

**CITIZEN POTAWATOMI NATION
CRIMINAL OFFENSES
TITLE 12**

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PREFACE

Section 12-0-001 Short Title

This Ordinance may be cited as the Tribal Criminal Code.

Section 12-0-002 Application

- (A) The Tribal Criminal Code shall apply to all Indian persons violating its provisions within the jurisdiction of the Tribe.
- (B) This Tribal Criminal Code shall apply to all members of the Tribe, wherever such violation shall occur.
- (C) This Tribal Criminal Code shall apply to all Indian residents of the jurisdiction of the Tribe wherever such violation may occur.
- (D) This ordinance shall apply to non-Indians to the extent not inconsistent with federal law and to the extent that any person found to have violated any provision of this act may be banished from the jurisdiction of the Tribe for a period of not more than ten years, or for such longer term as may be imposed by the Section violated, in a civil proceeding brought by the prosecutor. The non-Indian in such cases shall have all the procedural rights of a criminal defendant, and such cases shall be tried by the rules of criminal procedure.

Section 12-0-003 Sentencing

- (A) All the range of punishments, in Title 12 Criminal Offenses, are amended to add an Enhanced Sentence category providing up to a maximum 3 year sentence and/or a \$15,000 fine.
- (B) The current maximum sentences of 1 year and/or a \$5,000 fine remain in place and shall be routinely applied unless the Enhanced Sentence is invoked by the Prosecutor's Office.
- (C) To invoke the Enhanced Sentence, the Prosecutor's Office shall, at the time of Arraignment, designate upon the Criminal Complaint and announce to the Court on the record that the Prosecutor will seek enhanced sentencing on the charge up to 3 years and/or \$15,000 fine maximum.
- (D) Upon the Prosecutor's announcement that an Enhanced Sentence is being sought, the Court will appoint a Public Defender in compliance with the enhanced sentencing provisions of the Tribal Law & Order Act.

- (E) The Designation to seek an Enhanced Sentence will automatically have the effect of the alleged offense being considered a Tribal Felony under this Code.
- (F) All Defendants convicted under Enhanced Sentencing will have their convictions reported to all other jurisdictions' databases, with the designation as a Convicted Tribal Felon.
- (G) All provisions of any/all other Titles, Chapters and Sections of the Citizen Potawatomi Tribal Code not consistent with this Section will be interpreted in a reasonable manner to bring them into conformity with this Title, Chapter and Section by the District Court.

Ordinance #13-01 enacted by the Citizen Potawatomi Legislature on November 29, 2012.

CHAPTER ONE CRIMES AGAINST PROPERTY

Section 12-1-101 Arson In The First Degree

- (A) It is unlawful to knowingly and willfully start a fire or cause an explosion with the purpose of:
 - (1) Destroying or damaging any building, dwelling, structure or other property of another exceeding One Thousand Dollars (\$1,000.00) in value; or
 - (2) Destroying or damaging any property, by whoever owned, to collect insurance.
- (B) Section 12-1-101 is punishable by fine more than Five Hundred Dollars (\$500.00) less than One Thousand Dollars (\$1,000.00); or imprisonment more than six (6) months but less than one (1) year; or banishment more than five years but less than ten years; or any above combination.
- (C) Should the commission result in the death of or serious injury to any person, banishment may additionally be imposed up to life.

Section 12-1-102 Arson In The Second Degree

- (A) It is unlawful to knowingly or recklessly, carelessly, or negligently, start a fire or cause an explosion which:
 - (1) Endangers human life or safety, or
 - (2) Damages or destroys the property of another.

- (B) Section 12-1-102 is punishable by fine up to One Thousand Dollars (\$1,000.00); or imprisonment up to One (1) year, or both. Banishment not exceeding Ten (10) years may additionally be imposed.

Section 12-1-103 Arson In The Third Degree

- (A) It is unlawful after having started any fire, even though started safely to fail to either:
- (1) Take reasonable measures to put out or control the fire, or
 - (2) To give prompt alarm, if the fire is spreading in such manner it may endanger the life or property of another.
- (B) Section 12-1-103 is punishable by fine up to One Thousand Dollars (\$1,000.00), or imprisonment up to Three (3) months, or both.

Section 12-1-104 Criminal Mischief

- (A) It is unlawful to willfully, intentionally, recklessly or knowingly:
1. Damage or destroy any property with the intent to defraud an insurer, or;
 2. Tamper with the property of another so as to carelessly endanger the safety of another, or carelessly cause any damage to any property or utility service, or;
 3. Damage, destroy, maim, or deface any domestic animal, or;
 4. Purposely, willfully, intentionally or recklessly throw, drop, shoot or otherwise propel a missile or other object at, upon or against a motor vehicle, airplanes, boat, locomotive or train while in operation.
 5. Deface, damage or tamper with property of another, whether public or private.
- (B) Section 12-1-104 is punishable by fine up to Five Thousand Dollars (\$5,000.00) or imprisonment up to One (1) year, or both.
- (C) If the Property value exceeds One Thousand Dollars (\$1,000.00), banishment up to Ten (10) years may be additionally imposed.

Amended by Ordinance #13-05, enacted by the Citizen Potawatomi Legislature on May 30, 2013.

