Act as provided in Title I of the Adam Walsh Child Protection and Safety Act of 2006, P.L. 109-248 (as codified at 42 U.S.C. § 16901 *et. seq.*).
 - P. Student. A "student" is a person who enrolls in or attends either a private or public education institution, including a secondary school, trade or professional school, or an institution of higher education.
 - Q. Sex Offender Registry. The term "sex offender registry" means the registry of sex offenders, and a notification program, maintained by Hualapai Tribal Police Department.
 - R. SMART Office. The Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking, which was established within the United States Department of Justice under the general authority of the Attorney General of the United States pursuant to 42 U.S.C. §16945.
 - S. "Tier I Sex Offender". A "tier I sex offender", or a "sex offender" designated as "tier I", is one that has been convicted of a "tier I" sex offense as defined in section 6.130 (A).
 - T. "Tier II Sex Offender". A "tier II sex offender", or a "sex offender" designated as "tier II", is one that has been either convicted of a "tier II" sex offense as defined in section 6.130 (B), or who is subject to the recidivist provisions of 6.130(B 1).
 - U. "Tier III Sex Offender". A "tier III sex offender", or a "sex offender" designated as "tier III", is one that has been either convicted of a "tier III" sex offense as defined in section 6.130 (C), or who is subject to the recidivist provisions of 6.130(C 1).

Sec. 6.129 Covered Offenses

Offenders who reside within the exterior boundaries of the reservation or otherwise reside on property owned by the Hualapai Tribe in fee or trust regardless of location, are employed within the exterior boundaries of the reservation or on property owned by the Hualapai Tribe in fee or trust regardless of location, or who attend school within the exterior boundaries of the reservation or on property owned by the Hualapai Tribe in fee or trust regardless of location, that have been convicted of the following offenses are subject to the requirements of this code:

- A. Tribal Offenses. A violation of the Law and Order Code of the Hualapai Tribe "Sexual Offenses," or any conviction for attempt, conspiracy, or aiding and abetting of the following offenses:

1. Sec. 6.112 Sexual Assault
2. Sec. 6.113 Forcible Sexual Penetration with a Foreign Object
3. Sec. 6.114 Unlawful Sexual Acts
4. Sec. 6.115 Unlawful Sexual Conduct
5. Sec. 6.116 Reserved
6. Sec. 6.117 Indecent Exposure
7. Sec. 6.118 Enticement of a Child for the Purposes of Prostitution or Illicit Intercourse
8. Sec. 6.119 Reserved
9. Sec. 6.120 Child Pornography
10. Sec. 6.121 Transporting a Child for Sexual Purpose
11. Sec. 6.122-6.125 Reserved

B. Federal Offenses. A conviction, for or a conviction for an attempt or conspiracy to commit any of the following, and any other offense hereafter included in the definition of "sex offense" at 42 U.S.C. § 16911(5): Including any offenses prosecuted under the Assimilative Crimes Act (18 USC § 1152 or § 1153).

1. 18 U.S.C. §1591 (sex trafficking of children),
2. 18 U.S.C. §1801 (video voyeurism of a minor),
3. 18 U.S.C. §2241 (aggravated sexual abuse),
4. 18 U.S.C. §2242 (sexual abuse),
5. 18 U.S.C. §2243 (sexual abuse of a minor or ward),
6. 18 U.S.C. §2244 (abusive sexual contact),
7. 18 U.S.C. §2245 (offenses resulting in death),
8. 18 U.S.C. §2251 (sexual exploitation of children),
9. 18 U.S.C. §2251A (selling or buying of children),
10. 18 U.S.C. §2252 (material involving the sexual exploitation of a minor).
11. 18 U.S.C. §2252A (material containing child pornography),
12. 18 U.S.C. §2252B (misleading domain names on the internet),
13. 18 U.S.C. §2252C (misleading words or digital images on the internet).
14. 18 U.S.C. §2260 (production of sexually explicit depictions of a minor for import into the United States),
15. 18 U.S.C. §2421 (transportation of a minor for illegal sexual activity),

16. 18 U.S.C. §2423 (), (Transportation of Minors for Illegal Sexual Activity, Travel With the Intent to Engage in Illicit Sexual Conduct with a minor, Engaging in Illicit Sexual Conduct in Foreign Places)
 17. 18 U.S.C. §2424 (failure to file factual statement about an alien individual), and
 18. 18 U.S.C. §2425 (transmitting information about a minor to further criminal sexual conduct).
- C. Foreign Offenses. Any conviction for a sex offense involving any conduct listed in Section 6.129(D) which was obtained under the laws of Canada, the United Kingdom, Australia, New Zealand, and any foreign country where the United States State Department, in its Country Reports on Human Rights Practices, has concluded that an independent judiciary generally or vigorously enforced the right to a fair trial in that country during the year in which the conviction occurred.
- D. Military Offenses. Any military offense specified by the Secretary of Defense under Section 115(a) (8) (C) (i) of P.L. 105-119 (codified at 10 U.S.C. § 951).
- E. Juvenile Offenses or Adjudications. Any sex offense, or attempt or conspiracy to commit a sex offense, that is comparable to or more severe than the federal crime of aggravated sexual abuse (as codified in 18 U.S.C. § 2241) and committed by a minor who is 14 years of age or older. This includes engaging in a sexual act with another by force or the threat of serious violence; or engaging in a sexual act with another by rendering unconscious or involuntarily drugging the victim.
- F. Jurisdiction Offenses. Any sex offense committed in any jurisdiction, including this Hualapai Tribe that involves:
1. Any type of degree of genital, oral, or anal penetration,
 2. Any sexual touching of or contact with a person's body, either directly or through the clothing,
 3. Kidnapping of a minor,
 4. False imprisonment of a minor,
 5. Solicitation to engage a minor in sexual conduct understood broadly to include any direction, request, enticement, persuasion, or encouragement of a minor to engage in sexual conduct,
 6. Use of a minor in a sexual performance,
 7. Solicitation of a minor to practice prostitution,
 8. Video voyeurism of a minor as described in 18 U.S.C. § 1801,
 9. Possession, production, or distribution of child pornography,
 10. Criminal sexual conduct that involves physical contact with a minor or the use of the Internet to facilitate or attempt such conduct. This includes offenses whose elements involve the use of other persons in prostitution, such as pandering, procuring, or pimping in cases where the victim was a minor at the time of the offense,
 11. Any conduct that by its nature is a sex offense against a minor, and

12. Any offense similar to those outlined in:

- a. 18 U.S.C. § 1591 (sex trafficking by force, fraud, or coercion),
- b. 18 U.S.C. § 1801 (video voyeurism of a minor),
- c. 18 U.S.C. § 2241 (aggravated sexual abuse),
- d. 18 U.S.C. § 2242 (sexual abuse),
- e. 18 U.S.C. § 2244 (abusive sexual contact),
- f. 18 U.S.C. § 2422(b) (coercing a minor to engage in prostitution),
- g. 18 U.S.C. § 2423(a) (transporting a minor to engage in illicit conduct),

Sec. 6.130 Tiered Offenses

A. Tier I Offenses

- 1. Sex Offenses. A "Tier I" offense includes any sex offense, for which a person has been convicted, or an attempt or conspiracy to commit such an offense that is not a "Tier II" or "Tier III" offense.
- 2. Offenses Involving Minors. A "Tier I" offense also includes any offense for which a person has been convicted by any jurisdiction, local government, or qualifying foreign country pursuant to Section 6.129(C) that involves the false imprisonment of a minor, video voyeurism of a minor, or possession or receipt of child pornography.
- 3. Tribal Offenses. Any sex offense covered by this act where punishment was limited to one year in jail shall be considered a "Tier I" sex offense.
- 4. Certain Federal Offenses. Conviction for any of the following federal offenses or an attempt to commit such offense shall be considered a conviction for a "Tier I" offense:
 - a. 18 U.S.C. § 1801 (video voyeurism of a minor),
 - b. 18 U.S.C. § 2252B (misleading domain names on the internet),
 - c. 18 U.S.C. § 2252C (misleading words or digital images on the internet),
 - d. 18 U.S.C. § 2422(a) (coercion to engage in prostitution),
 - e. 18 U.S.C. § 2423(b) (travel with the intent to engage in illicit conduct),
 - f. 18 U.S.C. § 2423(c) (engaging in illicit conduct in foreign places),
 - g. 18 U.S.C. § 2424 (failure to file factual statement about an alien individual), and

h. 18 U.S.C. § 2425 (transmitting information about a minor to further criminal sexual conduct).

