CHAPTER 3-7 CIVIL INFRACTIONS

GENERAL PROVISIONS

3-7-1 Duties and Authority of Officers; Warrants not Required

(a) It shall be the duty of tribal law enforcement officers to enforce the provisions of this Chapter without the necessity of procuring a warrant.

(b) A tribal law enforcement officer is authorized to arrest any person who resists, delays, prevents or obstructs any such officer in the discharge of, or attempt to discharge, any duty under this Chapter or who gives a false report to any peace officer. Any person who is subject to the criminal laws of the Tribes and who is arrested under this section shall be guilty of a Class C offense and may be prosecuted pursuant to the criminal provisions of this Code. To the extent authorized by law, any person who is not subject to the criminal laws of the Tribes and who is arrested under this section may be transported without unnecessary delay to the nearest authority for the State of Washington or the United States.

3-7-2 Definitions

As used in this Chapter:

(a) "Defendant" means the person against whom an action is filed under this Chapter.

(b) "Infraction" means a civil offense in which the remedy involved is liquidated damages which have been pre-determined by the Business Council as provided by the infractions procedures in this Code. An infraction is not a crime and the punishment shall not affect or impair the credibility of a witness or otherwise of any person convicted thereof.

(c) "Litter" means all waste material including but not limited to disposable packages or containers thrown or deposited as herein prohibited but not including the wastes of the primary processes of mining, logging, sawmilling, farming, or manufacturing.

(d) "Public" means a location to which the public or a substantial group has access or those individuals present in such location. A public place includes, but is not limited to; highways, transport facilities, schools, prisons, apartment houses, places of business or amusement, or any neighborhood.

OFFENSES

Property

3-7-30 Trespass

A person commits the infraction of trespass if he:

(a) Enters upon the real property of another that is posted to prohibit trespassing, is fenced or contains obvious outward signs of habitability without permission of the owner or the owner's agent;

(b) Enters tribal lands that are not specifically posted as open to the public;

(c) Being a non-tribal member he enters or remains on a huckleberry patch unless he has the authority of the Business Council or he is the spouse or descendant of a tribal member of his immediate family and is accompanied by such member;

(d) Refuses to depart from or re-enters the Colville Reservation in violation of an order of exclusion issued by the Tribal Court as provided by this Code.

3-7-31 Vandalism

A person commits the infraction of vandalism if he:

(a) 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 property without the lawful consent of the appropriate governing body; or

(3) An obvious place of burial.

(b) Deposits, throws, or propels any substance upon any highway, roadway, runway, or railroad track, or any vehicle while such vehicle is either in motion or stationary.

PUBLIC ORDER

3-7-32 False Reporting

A person commits the infraction of false reporting if he initiates a false alarm or report which is transmitted to a fire department, law enforcement agency or other organization that responds to emergencies involving danger to life or property.

3-7-33 Use or Possession of Alcoholic Beverage at Community Centers

A person commits the infraction of use or possession of alcoholic beverage at community centers if he uses or possess alcoholic beverages on the premises of any of the District Community Centers.

3-7-34 Harassment

A person commits the infraction of harassment if:

(a) Without lawful authority, he, by words or conduct directed at another, threatens to:

(1) Cause bodily injury in the future to any person;

(2) Cause physical damage to the property of a person other than the actor;

(3) Subject any person to physical confinement or restraint; or

(4) Do any other act which is intended to substantially harm any person with respect to his or her physical or mental health or safety; and

(b) The person by words or conduct places the person threatened in reasonable fear that the threat will be carried out.

(Amended 7/3/02, Resolution 2002-409)

3-7-35 Cruelty to Animals

(a) A person commits the infraction of cruelty to animals if he:

(1) Maliciously kills, maims or wounds any animal;

(2) Overworks, tortures, torments, deprives of necessary sustenance, drink or shelter, cruelly beats, or mutilates or cruelly kills any animal;

(3) Has custody of or is responsible for an animal and willfully subjects the animal to needless suffering or inflicts any unnecessary cruelty upon the animal;

(4) Transports or carries any animal in a cruel and inhumane manner;

(5) Causes any animal to fight of his amusement or betting or wagering, permits the same to be done on any premises or is present at such fight.

(b) It shall be a defense to a prosecution under this section if the actor was involved in an accepted veterinary practice or engaged in hunting or fishing in accordance with the provisions of this Code and his actions were not cruel or inhumane under the circumstances. The Court shall use a reasonableness standard when determining whether a defense exists under this subsection.

PUBLIC HEALTH, SAFETY AND WELFARE

3-7-36 Public Nuisance

(a) A person commits a public nuisance infraction if without lawful authority to do so, he does any act or fails to do any duty, which act or omission either:

(1) Unreasonably annoys, injures, or endangers the comfort, repose, health, or safety of three (3) or more persons;

(2) Offends public decency;

(3) Unlawfully interferes with, obstructs, or tends to obstruct, or render dangerous for passage, any lake, stream, canal, or basin, or any public park, square, street, highway, or road; or

(4) In any way unreasonably renders three (3) or more persons insecure in life or the use of property.

(b) An act or omission to act which affects three (3) or more persons in the ways specified in this section is still a nuisance regardless that the extent of the annoyance or damage inflicted on the individuals is unequal.