Section 12-1-105 Computer Hacking, Fraud and Abuse

- (A.) It shall be unlawful to:
1. Knowingly exceed the limits of authorization and damage, modify, alter, destroy, copy, delete, disclose or take possession of a computer, computer system, computer network or any other property.
 2. Knowingly and without authorization, gain or attempt to gain access to a computer, computer system, computer network or any other property.
 3. Knowingly and without authorization disrupt or cause the disruption of computer services or deny or cause the denial of access or other computer services to an authorized user of a computer, computer system or computer network.
 4. Knowingly or recklessly cause the transmission of a program, information, code or command, and as a result of such conduct, intentionally cause damage without authorization, to a protected computer.
 5. Knowingly exceed the limits of authorization and damage, modify, alter, destroy, copy, delete, disclose or take possession of a computer, computer system, computer network or any other property.
- (B.) Violation of this Section is punishable by a fine of up to Five Thousand Dollars (\$5,000.00) or imprisonment up to One (1) year, or both
- (C.) Any person, Tribal entity or corporation who suffers damage or loss by reason of a violation of this section of the Tribal Code, may maintain a civil action against the violator(s) to obtain compensatory damages and injunctive relief or other equitable relief in accordance with the Tribal Code's rules of Civil Procedure.

Enacted by Ordinance #13-05 by the Citizen Potawatomi Legislature on May 30, 2013.

Section 12-1-106 through 12-1-109 Reserved

Section 12-1-110 Burglary

- (A) It is unlawful to break into by any force and enter in any manner any part of a dwelling, building, structure, office, room, vehicle or carrier of any type, or any similar enclosed structure of another without consent with the intent to steal or commit any offense punishable by imprisonment.
- (B) Any force is defined as the minimal force necessary to unlawfully enter.
- (C) Section 12-1-110 is punishable by fine up to One Thousand Dollars (\$1,000.00), or imprisonment up to One (1) year, or both. Banishment not exceeding Ten (10) years may additionally be imposed.

Section 12-1-111 Breaking And Entering

- (A) It is unlawful to break into by any force and enter in any manner any part of a dwelling, building, structure, office, vehicle or carrier or any type,

room, trunk, drawer, box, coin operated machine, or similar structure, object, or device of another without consent with intent to:

- (1) Cause annoyance or injury to any person therein, or;
 - (2) Cause damage to any property therein, or;
 - (3) Commit any offense therein, or;
 - (4) Steal, or;
 - (5) Cause, or does actually cause, whether intentionally or recklessly, fear for the safety of another.
- (B) Section 12-1-111 is punishable by fine not less than One Thousand Dollars (\$1,000.00) and up to Five Thousand Dollars (\$5,000.00), or imprisonment up to Three (3) months, or both.

Section 12-1-112 Criminal Trespass

- (A) It is unlawful to enter onto, or remain upon property of another if notice against entry or to leave has been given by:
- (1) Personal communication by the owner or someone having authority to act, or;
 - (2) Fencing, other than barbed wire or similar field fences except as provided, or enclosure designed to exclude intruders, or;
 - (3) Posting of signs reasonably designed to draw attention.
- (B) Section 12-1-112 is punishable by fine up to One Thousand Dollars (\$1,000.00) or imprisonment up to Six (6) months, or both.
- (C) It is an affirmative defense that:
- (1) The property was open upon entry and when ordered, the person left without delay, or;
 - (2) When closed to the public, the person did not substantially interfere with the use of the property or cause damage and when ordered to leave, did so without undue delay.

- (D) On rural lands fenced with barbed wire or domestic animals fencing signs prohibiting entry or use at least six inches by eight inches in plain sight not more than one hundred fifty feet apart shall create a rebuttal presumption that reasonable notice has been given.

Section 12-1-113 through 12-1-119 Reserved

Section 12-1-120 Theft

- (A) It is unlawful to take or carry away any tangible or intangible personal property by fraud or steal with the intent to deprive the owners thereof.
- (B) If any person comes into the possession as bailee of a Citizen Potawatomi Nation Tribal tag issued by the Citizen Potawatomi Nation Tag Agency (bailor), and fails to return said Citizen Potawatomi Nation Tribal tag to the Citizen Potawatomi Nation Tag Agency, in accordance with the bailment agreement, they shall be deemed guilty of theft of a Citizen Potawatomi Nation Tribal tag.
- (C) Section 12-1-120 is punishable by fine up to Five Thousand Dollars (\$5,000.00), or imprisonment up to One (1) year, or both.
- (D) If the property value exceeds One Thousand Dollars, (\$1,000.00), banishment up to Ten (10) years may additionally be imposed.

Amended by Ordinance #13-05, enacted by the Citizen Potawatomi Legislature on May 30, 2013.

Section 12-1-121 Shoplifting

- (A) It is unlawful for any person to wrongfully take merchandise any means, including, but not limited to, concealment or attempted concealment in any manner, either on or off the place of business of the merchant with a purpose to deprive the merchant of merchandise or to avoid payment of merchandise.
- (B) Wrongful taking of merchandise, as used in this section, is defined as the taking of merchandise that has not been purchased from a merchant's place of business without the permission of the merchant, employee(s) or agent(s).
- (C) A person who knowingly conceals un-purchased merchandise on his or her person, or concealed in any manner, that is offered for sale by any store or business establishment, gives rise to a presumption that the person took the merchandise with the purpose of depriving the merchant or another individual having an interest in the merchandise.
- (D) A person engaging in conduct giving rise to a presumption under Section 12-1-121(C) of the Tribal Codes of the Citizen Potawatomi Nation may be detained in a reasonable manner for a reasonable length of time by a law enforcement officer, merchant or merchant's employee in order that recovery of merchandise may be effected.