5. Certain Military Offenses. Any military offense specified by the Secretary of Defense under section 115(a)(8)(C)(i) of Public Law 105-119 (codified at 10 U.S.C. § 951) that is similar to those offenses outlined in Section 6.130(A) (1), (2), (3), or 4 shall be considered "Tier I" offenses.

B. Tier II Offenses

1. Recidivism and Felonies. Unless otherwise covered by Section 6.130(C), any sex offense that is not the first sex offense for which a person has been convicted or an attempt or conspiracy to commit such an offense and that is punishable by more than one year in jail is considered a "Tier II" offense.
2. Offenses Involving Minors. A "Tier II" offense includes any sex offense for which a person has been convicted, or an attempt or conspiracy to commit such offense that involves:
 - a. The use of minors in prostitution, including solicitations,
 - b. Enticing a minor to engage in criminal sexual activity,
 - c. A non-forcible Sexual Act with a minor 16 or 17 years old,
 - d. Sexual contact with a minor 13 years of age or older, whether direct or through the clothing, that involves the intimate parts of the body,
 - e. The use of a minor in a sexual performance, or
 - f. The production for distribution of child pornography.
3. Certain Federal Offenses. Conviction for any of the following federal offenses shall be considered a conviction for a "Tier II" offense:
 - a. 18 U.S.C. §1591 (sex trafficking by force, fraud, or coercion),
 - b. 18 U.S.C. §2423(d) (arranging, inducing procuring or facilitating the travel in interstate commerce of a minor for the purpose of engaging in illicit conduct for financial gain),
 - c. 18 U.S.C. § 2244 (abusive sexual contact),
 - d. 18 U.S.C. § 2251 (sexual exploitation of children),
 - e. 18 U.S.C. § 2251A (selling or buying of children),
 - f. 18 U.S.C. § 2252 (material involving the sexual exploitation of a minor),
 - g. 18 U.S.C. § 2252A (material containing child pornography),
 - h. 18 U.S.C. § 2260 (production of sexually explicit depictions of a minor for import into the United States),
 - i. 18 U.S.C. § 2421 (transportation of a minor for illegal sexual activity),
 - j. 18 U.S.C. § 2422(b) (coercing a minor to engage in prostitution),

- k. 18 U.S.C. § 2423(a) (transporting a minor to engage in illicit conduct).
- 4. Certain Military Offenses. Any military offense specified by the Secretary of Defense under Section 115(a)(8)(C)(i) of Public Law 105-119 (codified at 10 U.S.C. § 951) that is similar to those offenses outlined in Section 6.130(B)(1), (2), or (3) shall be considered "Tier II" offenses.

C. Tier III Offenses

- 1. Recidivism and Felonies. Any sex offense that is punishable by more than one year in jail where the offender has at least one prior conviction or an attempt or conspiracy to commit such an offense for a Tier II sex offense, or has previously become a Tier II sex offender, is a "Tier III" offense.
- 2. General Offenses. A "Tier III" offense includes any sex offense for which a person has been convicted, or an attempt or conspiracy to commit such an offense that involves:
 - a. Non-parental kidnapping of a minor,
 - b. A sexual act with another by force or threat,
 - c. A sexual act with another who has been rendered unconscious or involuntarily drugged, or who is otherwise incapable of appraising the nature of the conduct or declining to participate, or
 - d. Sexual contact with a minor 12 years of age or younger, including offenses that cover sexual touching of or contact with the intimate parts of the body, either directly or through the clothing.
- 3. Certain Federal Offenses. Conviction for any of the following federal offenses shall be considered conviction for a "Tier III" offense:
 - a. 18 U.S.C. § 2241 (aggravated sexual abuse),
 - b. 18 U.S.C. § 2242 (sexual abuse), or
 - c. 18 U.S.C. § 2243 (sexual abuse of a minor or ward),
 - d. Where the victim is 12 years of age or younger, 18 U.S.C. § 2244 (abusive sexual contact).
- 4. Certain Military Offenses. Any military offense specified by the Secretary of Defense under Section 115(a)(8)(C)(i) of Public Law 105-119 (codified at 10 U.S.C. § 951) that is similar to those offenses outlined in Section 6.130(C)(1), (2), or (3) shall be considered "Tier III" offenses.

Sec. 6.131 Required Information

A. General Requirements

- 1. Duties. A sex offender covered by this code who is required to register with the Hualapai Tribe pursuant to Chapter 6 shall provide all of the information detailed in this chapter to the Hualapai Tribal Police Department, and the Hualapai Tribal Police Department shall obtain all of the information detailed in this chapter from covered sex offenders who are required to register with

- the Hualapai Tribe in accordance with this code and implementing policies and procedures.
2. Digitization. All information obtained under this code shall be, at a minimum, maintained by the Hualapai Tribal Police Department in digitized format.
 3. Electronic Database. A sex offender registry shall be maintained in an electronic database by the Hualapai Tribal Police Department and shall be in a form capable of electronic transmission.
- B. Criminal History. The Hualapai Tribal Police Department shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's sex offense criminal history:
1. The date of all arrests,
 2. The date of all convictions,
 3. The sex offender's status of parole, probation, or supervised release,
 4. The sex offender's registration status, and
 5. Any outstanding arrest warrants.
- C. Date of Birth. The Hualapai Tribal Police Department shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's date of birth:
1. The sex offender's actual date of birth, and
 2. Any other date of birth used by the sex offender.
- D. DNA Sample.
1. DNA. If the sex offender's DNA is not already contained in the Combined DNA Index System ("CODIS"), the sex offender shall provide the Hualapai Tribal Police Department a sample of his DNA.
 2. CODIS. Any DNA sample obtained from a sex offender shall be submitted to an appropriate lab for analysis and entry of the resulting DNA profile in to CODIS.
- E. Driver's License, Identification Cards, Passports, and Immigration Documents.
1. Driver's License. A covered sex offender shall provide all of the sex offender's valid driver's licenses issued by any jurisdiction and the Hualapai Tribal Police Department shall make a photocopy of any such licenses.
 2. Identification Cards. A covered sex offender shall provide to the Hualapai Tribal Police Department any identification card issued by any jurisdiction, including the sex offender's tribal enrollment, and the Hualapai Tribal Police Department shall make a photocopy of all such identification cards.
 3. Passports. A covered sex offender shall provide to the Hualapai Tribal Police Department any passport issued by any jurisdiction, and the Hualapai Tribal Police Department shall make a photocopy of all such passports.
 4. Immigration Documents. A covered sex offender shall provide to the Hualapai Tribal Police Department any immigration documents issued by any jurisdiction, and the Hualapai Tribal Police Department shall make a photocopy of all such immigration documents.

- F. Employment Information. The Hualapai Tribal Police Department shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's employment, to include any and all places where the sex offender is employed in any means including volunteer and unpaid positions:
1. The name of the sex offender's employer,
 2. The address of the sex offender's employer, and
 3. Similar information related to any transient or day labor employment.
- G. Finger and Palm Prints. The Hualapai Tribal Police Department shall obtain, and a covered sex offender shall provide, both finger prints and palm prints which must be submitted to the FBI Next Generation Identification Program.
- H. Internet Names. The Hualapai Tribal Police Department shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's internet related activity:
1. Any and all e-mail addresses used by the sex offender,
 2. Any and all Instant Message addresses and identifiers,
 3. Any and all other designations or monikers used for self-identification in Internet communications or postings, and
 4. Any and all designations used by the sex offender for the purpose of routing or self-identification in internet communications or postings, including but not limited to social network identifications, twitter accounts, video posting site identifications such as You Tube etc...
- I. Name. The Hualapai Tribal Police Department shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's name:
1. The sex offender's full primary given name,
 2. Any and all nicknames, aliases, and pseudonyms regardless of the context in which it is used, and
 3. Any and all ethnic or tribal names by which the sex offender is commonly known. This does not include any religious or sacred names not otherwise commonly known.
- J. Phone Numbers. The Hualapai Tribal Police Department shall obtain, and a covered sex offender shall provide, any and all telephone numbers and any other designations used by sex offenders for the purposes of routing or self-identification in telephonic communications including but not limited to:
1. Any and all cellular telephone numbers.
 2. Any and all land line telephone numbers.
 3. Any and all Voice over IP (VOIP) telephone numbers.
- K. Picture.
1. Photograph. A covered sex offender shall permit his photograph to be taken by the Hualapai Tribal Police Department:

- a. Every 90 days for Tier III sex offenders,
 - b. Every 180 days for Tier II sex offenders, and
 - c. Every year for Tier I sex offenders.
2. Update Requirements. Unless the appearance of a sex offender has not changed significantly a digitized photograph shall be collected at each appearance indicated in Section 6.131 K (1).
- L. Physical Description. The Hualapai Tribal Police Department shall obtain, and a covered sex offender shall provide, an accurate description of the sex offender as follows:
 1. A physical description,
 2. A general description of the sex offender's physical appearance or characteristics, and
 3. Any identifying marks, such as, but not limited to, scars, moles, birthmarks, or tattoos.
- M. Professional Licensing Information. The Hualapai Tribal Police Department shall obtain, and a covered sex offender shall provide, all licensing of the sex offender that authorizes the sex offender to engage in an occupation or carry out a trade or business.
- N. Residence Address. The Hualapai Tribal Police Department shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's residence:
 1. The address of each residence at which the sex offender resides or will reside, and
 2. Any location or description that identifies where the sex offender habitually resides regardless of whether it pertains to a permanent residence or location otherwise identifiable by a street or address.
- O. School. The Hualapai Tribal Police Department shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's school:
 1. The address of each school where the sex offender is or will be a student, intern, or volunteer, and
 2. The name of each school the sex offender is or will be a student, intern, or volunteer.
- P. Social Security Number. The Hualapai Tribal Police Department shall obtain, and a covered sex offender shall provide, the following information:
 1. A valid social security number for the sex offender, and
 2. Any social security number the sex offender has used in the past, valid or otherwise.
- Q. Temporary Lodging. The Hualapai Tribal Police Department shall obtain, and a covered sex offender shall provide, the following information when the sex offender will be absent from his residence for 7 days or more:

1. Identifying information of the temporary lodging locations including addresses and names, and
2. The dates the sex offender will be staying at each temporary lodging location.
3. The registered sex offender shall provide the information in Section 6.131 Q (1) and (2) no later than 3 days before his scheduled travel. The information shall be provided in person.

R. INTERNATIONAL TRAVEL

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

S. Offense Information

1. Offense Information. The Hualapai Tribal Police Department shall obtain the text of each provision of law defining the criminal offense(s) for which the sex offender is registered.
2. SORNA Database. The text of each provision of law mentioned in Section 6.131(S) (1) shall be cross linked to the SORNA Database containing the text of relevant sex related laws for all jurisdictions.

T. Vehicle Information. The Hualapai Tribal Police Department shall obtain, and a covered sex offender shall provide, the following information related to all vehicles owned or operated by the sex offender for work or personal use including land vehicles, aircraft, and watercraft:

1. License plate numbers,
2. Registration numbers or identifiers,
3. General description of the vehicle to include color, make, model, and year. and
4. Any permanent or frequent location where any covered vehicle is kept.

Sec. 6.132 Registration

A. Where Required

1. Jurisdiction of Conviction. A sex offender must initially register with the Hualapai Tribal Police Department if the sex offender was convicted by the Tribal Court of a covered sex offense regardless of the sex offender's actual or intended residency.
2. Jurisdiction of Incarceration. A sex offender must register with the Hualapai Tribal Police Department if the sex offender is incarcerated by the tribe while completing any sentence for a covered sex offense, regardless of whether it is the same jurisdiction as the jurisdiction of conviction or residence.
3. Jurisdiction of Residence. A sex offender must register with the Hualapai Tribal Police Department if the sex offender resides within the exterior

boundaries of the reservation or otherwise resides on property owned by the tribal jurisdiction in fee or trust, regardless of location.

4. Jurisdiction of Employment. A sex offender must register with the Hualapai Tribal Police Department if he or she is employed by the Hualapai Tribe in any capacity or otherwise is employed within the exterior boundaries of the Hualapai reservation or on property owned by the Hualapai Tribe in fee or trust, regardless of location.
5. Jurisdiction of School Attendance. A sex offender must register with the Hualapai Tribal Police Department if the sex offender is a student in any capacity within lands subject to the jurisdiction of the Hualapai Tribe.

B. Initial Registration

1. Timing. A sex offender required to register with the Hualapai Tribe under this code shall do so in the following time frame:
 - a. If convicted by the Hualapai Tribe for a covered sex offense and incarcerated, the sex offender must register before being released from incarceration;
 - b. If convicted by the Hualapai tribe but not incarcerated, within 3 business days of sentencing for the registration offense, and
 - c. Within 3 business days of establishing a residence, commencing employment, or becoming a student on lands subject to the jurisdiction of the Hualapai Tribe, a sex offender must appear in person to register with the Hualapai Tribal Police Department.
2. Duties of Hualapai Tribal Police Department. The Hualapai Tribal Police Department shall have policies and procedures in place to ensure the following:
 - a. That any sex offender incarcerated or sentenced by the Hualapai Tribe for a covered sex offense completes their initial registration with the Hualapai Tribe,
 - b. That the sex offender reads, or has read to them, and signs a form stating the duty to register has been explained to them and that the sex offender understands the registration requirement, [See the requirement and guidance in Section 6.132]
 - c. That the sex offender is registered, and added to the public website if applicable and
 - d. That upon entry of the sex offender's information in to the registry, that information is immediately forwarded to all other jurisdictions in which the sex offender is required to register due to the sex offender's residency, employment, or student status.
 - e. That all information is entered and updated in the NCIC/NSOR.

C. Retroactive Registration.

1. Retroactive Registration. The Hualapai Tribal Police Department shall have in place policies and procedures to ensure the following three categories of sex offenders are subject to the registration and updating requirements of this code:

- a. Sex offenders incarcerated or under supervision of the Hualapai Tribe, whether for a covered sex offense or other crime,
 - b. Sex offenders already registered or subject to a pre-existing sex offender registration requirement, and
 - c. Sex offenders reentering the justice system due to conviction for any crime.
2. Timing of Recapture. The Hualapai Tribal Police Department shall ensure recapture of the sex offenders mentioned in Section 6.132(C)(1) within the following timeframe to be calculated from the date of passage of this code:
 - a. For Tier I sex offenders, 1 year,
 - b. For Tier II sex offenders, 180 days, and
 - c. For Tier III sex offenders, 90 days.
- D. Keeping Registration Current
1. Jurisdiction of Residency. All sex offenders who reside in lands subject to the jurisdiction of the Hualapai Tribe who are required to register in this jurisdiction shall immediately appear in person at the Hualapai Tribal Police Department to update any changes to their name, residence (including termination of residency), employment, or school attendance. All sex offenders required to register in this jurisdiction shall immediately inform the Hualapai Tribal Police Department in person of any changes to their temporary lodging information, and in writing of any changes to their vehicle information, internet identifiers, or telephone numbers. In the event of a change in temporary lodging, of 7 days the sex offender shall immediately notify the registering official of the residence jurisdiction and the Hualapai Tribal Police Department shall notify the jurisdiction in which the sex offender will be temporarily staying.
 2. Duties of Hualapai Tribal Police Department. The Hualapai Tribal Police Department shall have policies and procedures in place to ensure the following: With regard to changes in a sex offender's registration information, the Hualapai Tribal Police Department or designee shall immediately notify:
 - a. All jurisdictions where a sex offender intends to reside, work, or attend school,
 - b. Any jurisdiction where the sex offender is either registered or required to register, and
 - c. Specifically with respect to information relating to a sex offender's intent to commence residence, school, or employment outside of the United States, any jurisdiction where the sex offender is either registered or required to register, and the U.S. Marshals Service. The Hualapai Tribal Police Department shall also ensure this information is immediately updated on NSOR.
 3. Jurisdiction of Employment. Any sex offender, who is employed by the Hualapai Tribe in any capacity or otherwise are employed within lands subject to the jurisdiction of the Hualapai Tribe regardless of location that change their employment, or otherwise terminate their employment, shall immediately appear in person at the Hualapai Tribal Police Department to

update that information. The Hualapai Tribal Police Department shall ensure that each jurisdiction in which the sex offender is required to register, or was required to register prior to updated information being given, are immediately notified of the charge.

4. Jurisdiction of School Attendance. Any sex offender who is a student in any capacity within lands subject to the jurisdiction of the Hualapai Tribe regardless of the location that change their school, or otherwise terminate their schooling, shall immediately of the school the exterior boundaries of the reservation or on property owned by the Hualapai Tribe in fee or trust regardless of location change their school, or otherwise terminate their schooling, shall immediately appear in person at the Hualapai Tribal Police Department to update that information. The Hualapai Tribal Police Department shall ensure that each jurisdiction in which the sex offender is required to register, or was required to register prior to the updated information being given, are immediately notified of the change.