(c) The presence of a lawful authority under this section need not be disproved by the Tribes but shall be presented as an affirmative defense.

(d) The commission by act or omission of a public nuisance shall not be punished under this section if the same conduct constitutes another offense which has also been charged against a defendant.

3-7-37 Using, Possessing, Purchasing, or Obtaining Tobacco Products by Minors

(a) "Minor," for purposes of this section, means a person under the age of 18.

(b) A minor commits the infraction of using, possessing, purchasing, or obtaining tobacco products, as defined in Chapter 6-8, if the minor uses, possesses, purchases, or obtains tobacco products.

(c) Rehabilitation, community service: The following penalties shall be given:

(1) For first infraction: Under the discretion and administration of the tobacco coordinator:

(A) participation in a tobacco cessation program for one hour; or

(B) community service for two hours;

(2) For second infraction: Under the discretion and administration of the tobacco coordinator:

(A) participation in a tobacco cessation program for one hour;

(B) community service for two hours; and

(C) participation in a peer training group for four hours;

(3) For third infraction: rehabilitative treatment in a one-hour, six-week cessation program or substantially equivalent program, or 20 hours of community service.

(d) Tobacco products possessed by minors are considered contraband and may be seized by police, as provided in Chapter 2-3.

(e) It shall be a defense to a charge of a violation of this section that tobacco products were used, possessed, purchased, or obtained for traditional tribal ceremonial purposes.

(Enacted 9/20/01, Resolution 2001-524)

3-7-38 Selling or Giving Tobacco Products to Minors

(a) "Minor," for purposes of this section, means a person under the age of 18.

(b) "Person," for purposes of subsection 3-7-38(c), does not include an "operator," as defined in Chapter 6-8, which governs violations by an operator.

(c) A person commits the infraction of selling or giving tobacco products, as defined in Chapter 6-8, to a minor if the person sells or gives, or permits to be sold or given, tobacco products to a minor, while knowing that the minor is a minor.

(d) Fine: The following penalties shall be given:

(1) For first infraction: $50 fine;

(2) For each subsequent infraction: $100 fine.

(e) It shall be a defense to a charge of a violation of this section that tobacco products were used, possessed, purchased, or obtained for traditional tribal ceremonial purposes.

(Enacted 9/20/01, Resolution 2001-524)

3-7-39 Littering

A person commits the infraction of littering if he:

(a) Throws, drops, discards or otherwise disposes of any litter anywhere within the Reservation except in authorized public waste disposal grounds or an authorized receptacle made available for such purpose; or

(b) Without lawful permission, stores or allows to accumulate any wrecked, junked or unserviceable vehicles, appliances or implements anywhere on the Reservation.

3-7-40 Violation of Tribal Law

A person commits the infraction of violation of tribal law if he violates any tribal law or any other Council enactment intended to preserve the peace, health, safety, welfare and morals of the Reservation, when a punishment for such violation is not provided under any other provision of this Code or the law or enactment itself.

3-7-41 4th of July Celebration Grounds

(a) A person commits a celebration grounds infraction if during the Annual 4th of July Celebration and while present on the celebration grounds he:

(1) Uses or possesses, without lawful authority, alcoholic beverages, drugs, and or controlled substances;

(2) Uses fireworks except as authorized by the Business Council;

(3) Uses or possesses a firearm;

(Amended 7/3/96, Resolution 1996-266)

(4) Engages in non-traditional gambling except in conformity with tribal law;

(5) Being a concessionaire, fails to register with the Public Works Department;

(Amended 7/3/96, Resolution 1996-266)

(6) Parks on the inside of the circle in designated parking established for tribal elders, handicapped persons, and concessionaires. In addition to any other remedy provided in Chapter 3-3 of this Code, any vehicle found in violation of this subsection shall be towed away at the owner's expense.

(Amended 7/3/96, Resolution 1996-266)
(Amended 7/11/96, Resolution 1996-272)

(7) Camps outside of the designated camping areas;

(Amended 7/3/96, Resolution 1996-272)

(8) Brings a dog into the 4th of July Celebration Grounds, unless specifically authorized by the Chief of Tribal Police.

(Amended 7/3/96, Resolution 1996-272)

(b) The Colville Confederated Tribes or the Public Works Department shall not be responsible for loss, thefts, or damages.

(c) The Tribal Police Department is authorized to exclude from the 4th of July Celebration Grounds, any person who refuses to comply with any parts of this section. If such person refuses to leave the 4th of July Celebration Grounds, he is subject to arrest and criminal prosecution for trespass, and the personal property of such person is subject to impoundment at the owner's expense.

(Amended 7/3/96, Resolution 1996-272)
(Amended 7/3/02, Resolution 2002-409)

ADMINISTRATION OF GOVERNMENT

3-7-42 **Interference with Judicial Process**

(a) A person commits the infraction of interference with judicial process if he:

(1) Except as provided by tribal law or procedure, interferes with or attempts to influence any decision of the Tribal Court or investigation, prosecution, or settlement of any cases; or

(2) Unlawfully detains or otherwise interferes with a witness or party to an action while such person is going to or from a court proceeding or attending court.

(b) Nothing in this section shall effect or limit the lawful authority of the Business Council to carry out its constitutional authority.

(Chapter enacted-original code 5/7/79)