- (E) The detention by law enforcement officer, merchant or merchant's employee does not render the law enforcement officer, merchant or merchant's employee criminally or civilly liable for false arrest, false imprisonment or unlawful detention.
- (F) Any detention under this provision shall be made only in a reasonable manner and only for a reasonable period of time sufficient for any inquiry into the circumstances for the recovery of said merchandise.
- (G) This section shall be punishable by fine up to three thousand dollars (\$3,000), or imprisonment up to one (1) year. Or both.

Amended by Ordinance #14-02, enacted by the Citizen Potawatomi Legislature on May 22, 2014.

Section 12-1-122 Extortion

- (A) It is unlawful to take, receive, or control the use or disposition of property of another with the intent to deprive him of possession or use by threatening to:
 - (1) Cause bodily harm to any person, or;
 - (2) Commit any offense, or;
 - (3) Unlawfully injure or destroy any property, or;
 - (4) Expose any personal information or secret not public knowledge tending to expose any person to hatred, contempt, or ridicule, or to impair his business or reputation, except by institution of legal proceedings to recover the debt demanded or proper reports to bonafide credit agencies, or;
 - (5) Unlawfully take or withhold official action.
- (B) Section 12-1-122 is punishable by fine up to Five Thousand Dollars (\$5,000.00), or imprisonment up to One (1) year, or both.
- (C) If the property value exceeds One Thousand Dollars (\$1,000.00), banishment up to Ten (10) years may be additionally imposed.

Section 12-1-123 False Pretenses

- (A) It is unlawful to obtain, take, or receive any property of another by means of a trick or deception, or false or fraudulent representation, statement, or pretense with the intent to deprive the owner.
- (B) Section 12-1-123 is punishable by fine up to One Thousand Dollars (\$1,000.00), or imprisonment up to One (1) year, or both.
- (C) If the property value exceeds Five Thousand Dollars (\$5,000.00) banishment up to Ten (10) years may be additionally imposed.

Section 12-1-124 Embezzlement

- (A) It is unlawful to wrongfully or fraudulently appropriate for a person's own use or the use of another any property of another with which the person has been entrusted.
- (B) Section 12-1-124 is punishable by fine up to Five Thousand Dollars (\$5,000.00), or imprisonment up to One (1) year, or both.
- (C) If the property value exceeds One Thousand Dollars (\$1,000.00) banishment up to Ten (10) years may be additionally imposed.

Section 12-1-125 Receiving Stolen Property

- (A) It is unlawful to possess, receive, buy, or conceal any personal property that has been stolen or otherwise obtained from its owner illegally with the intent to deprive the true owner.
- (B) Section 12-1-125 is punishable by fine up to Five Thousand Dollars (\$5,000.00), or imprisonment up to One (1) year, or both.
- (C) If the property value exceeds One Thousand Dollars (\$1,000.00), banishment up to Ten (10) years may be additionally imposed.

Section 12-1-126 Theft Of Property Lost, Mislaid Or Delivered By Mistake

- (A) It shall be unlawful to not take reasonable measures to restore property within a reasonable time, with intent to deprive the owner when known or reasonably suspected the property has been lost, mislaid, or delivered under a mistake as to the nature or amount or identity of the recipient.
- (B) Section 12-1-126 is punishable by fine up to Five Thousand Dollars (\$5,000.0) or imprisonment up to One (1) year, or both.

- (C) If the property value exceeds One Thousand Dollars (\$1,000.00), banishment up to Ten (10) years may be additionally imposed.

Section 12-1-127 Theft Of Services

- (A) It is unlawful to obtain services known to be available only for compensation by deception, threat, force or any means with intent to avoid due payment.
- (B) Section 12-1-127 is punishable by fine up to Five Thousand Dollars (\$5,000.00), or imprisonment up to One (1) year, or both.
- (C) If the value exceeds One Thousand Dollars (\$1,000.00) banishment up to Ten (10) years may be additionally imposed.

Section 12-1-128 Unauthorized Use Of A Vehicle

- (A) It is unlawful to take, drive, or operate another's vehicle, motorcycle, bicycle, or wheeled conveyance without owner consent with intent to temporarily deprive the owner of its use or possession.
- (B) Section 12-1-128 is punishable by fine up to Five Thousand Dollars (\$5,000.00), or imprisonment up to One (1) year, or both.

Section 12-1-129 through 12-1-135 Reserved

Section 12-1-136 Forgery

- (A) It is unlawful to alter any writing without authority, or to make, complete, execute, authenticate, issue or transfer or transmit any writing so that it purports to be the act of another who did not authorize that act, with intent to defraud, or injure anyone or be detrimental to the Tribe or its enterprises.
- (B) "Writing" includes printing or any other method of recording information, email, electronic data, and digital data, money, coins, tokens, stamps, seals, credit cards, badges, trademarks, money, and other symbols of value, right, privilege, or identification.
- (C) Section 12-1-136 is punishable by fine up to Five Thousand Dollars (\$5,000.00), or imprisonment up to One (1) year, or both. Banishment not exceeding Five (5) years may additionally be imposed. Upon subsequent conviction, banishment more than Five (5) years less, than Ten (10) years may be additionally imposed.