E. Failure to Appear for Registration and Absconding

1. Failure to Appear. In the event a sex offender fails to register with the Hualapai Tribe as required by this code, the Hualapai Tribal Police Department shall immediately inform the jurisdiction that provided notification that the sex offender was to commence residency, employment, or school attendance with the Hualapai Tribe that the sex offender failed to appear for registration.
2. Absconded Sex Offenders. If the Hualapai Tribal Police Department receives information that a sex offender has absconded the Hualapai Tribal Police Department shall make an effort to determine if the sex offender has actually absconded.
 - a. In the event no determination can be made, the Hualapai Tribal Police Department shall ensure the tribal police and any other appropriate law enforcement agency is notified.
 - b. If the information indicating the possible absconding came through notice from another jurisdiction or federal authorities, they shall be informed that the sex offender has failed to appear and register.
 - c. If an absconded sex offender cannot be located then the Hualapai Tribal Police Department shall take the following steps:
 - i. Update the registry/public website to reflect the sex offender has absconded or is otherwise not capable of being located.
 - ii. Notify the U.S. Marshalls Service,
 - iii. Seek a warrant for the sex offender's arrest. The U.S. Marshalls Service or FBI may be contacted in an attempt to obtain a federal warrant for the sex offender's arrest.
 - iv. Update the NCIC/NSOR to reflect the sex offender's status as an absconder, or is otherwise not capable of being located, and
 - v. Enter the sex offender into the National Crime Information Center Wanted Person File.

3. Failure to Register. In the event a sex offender who is required to register due to their employment or school attendance status fails to do so or otherwise violates a registration requirement of this code, the Hualapai Tribal Police Department shall take all appropriate follow-up measures including those outlined in Section 6.132(E)(2). The Hualapai Tribal Police Department shall first make an effort to determine if the sex offender is actually resides, is employed or attending school in lands subject to the Hualapai Tribe's jurisdiction.

Sec. 6.133 Verification and Appearance Requirements

A. Frequency

1. Frequency. A sex offender who is required to register shall, at a minimum, appear in person at the Hualapai Tribal Police Department for purposes of verification and keeping their registration current in accordance with the following time frames:
 - a. For "Tier I" offenders, once every year for 15 years from the time of release from custody for a sex offender who is incarcerated for the registration offense or from the date of sentencing for a sex offender who is not incarcerated for the registration offense.
 - b. For "Tier II" offenders, once every 180 days for 25 years from time of release from custody for a sex offender who is incarcerated for the registration offense or from the date of sentencing for a sex offender who is not incarcerated for the registration offense.
 - c. For "Tier III" offenders, once every 90 days for the rest of their lives.
2. Reduction of Registration Periods. A sex offender may have their period of registration reduced as follows:
 - a. A Tier I offender may have his or her period of registration and verification reduced to 10 years if he or she has maintained a clean record for 10 consecutive years,
 - b. A Tier III offender may have their period of registration and verification reduced to 25 years if they were adjudicated delinquent of an offense as a juvenile which required Tier III registration and they have maintained a clean record for 25 consecutive years.
3. Clean Record. For purposes of Section 6.131(A)(2), a person has a clean record if:
 - a. He or she has not been convicted of any offense for which imprisonment for more than 1 year may be imposed;
 - b. He or she has not been convicted of any sex offense;
 - c. He or she has successfully completed, without revocation, any period of supervised release, probation, or parole; and
 - d. He or she has successfully completed an appropriate sex offender treatment program certified by the tribe, another jurisdiction, or by the Attorney General of the United States.

B. Requirements for In Person Appearances

1. Photographs. At each in person verification, the sex offender shall permit the Hualapai Tribal Police Department to take a photograph of the sex offender.
2. Review of Information. At each in person verification the sex offender shall review existing information for accuracy.
3. Notification. If any new information or change in information is obtained at an in person verification, the Hualapai Tribal Police Department shall immediately notify all other jurisdictions in which the sex offender is required to register of the information or change of in information.
4. If any new information or change in information is obtained at an in person verification, the Hualapai Tribal Police Department shall immediately update the public website, if applicable, and update information in NCIC/NSOR.

C. Sex Offender Acknowledgement Form

1. The sex offender shall read, or have read to them, and sign a form stating that the duty to register has been explained to them by Hualapai Tribal Police Department or designee's and that the sex offender understands the registration requirement.
2. The form shall be signed and dated by the Hualapai Tribal Police Department personnel registering the sex offender.
3. The Hualapai Tribal Police Department shall immediately upload the acknowledgement form into the Hualapai Tribal Police Department or sex offender registry.

Sec. 6.134 Public Sex Offender Registry Website

A. Website.

1. Website. The Hualapai Tribal Police Department shall use and maintain a public sex offender registry website.
2. Links. The Hualapai Tribal Sex Offender Registry website shall include links to sex offender safety and education resources.
3. Instructions. The Hualapai Tribal Sex Offender Registry website shall include instructions on how a person can seek correction of information that the individual contends is erroneous.
4. Warnings. The Hualapai Tribal Sex Offender Registry website shall include a warning that the information contained on the website should not be used to unlawfully injure, harass, or commit a crime against any individual named in the registry or residing or working at any reported addresses and that any such action could result in civil or criminal penalties.
5. Search Capabilities. The Hualapai Tribal Sex Offender Registry website shall have the capability of conducting searches by (1) name; (2) county, city, and/or town; and, (3) zip code or geographic radius.
6. Dru Sjodin National Sex Offender Public Website. The Hualapai Tribe shall include in the design of its registry website all field search capabilities needed for full participation in the Dru Sjodin National Sex Offender Public Website and shall participate in that website as provided by the Attorney General of the United States.

B. Required and Prohibited Information

1. **Required Information.** The following information shall be made available to the public on the sex offender registry website:
 - a. Notice that an offender is in violation of their registration requirements or cannot be located if the sex offender has absconded,
 - b. All sex offenses for which the sex offender has been convicted,
 - c. The sex offense(s) for which the offender is currently registered,
 - d. The address of the sex offender's employer(s),
 - e. The name of the sex offender including all aliases,
 - f. A current photograph of the sex offender,
 - g. A physical description of the sex offender,
 - h. The residential address and, if relevant, a description of a habitual residence of the sex offender,
 - i. All addresses of schools attended by the sex offender, and
 - j. The sex offender's vehicle license plate number along with a description of the vehicle.
2. **Prohibited Information.** The following information shall not be available to the public on the sex offender registry website:
 - a. Any arrest that did not result in conviction,
 - b. The sex offender's social security number,
 - c. Any travel and immigration documents, and
 - d. The identity of the victim.
 - e. Internet identifiers (as defined in 42 U.S.C. §16911).
3. **Witness Protection.** For sex offenders who are under a witness protection program, the Hualapai Tribal Police Department may honor the request of the United States Marshal Service or other agency responsible for witness protection by not including the original identity of the offender on the publicly accessible sex offender registry website.

Sec. 6.135 Community Notification

- A. **Law Enforcement Notification.** Whenever a sex offender registers or updates his or her information with the Hualapai Tribe, the Hualapai Tribal Police Department shall:
 1. Monitor and utilize the SORNA Exchange Portal for inter-jurisdictional change of residence, employment or student status.
 2. Immediately update NCIC/NSOR,
 3. Immediately notify any agency, department, or program within the Hualapai Tribe that is responsible for criminal investigation, prosecution, child welfare or sex offender supervision functions, or sex offender supervision functions, including but not limited to, police, whether BIA, tribal, or FBI, tribal prosecutors, and tribal probation.
 4. Immediately notify any and all other registration jurisdictions where the sex offender is registered due to the sex offender's residency, school attendance, or employment; and

5. Immediately notify National Child Protection Act agencies, which includes any agency responsible for conducting employment-related background checks under Section 3 of the National Child Protection Act of 1993 (42 U.S.C. § 5119a) when a sex offender registers or updates registration.
6. Enter or update information posted on public website.

B. Community Notification. The Hualapai Tribal Police Department shall ensure there is an automated community notification process in place that ensures the following:

1. Upon a sex offender's registration or update of information with the Hualapai Tribe, the Hualapai Tribal Sex Offender Registry website is immediately updated.
2. The Hualapai Tribal Sex Offender Registry has a function that enables the general public to request e-mail notice that will notify them when a sex offender commences residence, employment, or school attendance with the Hualapai Tribe, within a specified zip code, or within a certain geographic radius. This e-mail notice shall include the sex offender's identity so that the public can access the public registry for new information.