Section 12-1-137 Criminal Simulation

- (A) It shall be unlawful to make, alter or utter or attempt to circulate or sell as genuine any object that appears to have value because of antiquity, rarity, source, or authorship with intent to defraud.
- (B) Section 12-1-137 is punishable by fine up to Five Thousand Dollars (\$5,000.00), or imprisonment up to One (1) year, or both.

Section 12-1-138 Fraudulent Handling Of Recordable Instruments

- (A) It is unlawful to destroy, remove or conceal any will, deed, mortgage, security instrument, Tribal resolution, any Tribal record, for which the law provided public recording, or to knowingly record a false or forged instrument, with the intent to deceive, injure or conceal wrong doing.
- (B) Section 12-1-138 is punishable by fine up to Five Thousand Dollars (\$5,000.00), or imprisonment up to One (1) year. Banishment not exceeding Five (5) years may additionally be imposed. Upon a second conviction, banishment up to Ten (10) years may be additionally imposed.

Section 12-1-139 Tampering With Records

- (A) It is unlawful to falsify, destroy, remove, or conceal any writing or record, with the intent to deceive, injure or conceal wrong doing.
- (B) Section 12-1-139 is punishable by fine up to Five Thousand Dollars (\$5,000.00) or imprisonment up to One (1) year, or both. Banishment not exceeding Five (5) years may additionally be imposed. Upon a second conviction, banishment up to Ten (10) years may be additionally imposed.

Section 12-1-140 Bad Checks

- (A) It is unlawful to issue or pass a check or order for payment to obtain money, property, or thing of value or paying for services, rent, wages or salary, knowing or believing it will not be honored.
- (B) Section 12-1-140 is punishable by fine up to Five Thousand Dollars (\$5,000.00), or imprisonment up to One (1) year, or both. Restitution shall be required.

Section 12-1-141 Fraudulent Use Of A Credit Card

- (A) It is unlawful to use a credit card to obtain property or services with knowledge that:
 - (1) The card was stolen; or

- (2) The card has been revoked or cancelled; or
 - (3) For any reason use is unauthorized.
- (B) Section 12-1-141 is punishable by fine up to Five Thousand Dollars (\$5,000.00), or imprisonment up to One (1) year, or both. Restitution shall be required.

Section 12-1-142 through 12-1-146 Reserved

Section 12-1-147 Deceptive Business Practices

- (A) It is unlawful to, intentionally:
- (1) Use or possess a false weight or measure, or device for falsely determining or recording any quality or quantity; or
 - (2) Sell, offer, or deliver less than the represented quality or quantity of any commodity or service; or
 - (3) Take or attempt to take more than the represented quantity of any commodity or service when he furnishes the weight or measure; or
 - (4) Sell, or offer adulterated or mislabeled commodities:
 - (a) “adulterated” varying from the standard composition or quality prescribed by law or commercial usage; or
 - (b) “mislabeled” varying from the standard of truth or disclosure prescribed by law or commercial usage; or
 - (5) Make a substantial false or misleading statement in any advertisement to promote the purchase or sale of property or services; or
 - (6) Make a false or misleading written statement to obtain property or credit; or
 - (7) Make a false or misleading written statement to promote sales of securities, or omit required information in written documents relating to securities.
- (B) Section 12-1-147 is punishable by fine up to One Thousand Dollars (\$1,000.00), or imprisonment up to Six (6) months, or both.

- (C) It is an affirmative defense the conduct was not knowingly or recklessly deceptive.
- (D) Upon subsequent offense, banishment up to ten years may additionally be imposed.

Section 12-1-148 Defrauding Creditors

- (A) It is unlawful to:
 - (1) Destroy, remove, conceal, encumber, transfer, or deal with property subject to a security interest intending to hinder enforcement of that interest; or
 - (2) Deal with property intending defeat or obstructing the operation of law relating to administration of property for the benefit of creditors; or knowingly falsify writing or record or knowingly misrepresent or refuse to disclose the existence, amount or location of property, or information which could be legally required to furnish.
- (B) Section 12-1-148 is punishable by fine up to One Thousand Dollars (\$1,000.00), or imprisonment up to Six (6) months, or both.

Section 12-1-149 Securing Execution Of Documents By Deception

- (A) It is unlawful to intentionally, by deception, cause another to execute any instrument affecting or likely to affect the pecuniary interest of any person.
- (B) Section 12-1-149 is punishable by fine up to One Thousand Dollars (\$1,000.00), or imprisonment up to Six (6) months, or both.

Section 12-1-150 Criminal Usury

- (A) It is unlawful to intentionally provide financing or make loans at a rate of interest higher than the following:
 - (1) If interest applies to less than One Hundred Dollars (\$100.00) or period is less than one year, or both, the rate of interest shall not exceed a 24% per annum simple.
 - (2) If interest applies to greater than One Hundred Dollars or period is greater than one year, or both, the rate of interest shall not exceed an 18% per annum simple.

- (B) Section 12-1-150 is punishable by fine up to One Thousand Dollars (\$1,000.00), or imprisonment up to Six (6) months, or both. The victim shall receive restitution for double the amount of interest paid and cancellation of all future interest.