Sec. 6.136 Crimes and Civil Sanctions

- A. Indians. Any violation of a provision of this code by a sex offender who is an Indian shall be considered a crime and subject to imprisonment for a period not to exceed one year or a fine not to exceed \$5,000.00, or both.
- B. Non-Indians. Any violation of a provision of this code by a sex offender who is not an Indian shall be considered a civil violation subject to enforcement by any means not prohibited by federal law, including, but not limited to the issuance of fines, forfeitures, civil contempt, and exclusion from all lands within the jurisdiction of the Hualapai Tribe

Sec. 6.137 Unlawful Use of Registry Information

- A. A person is guilty of an offense if they knowingly use, or cause 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.
- B. Any violation of Section 6.137(A) by a person who is an Indian shall be considered a crime and subject to imprisonment for a period not to exceed 1 year, or a fine not to exceed \$5,000.00, or both.
- C. Any violation of Section 6.137(A) by a person who is not an Indian shall be considered a civil violation subject to enforcement by any means not prohibited by federal law, including, but not limited to the issuance of fines, forfeitures, civil contempt, and exclusion from all lands within the jurisdiction of the Hualapai Tribe.

Sec. 6.138 Hindrance of Sex Offender Registration

- A. A person is guilty of an offense if they:
 - 1. Knowingly harbor or knowingly attempt to harbor, or knowingly assist another person in harboring or attempting to harbor a sex offender who is in violation of Sections 6.126 through 6.137;
 - 2. Knowingly assist a sex offender in eluding a law enforcement agency that is seeking to find the sex offender to question the sex offender about, or to arrest the sex offender for, noncompliance with the requirements of Section 6.126 through 6.137; or
 - 3. Provide information to law enforcement agencies regarding a sex offender which the person knows to be false.
- B. Any violation of Section 6.138(A) by a person who is an Indian shall be considered a crime and subject to imprisonment for a period not to exceed 1 year, or a fine not to exceed \$5,000.00, or both.
- C. Any violation of Section 6.138(A) by a person who is not an Indian shall be considered a civil violation subject to enforcement by any means not prohibited by federal law, including, but not limited to the issuance of fines, forfeitures, civil contempt, and exclusion from all lands within the jurisdiction of the Hualapai Tribe.

Sec. 6.139 Immunity

No waiver of immunity. Nothing under this chapter shall be construed as a waiver of sovereign immunity for the Hualapai Tribe, its departments, agencies, employees, or Agents.

Good faith. Any person acting under good faith shall be immune from any civil liability arising out of such action.

**HUALAPAI TRIBAL COUNCIL
RESOLUTION NO. 85-2011
OF THE GOVERNING BODY OF THE
HUALAPAI TRIBE OF THE HUALAPAI RESERVATION
PEACH SPRINGS, ARIZONA**

WHEREAS, the Hualapai Tribal Council is the legislative body of the Hualapai Tribe and is empowered by the Hualapai Constitution to enact legislation regarding the health, welfare and safety of the Hualapai Tribe;

WHEREAS, the Hualapai Tribal Council adopted a Revised Law and Order Code on June 2, 2004, pursuant to the Constitution of the Hualapai Indian Tribe;

WHEREAS, at the advice of Hualapai Tribal Officials, the Hualapai Tribal Council finds that Chapter 5: Criminal Procedure, is in need of some updates and revisions;

WHEREAS, the Hualapai Tribal Council has requested that DNA People's Legal Services, Inc. assist the Hualapai Tribe in making these needed updates and revisions to the Revised Law and Order Code;

WHEREAS, DNA People's Legal Services, Inc. has convened a series of meetings with a "working group," of several Hualapai Tribal Officials, including officials from the Hualapai Tribal Prosecutor's Office, the Hualapai Police Department, the Hualapai Public Defender's Office, and the Hualapai Courts, and this working group has reviewed Chapter 5: Criminal Procedure section by section;

WHEREAS, this "working group" completed its work on Chapter 5: Criminal Procedure, and submitted a revised and updated Chapter 5: Criminal Procedure, to the Hualapai Tribal Council at the Tribal Council meeting on August 24, 2011;

WHEREAS, at the August 24, 2011 Tribal Council meeting, members of the working group reviewed each of the proposed amendments with the Hualapai Tribal Council, with direct input from the Hualapai Tribal Prosecutor's Office, the Hualapai Tribal Public Defender's Office, and the Hualapai Police Department;

WHEREAS, the Hualapai Tribal Council submitted the proposed amendments to Chapter 5: Criminal Procedure, to the public on September 14, 2011, as a special issue of the GAMYU newsletter, for a public comment period of 30 days;

WHEREAS, the public comment period ended on October 14, 2011;

***COPY OF CHAPTER 5: CRIMINAL PROCEDURE, WITH THE FOREGOING
AMENDMENTS FULLY INCORPORATED***

**CHAPTER 5
CRIMINAL PROCEDURE**

Sec. 5.1 Tribal Prosecutor; Authority; Duties

- A. One or more Tribal Prosecutors appointed by the Tribal Council shall be responsible for the timely prosecution, pursuant to the provisions of this Chapter, of all criminal cases brought hereunder.
- B. Each Tribal Prosecutor shall represent the Tribe in all criminal cases as provided by Tribal law; shall prepare and file criminal and civil complaints on behalf of the Tribe; negotiate plea bargains; attend pre-trial conferences and make recommendations regarding alternative dispute resolution such as referrals to the Wellness Tribal Court; prosecute criminal cases through trial and sentencing; and make sentencing recommendations to the Tribal Court.

Sec. 5.2 Representation of Defendant

Every criminal defendant shall have the right to assistance of a professional attorney or an advocate at the defendant's own expense.

Sec. 5.3 Criminal Complaint; Basis; Content; Amendment

- A. Every criminal case shall be initiated by the filing of a written complaint based on information or charges brought by the Tribal Prosecutor.
- B. The complainant shall be the Tribe and the defendant shall be the person alleged to have committed the offense(s) charged. The complaint shall set forth in plain terms the act(s) of the defendant alleged to constitute the offense(s) charged, the date, time and place of such acts(s), and the provision(s) of Tribal law alleged to have been violated.
- C. Defects, errors, omissions or imperfections in the criminal complaint, which do not prejudice the substantive rights of the defendant shall not be grounds for dismissal with prejudice of a criminal complaint, provided the complaint clearly articulates the actions of the defendant(s) and the general provision(s) of law which those actions are alleged to violate. The tribal prosecutor shall have the discretion to amend the complaint at any time prior to the entry of the verdict to

correct any such defects, errors, omissions or imperfections, provided that no additional offenses are alleged, and substantial rights of the defendant are not prejudiced.

- D. The Tribal Prosecutor may amend the criminal complaint to allege an additional offense prior to the arraignment. If the Tribal Prosecutor wishes to add an offense to the complaint following the arraignment, the Tribal Prosecutor shall request the dismissal of the original complaint without prejudice and file a new complaint containing the additional alleged offense. The Tribal Court shall have the discretion to maintain the conditions of release of the defendant, to modify the conditions of release, or to remand the defendant into custody following the filing of the new complaint.

Sec. 5.4 Criminal Complaint; Time for Filing

- A. Except for the crimes of Aggravated Assault, Aggravated Battery, Murder, Manslaughter, Kidnapping, all crimes listed as Sexual Offenses, Aggravated Arson, Burglary, Robbery, and Forgery, no criminal proceeding shall be instituted unless the offense, violation or other event forming the basis of the criminal proceeding occurred within a one year period prior to the date of the initiation of the criminal proceeding. Criminal proceedings for the crimes of Aggravated Assault, Aggravated Battery, Aggravated Arson, Burglary, Robbery, and Forgery must be filed within three years of the commission of the crime. Criminal proceedings for the crimes of Murder, Manslaughter, Kidnapping, and all crimes listed as Sexual Offenses may be brought at any time following the commission of the crime, without limitation.
- B. If a criminal defendant has been apprehended pursuant to the provisions of Section 5.8 below, the complaint must be filed prior to the arraignment of the defendant.

Sec. 5.5 Right to Jury

Every criminal defendant accused of any violation of Tribal law shall have the right to trial by jury in the Tribal Court. To assert this right, the defendant must request a jury trial in writing at or before the pre-trial hearing provided for in Section 5.13 below.

Sec. 5.6 Complaint against Defendant not in Custody; Tribal Court Action

- A. Upon the filing of a criminal complaint against a defendant not then in custody, the Tribal Court must either:

1. Issue a warrant to apprehend the defendant for detention pending arraignment, execution of such a warrant to be made by any commissioned Peace Officer; or
 2. Issue a summons and attached criminal complaint, which shall be personally served, by any commissioned Peace Officer, process server, or other individual designated by the Court, on the defendant commanding the defendant's presence for arraignment at a specified date and time.
 - a. Personal service of process shall be made in a manner reasonably calculated, under all the circumstances, to inform the defendant of: 1) the existence and pendency of the criminal proceeding, 2) the necessity to appear before the Court, and 3) his or her reasonable opportunity to defend against the allegations. Service shall be deemed complete at the time personal service is made.
 - b. If personal service of process of the criminal complaint and summons is impractical under the circumstances, the Tribal Court may order service by registered mail with return receipt requested to be signed by the addressee only, to be addressed to the last known address of the person to be served. Service shall be complete upon return of the signed receipt to the Tribal Court.
 - c. Service of process shall be attested to by an affidavit of the person who actually served the documents or by affidavit of the Clerk who mailed the documents.
- B. The warrant or summons must be issued within five days of the date the complaint is filed and must be served immediately.

Sec 5.7 Arrest Warrants

Every Judge of the Hualapai Tribal Court shall have authority and discretion to issue a warrant commanding the arrest and detention of a person against whom a criminal complaint has been filed. No arrest warrant shall be valid unless signed by a Judge of the Hualapai Tribal Court and executed by a commissioned Peace Officer.

Sec 5.8 Arrests

- A. Any commissioned Peace Officer shall arrest any person for an offense when:
1. Such offense has occurred in the presence of the arresting Peace Officer, or

2. The arresting Peace Officer has probable cause to believe that the person has committed an offense, or
 3. The Peace Officer has a warrant commanding him to apprehend such person, duly issued as provided in Section 5.6.A.1 above.
- B. No person shall be arrested in a dwelling house or other privately owned structure unless a valid warrant for the person's arrest has been issued or where the consent of the person in rightful possession of the premises to enter for the purpose of arrest has been obtained; provided, that a commissioned Peace Officer may forcefully enter the premises when the commissioned Peace Officer has reasonable cause to believe that there exists danger of imminent harm or damage to persons or property.

Sec 5.9 Search and Seizure

A. Search Warrants

1. Every Judge of the Hualapai Tribal Court shall have authority to issue warrants for search and seizure of the premises and property of any person under the jurisdiction of said Tribal Court.
2. No warrant of search and seizure shall be issued except upon a duly signed and written affidavit based upon probable cause that an offense has been committed against the Hualapai Indian Tribe.
3. No warrant for search and seizure shall be valid unless it contains the name or description of the person or the persons or property to be searched and describes the articles or property to be seized and bears the signature of a duly qualified Judge of the Hualapai Tribal Court.
4. Execution of a search warrant and seizure of property shall be made only by a commissioned Peace Officer from 7:00 A.M. to 7:00 P.M. according to local time, unless authorized otherwise by a duly qualified Judge of the Hualapai Court.
5. Search warrants not executed within five calendar days of issuance must be returned to the Tribal Court and voided.

- B. Search and Seizure without a Warrant – No commissioned Peace Officer shall search and seize any property without a warrant unless the officer knows or shall have probable cause to believe that the person in possession of such property is engaged in the commission of an offense defined under Tribal law.

Sec 5.10 Arraignment

- A. Except as provided by Section 5.12.B, every criminal defendant shall appear before a Tribal Court Judge for arraignment within 24 hours of being taken into custody, excluding weekends and holidays observed by the Hualapai Tribe.
- B. At the arraignment, the criminal complaint shall be read to the defendant in a language which the defendant understands, and the defendant shall be advised of his or her rights under Tribal law, including the right to remain silent, to have a trial by jury, to confront accusers and to have the assistance of an attorney or an advocate at the defendant's own expense.
- C. The Tribal Court shall ask the defendant to enter a plea of guilty or not guilty.
 - 1. Prior to acceptance of a plea of guilty or no contest, the Tribal Court Judge shall address the defendant in open court and inform the defendant of the following:
 - a. the mandatory minimum penalty provided by law, if any, and the maximum possible penalty provided by law; and
 - b. the additional consequences and enhanced consequences of any guilty or no contest plea upon the defendant if the offense falls under the domestic violence provisions of Chapter 7 or requires registration as a sex offender; and
 - c. that if the defendant pleads guilty or no contest, there will be no further trial of any kind and the defendant will be waiving the right to trial.
 - 2. The Tribal Court Judge shall inquire of the defendant whether the plea of guilty or no contest is entered voluntarily and not the result of force or threats or of promises apart from a plea bargain.
 - 3. If the defendant pleads guilty or no contest to the charges in the complaint, the Tribal Court Judge shall inquire if the defendant has any reason for not being sentenced at that time.
 - a. If no reason is advanced, the Judge shall pass sentence forthwith in accordance with the sentencing procedures set forth below.
 - b. If the defendant advances reasons why sentence should not be passed at that time, the Tribal Court Judge shall give due consideration to such reasons and act thereon within his or her

discretion considering his or her oath to uphold the laws; provided, however, that in no event shall sentencing be delayed more than 30 days from the date of entry of the guilty or no contest plea.

4. If the defendant pleads not guilty,
 - a. The matter will be set for pre-trial hearing at the earliest practicable date, or as otherwise provided by Rules of Tribal Court; and
 - b. The Tribal Court Judge shall set bail, or remand the defendant to temporary custody pending the pre-trial hearing, pursuant to the bail and commitment provisions set forth below.
 5. If the defendant refuses to plead, the judge shall enter a plea of not guilty on the defendant's behalf, and shall follow the procedures set forth in Subsection C.4 above.
- D. If the defendant pleads not guilty, or if the defendant pleads guilty or no contest and sentencing is deferred, the Tribal Court shall determine whether the defendant should be committed to the Tribal Jail pending further proceedings or released pursuant to the provisions of Section 5.11 below.

Sec. 5.11 Pre-Trial Release; Bail or Bond

- A. Every person arraigned for an offense may be considered for release on bail or bond pending further proceedings in the case, upon conditions set by the Tribal Court Judge to ensure the appearance of the defendant at all future court ordered appearances, and conditions determined necessary to protect persons, property and the public peace. Bail may be made by any reliable member of the Hualapai Indian Tribe, who shall execute an agreement in the form prescribed, or by a personal bond by the defendant upon deposit with the Tribal Court or money order or certified cashier's check. In no case shall the defendant's deposit, or the penalty specified in the agreement exceed twice the maximum penalty set by Tribal law for the offense(s) charged. A Tribal Judge may release a defendant on the defendant's own recognizance if the Tribal Judge finds, by a preponderance of the evidence, that the defendant will obey any order of the Tribal Court, including orders setting proceedings, and that the defendant is not a danger to any person, including the defendant. The Tribal Court Judge shall in setting bail consider the following information:
 1. the nature and circumstances of the offense charged, including whether the offense is a crime of violence or involves drugs or alcohol; and

2. the weight of the evidence against the defendant; and
 3. the history and characteristics of the defendant, including the defendant's character and mental condition, family ties, employment status, employment history, financial resources, past and present residences, length of residence in the community, ties to the community, past conduct, history relating to drug or alcohol abuse, criminal history and record of appearance at court proceedings, probation or parole status; and
 4. the nature and seriousness of the danger to any person or to the community that would be posed by the defendant's release.
- B. If a defendant released on bail or bond fails to appear before the Tribal Court as required, or fails to comply with any conditions of release set by the Tribal Court Judge in the release order, the Tribal Court Judge may order any posted cash or bond to be forfeited and may issue a warrant for the defendant's arrest pending further proceedings in the case.

Sec. 5.12 Commitments

- A. Except as provided in Subsection B below, no person shall be detained, jailed or imprisoned for a longer period than 24 hours after being taken into custody, excluding weekends and holidays observed by the Hualapai Tribe, absent a temporary or final commitment order bearing the signature of a Tribal Court Judge.
- B. Any person arrested for the commission of an offense involving violence, including weapons and sexual abuse offenses, driving under the influence of intoxicating liquor or other drugs shall automatically be subject to a commitment period of up to 72 hours pending arraignment.