Section 12-1-151 Unlawful Dealing With Property By A Fiduciary

- (A) It is unlawful to knowingly deal with property entrusted in a fiduciary capacity, or Tribal property or financial institution, in a manner known to be a violation of fiduciary duty, or involves a substantial risk or loss.
- (B) “Fiduciary” includes a trustee, guardian, executor, administrator, receiver or person performing fiduciary functions on behalf of any entity which is a fiduciary.
- (C) Section 12-1-151 is punishable by fine up to Five Thousand Dollars (\$5,000.00), or imprisonment up to One (1) year, or both.

Section 12-1-152 Making A False Credit Report

- (A) It is unlawful to knowingly make false or misleading statements to obtain property, credit or to prevent another from obtaining credit.
- (B) Section 12-1-152 is punishable by fine up to One Thousand Dollars (\$1,000.00), or imprisonment up to Three (3) months, or both.

**CHAPTER TWO
CRIMES AGAINST PERSONS**

Section 12-2-101 Assault In The First Degree

- (A) It is unlawful to wrongfully, purposely, knowingly, or recklessly with indifference to the value of human life, to:
 - (1) Attempt or cause serious injury; or
 - (2) Use a deadly weapon with intent to cause serious injury, or put in fear of imminent serious injury with the apparent ability.
- (B) Section 12-2-101 is punishable by fine up to Two Thousand Five Hundred Dollars (\$2,500.00), or imprisonment up to One (1) year, or both. Banishment not exceeding Ten (10) years may additionally be imposed.

Section 12-2-102 Assault In The Second Degree

- (A) It is unlawful to wrongfully, purposely, knowingly or recklessly:
 - (1) Attempt or cause injury; or
 - (2) Negligently cause injury with a weapon; or
 - (3) Attempt by show of force or violence to put in fear of imminent injury whether or not harm actually occurs.
 - (4) Commit any assault or battery upon the person of a sports official, referee, umpire, coach or any person having authority in connection with any amateur or professional athletic contest.
 - (5) Cause unjustifiable harassment which disrupts the flow of an athletic contest upon a sports official, referee, umpire, coach or any person having authority in connection with any amateur or professional athletic contest.
- (B) Section 12-2-102 is punishable by fine up to One Thousand Dollars (\$1,000.00), or imprisonment up to One (1) year, or both.

Amended by Ordinance #13-05, enacted by the Citizen Potawatomi Legislature on May 30, 2013.

Section 12-2-103 Mayhem

- (A) It is unlawful to wrongfully, purposely, or knowingly deprive a person of a body member or render it useless, or cut out or disable the tongue, put out an eye or slit the nose, ear or lip.
- (B) Section 12-2-103 is punishable by fine up to Five Thousand Dollars (\$5,000.00), or imprisonment up to Six (6) months, or both. Banishment not exceeding life may additionally be imposed.

Section 12-2-104 Verbal Or Written Assault

- (A) It is unlawful to threaten, verbally or in writing, to commit any offense with apparent ability
 - (1) With intent to terrorize or place another in fear of imminent serious injury or
 - (2) To cause, evacuation of a building, place of assembly, or facility of public transportation, or serious public inconvenience.
- (B) Section 12-2-104 is punishable by fine up to Five Thousand Dollars (\$5,000.00), or imprisonment up to One (1) year, or both.

Section 12-2-105 through 12-2-110 Reserved

Section 12-2-111 Homicide In The First Degree

- (A) It is unlawful to:
 - (1) Purposely, knowingly and wrongfully with the malice aforethought cause death or
 - (2) Cause death due to the commission or attempted commission of a felony or offense punishable by banishment.
- (B) Section 12-2-111 is punishable by fine of Five Thousand Dollars (\$5,000.00), or imprisonment up to One (1) year, or both. Banishment for life may additionally be imposed.

Section 12-2-112 Homicide In The Second Degree

- (A) It is unlawful to:
 - (1) Recklessly or negligently with disregard of consequence to cause death, or;
 - (2) Cause death operating a motor vehicle in a reckless, negligent, or careless manner, or while under the influence of alcoholic beverage, intoxicating liquor, a controlled substance, or drug.
 - (a) A blood alcohol content more than .08 shall create a rebuttable presumption the person was under the influence of an alcoholic beverage.
 - (b) A motor vehicle is any self-propelled vehicle and includes, but not limited to, any automobile, truck, van, motorcycle, train, engine, watercraft, aircraft or snowmobile.
 - (3) Cause death due to the commission of any criminal offense.
- (B) Section 12-2-112 is punishable by fine of Five Thousand Dollars (\$5,000.00), or imprisonment up to One (1) year, or both. Banishment not exceeding Twenty (20) years may additionally be imposed.

Section 12-2-113 Causing A Suicide

- (A) It is unlawful to intentionally cause a suicide by force, duress, or deception.
- (B) Section 12-2-113 is punishable by fine up to Five Thousand Dollars (\$5,000.00), or imprisonment up to One (1) year, or both. Banishment not exceeding Twenty (20) years may additionally be imposed.

Section 12-2-114 Aiding Or Soliciting A Suicide

- (A) It is unlawful to intentionally aid or solicit to attempt or commit suicide.
- (B) Section 12-2-114 is punishable by fine up to One Thousand Dollars (\$1,000.00), or imprisonment up to One (1) year, or both.