Sec 5.13 Pre-Trial Hearings, Pre-Trial Motions

- A. In every criminal case in which the defendant enters a plea of not guilty, or such a plea is entered on the defendant's behalf by the Tribal Court, the Tribal Court shall schedule a pre-trial hearing to take place not more than 30 days after arraignment. At the pre-trial hearing the Tribal Court shall determine whether it is appropriate to dispose of the matter by plea bargain, referral to the Wellness Tribal Court Division, or some other alternative method of resolution. In the event the Tribal Court and the parties determine such a method should be pursued, the Tribal Court will schedule a further status hearing to be held within 60 days. In the event the Tribal Court and parties determine, either at the first pre-trial hearing, or at a subsequent status conference, that the case must proceed to trial, the Tribal Court shall set a trial date, subject to the provisions of Section 5.15

below. In order to preserve the right to a jury trial, a criminal defendant must submit a written request for trial by jury at or before the first pre-trial hearing.

B. Motions to Be Made Seven Days Prior to Trial; The following motions must be made at least seven days prior to the commencement of trial or will be deemed waived, unless good cause is shown for extension of the time period:

1. Motions relating to conditions of pretrial release;
2. Motions to Dismiss for defects in the complaint;
3. All discovery motions and requests;
4. Motions for Severance;
5. Motions to Disqualify the Judge;
6. Motions to Name Additional Witnesses;
7. Motions to Dismiss based on denial of a speedy trial;
8. All pretrial evidentiary motions, including Motions to Suppress and Motions in Limine;
9. Motions alleging lack of mental capacity.

Sec 5.14 Wellness Tribal Court Division

The administration and procedures of the Wellness Tribal Court Division shall be governed by rules promulgated by the Tribal Court.

Sec 5.15 Setting a Trial Date

- A.** In the event disposition of a criminal case has not otherwise been achieved through pre-trial proceedings, the Tribal Court shall set a date for the trial of the case. The trial of a criminal case shall commence within 90 days after the arraignment, unless the defendant or circumstances beyond the control of the parties cause a delay in the proceedings.
1. As used in Subsection A above, the phrase “disposition of a criminal case” shall mean either:
 - (a) a plea bargain has been entered and approved by the Tribal Court;
 - or

- (b) the defendant has pled guilty or no contest and final sentence has been imposed by the Tribal Court; or
 - (c) the defendant has been referred to the Wellness Court Division, and has satisfied all obligations imposed in connection with that referral.
- 2. The Tribal Court shall retain jurisdiction over matters referred under Subsection A.1.c above, and if the defendant fails to adhere to all conditions imposed in connection with any such referral, the Tribal Court may rescind the referral; in that event, the Tribal Court shall set the matter for trial within 30 days of the date the referral is rescinded.

Sec 5.16 Trial

- A. The complaint shall be read to the defendant and the defendant may (1) change his or her plea; or (2) stand trial. If the defendant changes his or her plea from “not guilty” to “guilty” sentence may be entered or deferred under the same procedure and subject to the same time limits as provided in Section 5.10.C.1 above.
- B. If the defendant chooses to stand trial, the jury shall be empanelled if the defendant has made a timely jury trial request, as provided in Sections 5.5 and 5.13 above. The Tribal Court shall require the defendant and witnesses to be sworn and proceed to hear evidence. Unless the Tribal Court for good cause directs otherwise, the prosecution’s case shall be presented first, followed by the presentation of the defendant’s case. Throughout the proceeding, the Judge must preserve to the defendant the rights guaranteed to the defendant under Article VI, Section 13, and Article IX of the Tribal Constitution.
- C. In the case of a jury trial, at the close of the evidence, and after the Tribal Court Judge makes determinations on any motions made by the parties following the close of evidence, the jury shall receive instruction and deliberate as provided in Sections 3.12 and 3.13 of this Code.

Sec 5.17 Jury Verdict; Lesser Included Offenses

- A. The Tribal Court Judge shall provide the jury with instructions and send the jury into the jury room for deliberation. In every criminal case tried to a jury, the jury must reach a unanimous verdict of guilty or not guilty. If the judge determines that a jury in a criminal case is unable to reach a unanimous verdict, the Tribal Court Judge shall declare a mistrial and the Tribal Court Judge shall set a new

trial date to commence within 90 days of the Tribal Court's declaration of mistrial. If the Tribal Prosecutor decides not to proceed with retrial of the case, the Tribal Prosecutor shall file a motion to dismiss prior to the commencement of the retrial.

- B. Lesser Included Offenses and Attempts. If so instructed, the jury may find the defendant guilty of an offense necessarily included in the offense charged or of an attempt to commit either the offense charged or an offense necessarily included in the charge. If the jury has been instructed on one or more lesser included offenses, and the jury cannot unanimously agree upon any of the offenses submitted, the court shall poll the jury by inquiring as to each lesser included offense. If upon a poll of the jury the Tribal Court Judge determines that the jury has unanimously voted not guilty as to any lesser included offense, a verdict of not guilty shall be entered for the lesser offenses and the greater offense.
1. As used in 5.17.B above, "lesser included offense" is defined as a lesser crime, all the elements of which are encompassed by a greater crime. If a greater crime is charged which includes the elements of a lesser crime, if so instructed, a jury may convict the defendant of that lesser crime.

Sec 5.18 Judgment

After the return of the jury verdict, or after evidence has been submitted in a trial conducted before a Tribal Court Judge without a jury, the Tribal Court Judge shall issue a final judgment of guilty or not guilty.

- A. If found "not guilty" the defendant shall be released forthwith.
- B. If the defendant is found "guilty" the Tribal Court Judge shall then ascertain if the defendant has any reason why sentence should not there and then be imposed. If the defendant advances such reason, the Judge, after weighing merits of the reasons given, may: (a) defer sentence for not more than five days for provision of a pre-sentencing report, during which time the judge may incarcerate the defendant or release the defendant pending sentencing, upon such conditions as the judge determines appropriate and within the discretion of the Tribal Court; or (b) impose sentence.

Sec 5.19 General Principles

In imposing a sentence for violation of this Code, the Tribal Court in each case shall consider the protection of the public, the gravity of the offense, the impact of the crime on the victim, and the results of any pre-sentencing reports.

- A. Pre-sentencing reports shall include, at a minimum, the following information regarding the defendant: identification data, family history, marital history, education history, employment history, economic data, military record, health history, drug and alcohol use history, mental health history, arrest and criminal records from any jurisdiction, including any prior or pending cases, and any additional information deemed relevant by the probation officer or the defendant.

Sec 5.20 Nature of Sentence

Except where Tribal law provides for specific mandatory penalties, the Tribal Court may, in its discretion, impose as a sentence upon a person convicted of a criminal offense any combination of the following:

- A. A term of imprisonment, not to exceed one year, corresponding to the offense for which the defendant was convicted as provided in Chapter 6 or elsewhere under Tribal law; or
- B. A fine, not to exceed \$5,000, corresponding to the offense for which the defendant was convicted as provided in Chapter 6 or elsewhere under Tribal law; or
- C. A term of Community Service; or
- D. Forfeiture of property; or
- E. To pay restitution, or perform any other act, for the benefit of any person or party who was injured personally or whose property was damaged. Provided, any such personal injuries or property damage, or both, are fairly attributable to the act or failure to act constituting the criminal offense committed by the person; or
- F. To treatment, counseling or rehabilitation; or
- G. To probation or suspension of sentence on such terms and conditions as the Tribal Court may direct, including payment of probation program costs; or
- H. Other penalties, including paying Tribal Court costs, deemed appropriate by the Tribal Court to address or rectify the offense committed.

Sec. 5.21 Determining Factors

In determining the character and duration of the sentence which shall be imposed, the Tribal Court shall take into consideration the previous conduct of the defendant, the circumstances under which the offense was committed, whether the offense was malicious or

willful and whether the offender has attempted to make restitution, the extent of the defendant's resources and the needs of the defendant's dependents. The penalties listed in Chapter 6 of this Code are provided to guide the Tribal Court in determining appropriate sentencing except where they are specifically identified as mandatory.

Sec. 5.22 Imprisonment

Terms of imprisonment shall be served by incarceration in a detention facility. Juveniles and adults shall be held in custody in separate detention facilities, in accord with the requirements of Section 13.37.

Sec. 5.23 Fines

Assessed fines shall be paid by money order or cashier's check, to the Clerk of the Tribal Court either in a lump sum or, at the discretion of the Tribal Court, in installments. In the event an offender is granted an installment plan for payment of a fine, the Tribal Court shall set a reasonable time limit on the payment; if the defendant does not adhere to the payment schedule fixed by the Tribal Court, the Tribal Court shall issue a warrant for the arrest of the offender, who may be required to serve a term of imprisonment in lieu of payment of the fine, and may be subject to additional charges for contempt of Tribal Court or disobedience of a lawful Tribal Court order, or both.

Sec. 5.24 Community Service

- A. A person convicted of a criminal offense may be required to perform work for the benefit of the Tribe for a period of time deemed appropriate by the Tribal Court, which time period shall not exceed the maximum period of imprisonment designated for the offense as set forth in Chapter 6 of this Code or elsewhere under Tribal law. The work shall be performed under the supervision of the Tribal Court or any other Tribal department, program or personnel.
- B. During the period of sentence, the convicted person may be confined in a detention facility if so directed by the Tribal Court or to such other approved facility as the Tribal Court may deem to be in the best interests of the convicted person or of the Hualapai Tribe.
- C. If any convicted person is unwilling, or otherwise fails to perform community service, the Tribal Court may sentence him or her to imprisonment for the remainder of the term of community service imposed.

Sec. 5.25 Probation Officers

- A. The Hualapai Tribal Court, within the budget approved by the Tribal Council, may hire probation officers and other persons as may be required to carry out the probationary functions of the Tribal Court.
- B. Duties of probation officers include, but are not limited to, the following:
 - 1. Make preliminary inquiries, social studies, and such other investigations as the Tribal Court may direct, keep written records of such investigations or studies, and make reports to the Tribal Court;
 - 2. Upon the placement of any person on probation, explain to the person the meaning and conditions of probation;
 - 3. Keep informed concerning the conduct and condition of each person on probation or parole and report thereon to the Tribal Court;
 - 4. Use all suitable methods to bring about improvements in the conduct or condition of persons on probation or parole.
- C. The activities, duties and authority of Probation Officers may be further governed by rules promulgated by the Tribal Court.

Sec. 5.26 Violation of Probation

If the Tribal Court finds, after a hearing in open court, that a person has violated the terms of probation, said person may be ordered to serve part or all of the term of the original sentence. If the cause for violation involves the commission of a separate offense which violates any federal or Tribal law, the probation violator, if convicted, may be sentenced in accordance with the penalties prescribed for that particular violation. Such sentence may be imposed upon the violator in addition to reinstitution of the original suspended sentence and shall run consecutively to the original sentence.

Sec. 5.27 Early Release from Imprisonment

Any person committed to a term of imprisonment by the Tribal Court, who has without misconduct served three-fourths of the sentence imposed, shall be eligible for early release from imprisonment. Early release shall be granted only by a Judge of the Hualapai Tribal Court upon such terms and conditions as the Judge deems appropriate. The Tribal Court may order that the remainder of the sentence be served under the supervision of a Probation Officer, subject to the provisions contained in Section 5.26 herein.

Sec. 5.28 Deposit and Disposition of Funds

Except where Tribal law expressly requires another disposition of fines collected, all money fines imposed upon conviction of a criminal offense shall be deposited into the general fund of the Hualapai Tribe.

Sec. 5.29 Failure to Appear

In any criminal case, if the defendant fails to appear for any proceeding and the defendant is not then in custody, the Tribal Court shall immediately issue a warrant for the arrest of the defendant. In addition, if the defendant has posted a cash or property bond or if, in connection with the case, any property of the defendant has been seized, failure of the defendant to appear before the Tribal Court as required by Tribal law or by any notice or order of the Tribal Court may result in forfeiture of the posted or seized property or cash bond, and disposition of such cash or property as provided by Tribal law.

Sec. 5.30 Fugitive from Justice

- A. Authority to Extradite. Any person within the boundaries of the Hualapai Reservation who is named in an arrest warrant issued by any state or duly constituted tribal court of any federally recognized Indian tribe may be extradited to that jurisdiction.
- B. Commencement of Action. A true and correct copy of the warrant of arrest of the issuing off-reservation court shall be presented to the Hualapai Tribe's Office of the Prosecutor, who shall prepare a tribal extradition order request based on the warrant information. Tribal prosecutors shall present the request for tribal extradition to the Tribal Court.
- C. Preliminary Determination on Warrant. The Tribal Court shall promptly examine the warrant and the request for tribal extradition, and shall consider any relevant information as may be presented to the court by any person. The Tribal Court shall make a preliminary determination on the apparent validity of the warrant.

Sec. 5.31 Fugitive Warrant of Arrest

After preliminary determination by the Tribal Court on the validity of the off-reservation warrant, the Tribal Court shall issue a fugitive warrant of arrest for the person named on the off-reservation warrant. The person named in the warrant shall be brought before the court for an extradition hearing within seventy-two hours after being arrested.

- A. **Issues at Extradition Hearing.** The Tribal Court shall conduct a hearing to determine the validity of the off-reservation warrant, and to determine whether the person arrested on the tribal fugitive warrant is the same person named on the off-reservation warrant. The Tribal Court shall consider any other relevant circumstances and information that may be presented at the time of hearing. Upon determination that the warrant from the off-reservation jurisdiction is valid and the person in custody is the same person named on the off-reservation warrant, and after considering all other relevant information presented, the court shall issue an order directing that the person be released to lawful authorities presenting the off-reservation warrant.
- B. **Notification; Authorization, and Removal of the Alleged Offender.** If the Tribal Court executes an order for extradition, either the Hualapai Office of the Prosecutor or the Hualapai Tribal Police Department shall notify the off-reservation jurisdiction that the person named in their warrant is in custody and that he/she may be picked up within forty-eight hours. If the person named in the off-reservation warrant is not picked up or transferred to the off-reservation jurisdiction within forty-eight hours, the person in custody shall be released from custody. The person named in the off-reservation warrant cannot be taken into custody for the same charge except upon the issuance of a new warrant by the jurisdiction that originally sought the extradition.

Sec. 5.32 Confiscated Contraband and Abandoned Property

- A. The disposition of all property, confiscated as contraband or seized as evidence, shall be determined at a hearing before the Tribal Court.
- B. The Tribal Court shall, upon satisfactory proof of ownership, order such property to be delivered to the rightful owner, unless such property is required as evidence. Where the property is required as evidence, it shall not be returned until final judgment in the case is entered. In no case shall property be returned where possession of such property is unlawful. Such property may be declared property of the Hualapai Indian Tribe and may be destroyed.
- C. Except as otherwise provided by Tribal law, the Tribal Court shall not return any contraband property confiscated pursuant to a conviction of:
 - 1. Carrying a concealed weapon; or
 - 2. An offense involving the use of any dangerous object or dangerous weapon in the commission of such offense.
- D. Any property not claimed by the owner when delivered to the owner, or any property for which an owner has not been determined within six months after a Tribal Court hearing, shall become the property of the Tribe.

- E. Property delivered to the custody of the Tribal Court by a private person shall become the property of the Hualapai Tribe if it is not claimed within 30 days after the hearing.
- F. Any property declared to be property of the United States shall be dealt with as directed by federal law.
- G. The Administrator of the Hualapai Tribal Court shall keep written records of all transfers and dispositions of property taken into the custody of the Tribal Court.

Sec. 5.33 Eligible Age for Criminal Prosecution

After a hearing and at the discretion of the Hualapai Tribal Court, any person who was 14 years of age at the time the person allegedly committed the offense can be tried as an adult and convicted for any criminal offense enumerated in Chapter 6 of this Code or elsewhere under Tribal law.

BE IT FURTHER RESOLVED, the Hualapai Tribal Council hereby adopts the foregoing amendments to the Law and Order Code to be used to govern the administration of justice by the Hualapai Tribe's criminal justice system and juvenile justice system when applicable.


BE IT FURTHER RESOLVED, that the above amended Chapter 5: Criminal Procedure of the Hualapai Law and Order Code, shall go into effect immediately upon passage by the Hualapai Tribal Council and that this Resolution and the amendments described herein shall supersede and replace all earlier versions of Chapter 5: Criminal Procedure passed prior to this date.

CERTIFICATION

I, the undersigned as Chairperson of the Hualapai Tribal council hereby certify that the Hualapai Tribal Council of the Hualapai Tribe is composed of nine (9) members of whom 7 constituting a quorum were present at **Special Council meeting** thereof held on this **12th day of December, 2011**; and that the foregoing resolution was duly adopted by a vote of **7 in favor, 0 oppose, 2 excused**, pursuant to authority of Article V, Section (a) of the Constitution of the Hualapai Tribe approved March 13, 1991.

ATTEST:


Adeline Crozier, Secretary
HUALAPAI TRIBAL COUNCIL


Louise Benson, Chairwoman
HUALAPAI TRIBAL COUNCIL