Section 12-2-115 through 12-2-120 Reserved

Section 12-2-121 Kidnapping

- (A) It is unlawful to intentionally and wrongfully remove a person from place of residence, business, or vicinity or to unlawfully confine or conceal:
 - (1) To hold for ransom, reward, or as a shield or hostage; or
 - (2) To facilitate commission of any offense or flight; or
 - (3) To inflict injury or terrorize; or
 - (4) To interfere with the performance of any governmental or political function.
- (B) A removal, restraint, or confinement is wrongful if accomplished by force, threat or deception, or, if a minor under fourteen or incompetent person if accomplished without consent of parent, guardian or other person responsible for their welfare.
- (C) Section 12-2-121 is punishable by fine up to Five Thousand Dollars (\$5,000.00), or imprisonment up to One (1) year, or both. If the kidnapping resulted in injury, banishment up to Ten (10) years may be imposed. If the kidnapping is a subsequent conviction or if death resulted, banishment up to life may be imposed.

Section 12-2-122 False Imprisonment

- (A) It is unlawful to knowingly and wrongfully restrain or imprison so as to interfere with liberty.
- (B) Section 12-2-122 is punishable by fine up to Two Thousand Five Hundred Dollars (\$2,500.00), or imprisonment up to Six (6) months, or both.

Section 12-2-123 Custodial Interference

- (A) It is unlawful to wrongfully:
- (1) Take, entice, conceal, or detain a child under sixteen from his parent, guardian or lawful custodian, knowing they have no legal right and
 - (a) With intent to hold the child for a period substantially longer than any visitation or custody period awarded by a court; or
 - (b) With intent to deprive another their lawful visitation or custody right; or
 - (2) Intentionally take, entice or detain an incompetent or person committed to the custody of another or institution from the other or institution, without good cause and with knowledge they have no legal right.
- (B) Section 12-2-123 is punishable by fine up to Three Thousand Dollars (\$3,000.00), or imprisonment up to Three (3) months or both.

Section 12-2-124 Criminal Coercion

- (A) It is unlawful to intentionally and wrongfully restrict freedom of action to their detriment, by threatening to:
- (1) Commit any criminal offense; or
 - (2) Accuse wrongfully of a criminal offense; or
 - (3) Expose any secret tending to subject any person to hatred, contempt or ridicule, or impair credit or business reputation; or
 - (4) Unlawfully take or withhold action as an official, or cause an official to take or withhold action.
- (B) It is an affirmative defense except for subsection (1) above, the actor believed the accusation or secret to be true or official action was justified and purpose was limited to compelling the other in a lawful manner to behave in a way reasonably related to the circumstances which were the subject of the accusation, exposure, or proposed official action; for example, by refraining from further misbehavior, making good a wrong done, refraining from taking any action or responsibility for which the actor believes the other disqualified.

- (C) Section 12-2-124 is punishable by fine up to Five Thousand Dollars (\$5,000.00), or imprisonment up to One (1) year, or both.

Section 12-2-125 Deviate Sexual Intercourse

- (A) It shall be unlawful to engage in deviate sexual intercourse, defined as sexual intercourse, oral or anal between persons not husband and wife, or any form of sexual intercourse with an animal, and to cause another to engage in deviate sexual intercourse if:
- (1) That person is compelled by threat that would prevent resistance; or,
 - (2) That person is compelled by force or threat of imminent death, serious injury, pain or kidnapping, to be inflicted on anyone; or,
 - (3) The person's power to appraise or control his conduct has been substantially impaired by administration or employment of drugs or intoxicants; or,
 - (4) The offender knows the person has a mental disease or defect or knows the person is unconscious or submits because he is unaware a sexual act is being committed.
- (B) Section 12-2-125 is punishable by fine up to Five Thousand Dollars (\$5,000.00), or imprisonment up to One (1) year, or both.

Section 12-2-126 Sexual Assault

- (A) It shall be unlawful to intentionally, wrongfully, and without consent, subject another to sexual contact:
- (1) With knowledge that the conduct is offensive; or,
 - (2) With knowledge that the person has a mental disease or defect; or,
 - (3) With knowledge that the person is unaware a sexual act is being committed; or,
 - (4) After having impaired the person's power to appraise or control conduct by administering or employing, without the other's knowledge, drugs, intoxicants, or other means; or,

- (5) If that person is less than fourteen years of age, regardless of consent; or,
 - (6) If that person is less than sixteen years of age, and the actor is at least four years of age or older, regardless of consent; or,
 - (7) If that person is less than twenty one years of age, and the actor is his parent, guardian or responsible for his welfare regardless of consent; or,
 - (8) If that person is in custody or detained in a hospital or institution and the actor has supervisory or disciplinary authority over him regardless of consent.
- (B) Sexual contact is any touching of the sexual or other intimate parts of another or taking indecent liberties arousing or gratifying sexual desires.
- (C) Section 12-2-126 is punishable by fine up to Five Thousand Dollars (\$5,000.00), or imprisonment up to One (1) one year, or both.

Section 12-2-127 Stalking

- (A) No person with intent to harass another person shall engage in a course of conduct over any period of time reasonably likely to cause a reasonable person to suffer substantial emotional distress and which does, in fact, seriously alarm the person toward whom the harassment is directed including, but not limited to, any combination of the following acts:
- 1) Communicating, anonymously or otherwise, or causing a communication with another person by verbal, electronic, mechanical, telegraphic, telephonic, or written means in a manner that harasses;
 - 2) Following a person, other than within the residence of the defendant;
 - 3) Placing a person under surveillance by remaining present outside that person's school, place of employment, vehicle, other place occupied by the person, or residence other than the residence of the defendant; or
 - 4) Otherwise engaging in a course of conduct evidencing a continuity of purpose that harasses another person.
- (B) Section 12-2-127 is punishable by fine up to Two Thousand Five Hundred Dollars (\$2,500.00), or imprisonment up to Six (6) months, or both.

Section 12-2-128 through 12-2-133 Reserved

Section 12-2-134 Robbery

- (A) It is unlawful to take anything of value from the immediate control of another by use or the threatened use of force or violence, with intent to permanently deprive.
- (B) Section 12-2-134 is punishable by fine up to Five Thousand Dollars (\$5,000.00), or imprisonment up to One (1) year, or both. Banishment not exceeding Five (5) years may additionally be imposed.

Section 12-2-135 Child Abuse

- (A) No person shall intentionally or recklessly inflict upon, cause, or place a person under the age of eighteen (18) years in imminent danger or substantial risk of harm in the form of:
 - (1) Death or physical injury including, but not limited to, disfigurement, impairment of any bodily organ, skin bruising, bleeding, burns, fracture of any bone, subdural hematoma, or substantial malnutrition;
 - (2) Mental injury in the form of impairment of intellectual capacity, psychological capacity, or emotional stability including, but not limited to, an observable or substantial impairment of the victim's ability to function within a normal range of performance and behavior;
 - (3) Sexual injury or harm including, but not limited to, injury to the genital organs of a child in attempt of carnal knowledge falling short of actual intercourse; or,
 - (4) The taking of immodest, immoral, or indecent liberties with a child including, but not limited to, fondling a child either by physical touching or through clothing, masturbating with a child, or encouraging a child to commit with him any immoral or indecent act.
- (B) Imminent danger, as used in this Section, includes threatened harm by means of a statement, overt act, or condition which represents an immediate and substantial risk.

- (C) Substantial risk, as used in this Section, means a strong possibility, as contrasted with a remote or insignificant possibility.
- (D) Section 12-2-135 is punishable by a fine up to five thousand dollars (\$5,000), or imprisonment up to One (1) year, or both. Any person convicted of violating this section, or an attempted offense, involving abuse or neglect of a sexual nature, shall register as a sex offender with this Tribe and comply with all laws affecting sex offenders.

Section 12-2-136 Abandonment or Neglect

- (A) Any parent of any child or children under the age of ten (10) years, and every person to whom such child or children have been confided for nurture or education, who deserts such child or children, or takes such child or children beyond the jurisdiction of this Nation, with the intent wholly to abandon it, shall be deemed guilty of Abandonment or Neglect.
- (B) Section 12-2-136 is punishable by a fine up to Five Thousand Dollars (\$5,000), or imprisonment up to One (1) year, or both.

Section 12-2-137 Omission to Provide for a Child

- (A) Any parent, guardian, or person having custody or control of a child who willfully omits, without lawful excuse, to furnish necessary food, clothing, shelter, monetary child support, medical attendance, payment of court-ordered day care or payment of court-ordered medical insurance costs for such child, shall be guilty of Omission to Provide for a Child.
- (B) Section 12-2-137 is punishable by a fine up to Five Thousand Dollars (\$5,000), or imprisonment up to One (1) year, or both.
- (C) Nothing contained in this section shall prevent a court from immediately assuming custody of a child and ordering whatever action may be necessary, including medical treatment, to protect the child's health or welfare.

Section 12-2-138 Child Endangerment by Permitting Child Abuse

- (A) A person who is the parent, guardian, or person having custody or control over a child commits child endangerment when the person knowingly permits physical or sexual abuse of a child or who knowingly permits a child to be present at a location where a controlled dangerous substance is being manufactured or attempted to be manufactured.

- (B) Section 12-2-138 is punishable by a fine up to Five Thousand Dollars (\$5,000), or imprisonment up to One (1) year, or both.
- (C) Nothing contained in this section shall prevent a court from immediately assuming custody of a child and ordering whatever action may be necessary, including medical treatment, to protect the child's health or welfare.

Section 12-2-139 Child Pornography; Possession of Child Pornography

- (A) Any person who shall procure or cause the participation of any minor under the age of eighteen (18) years in any child pornography or who knowingly possesses, procures, or manufactures, or causes to be sold or distributed any child pornography shall be guilty of violating this Section.
- (B) Section 12-2-139 is punishable by a fine up to Five Thousand Dollars (\$5,000), or imprisonment up to One (1) year, or both. Any person convicted of violating this section, or an attempted offense, shall register as a sex offender with this Tribe and comply with all laws affecting sex offenders.
- (C) The consent of the minor, or of the mother, father, legal guardian, or custodian of the minor to the activity prohibited by this section shall not constitute a defense.

Section 12-2-140 Duty to Report Child Abuse and Obscene or Pornographic Material Depicting Minors

- (A) Any person who has knowledge of acts constituting child abuse , or observes any film, photograph, video tape, negative, or slide, or any computer file, recording, CD-Rom, magnetic disk memory, magnetic tape memory, picture, graphic or image that is intentionally saved, transmitted or organized on hardware or any other media including, but not limited to, CDs, DVDs and thumbdrives, or other means and whether directly viewable, compressed or encoded, depicting a child under the age of eighteen (18) years engaged in an act of sexual conduct, shall immediately or as soon as possible report such instance of suspected child abuse or child pornography to the Citizen Potawatomi Police Department. Any person who fails to report child abuse or child pornography shall be guilty of violating this Section.
- (B) Section 12-2-140 is punishable by a fine up to Three Thousand Dollars (\$3,000), or imprisonment up to One (1) year, or both.

Section 12-2-141 Indecent Exposure, Indecent Exhibitions

- (A) Every person who willfully and knowingly either:
- (1) Lewdly exposes his person or genitals in any public place, or in any place where there are present other persons to be offended or annoyed thereby;
 - (2) Procures, counsels, or assists any person to expose such person, or to make any other exhibition of such person to public view or to the view of any number of persons, for the purpose of sexual stimulation of the viewer;
 - (3) Writes, composes, stereotypes, prints, photographs, designs, copies, draws, engraves, paints, molds, cuts, or otherwise prepares, publishes, sells, distributes, keeps for sale, knowingly downloads on a computer, or exhibits any obscene material or child pornography; or,
 - (4) Makes, prepares, cuts, sells, gives, loans, distributes, keeps for sale, or exhibits any disc record, metal, plastic, or wax, wire or tape recording, or any type of obscene material or child pornography, shall be guilty of Indecent Exposure, Indecent Exhibitions.
- (B) Section 12-2-141 is punishable by a fine up to Five Thousand Dollars (\$5,000), or imprisonment up to One (1) year, or both. Any person who has been convicted of a violating this section, or an attempted offense, shall register as a sex offender with this Tribe and comply with all laws affecting sex offenders.

Section 12-2-142 Solicitation of Minors

- (A) It is unlawful to entice, advise, incite, order or encourage any minor under the age of eighteen (18) to commit any offense, with the intent that such person will commit an offense of the laws of this jurisdiction.
- (B) Section 12-2-142 is punishable by a fine up to Three Thousand Dollars (\$3,000), or imprisonment up to Six (6) months, or both.

Section 12-2-143 Indecent Solicitation of Minors

- (A) It is unlawful to:
- (1) Willfully solicit or aid a minor child under the age of eighteen (18) to perform or participate in an act of a sexually deviant nature; or

- (2) Shows, exhibits, loans, or distributes to a minor child under the age of sixteen (16) any obscene material or child pornography for the purpose of inducing said minor to participate in, any act specified in paragraphs 1, 2, 3 or 4 of Indecent Exposure, Indecent Exhibitions, shall be guilty of Solicitation of Minors.
- (B) Section 12-2-143 is punishable by a fine up to Five Thousand Dollars (\$5,000), or imprisonment up to One (1) year, or both. Any person convicted of violating this section, or an attempted offense, shall register as a sex offender with this Tribe and comply with all laws affecting sex offenders.

Section 12-2-144 Abuse, Neglect or Financial Exploitation by Caretaker

- (A) No caretaker or other person, shall abuse, commit financial neglect, neglect, commit sexual abuse, or exploit any person entrusted to the care of such caretaker or other person in a nursing facility or other setting.
- (B) Section 12-2-144 is punishable by a fine up to Five Thousand Dollars (\$5,000), or imprisonment up to One (1) year, or both. Any person convicted of violating this section, or an attempted offense, involving abuse or neglect of a sexual nature, shall register as a sex offender with this Tribe and comply with all laws affecting sex offenders.

Section 12-2-145 Verbal Abuse by a Caretaker

- (A) No caretaker shall verbally abuse any person entrusted to the care of the caretaker, or knowingly cause, secure, or permit an act of verbal abuse to be done.
- (B) For the purpose of this section, "verbal abuse" means the repeated use of words, sounds, or other forms of communication by a caretaker, including but not limited to, language, gestures, actions or behaviors, that are calculated to humiliate or intimidate or cause fear, embarrassment, shame, or degradation to the person entrusted to the care of the caretaker.
- (C) Section 12-2-145 is punishable by a fine up to Two Thousand Five Hundred Dollars (\$2,500.00), or imprisonment up to Six (6) months, or both.

Section 12-2-146 Exploitation of Elderly Persons or Disabled Adults

- (A) As used in this section, "exploitation of an elderly person or disabled adult" means:

- (1) Knowingly, by deception or intimidation, obtaining or using, or endeavoring to obtain or use, an elderly person's or disabled adult's funds, assets, or property with the intent to temporarily or permanently deprive the elderly person or disabled adult of the use, benefit, or possession of the funds, assets, or property, or to benefit someone other than the elderly person or disabled adult, by a person who:
 - (a) stands in a position of trust and confidence with the elderly person or disabled adult, or
 - (b) has a business relationship with the elderly person or disabled adult, or
 - (2) Obtaining or using, endeavoring to obtain or use, or conspiring with another to obtain or use an elderly person's or disabled adult's funds, assets, or property with the intent to temporarily or permanently deprive the elderly person or disabled adult of the use, benefit, or possession of the funds, assets, or property, or to benefit someone other than the elderly person or disabled adult, by a person who knows or reasonably should know that the elderly person or disabled adult lacks the capacity to consent.
- (B) This Section is punishable by a fine up to Three Thousand Dollars (\$3,000), or imprisonment up to Six (6) months, or both.
- (C) For purposes of this section, "elderly person" means any person sixty-two (62) years of age or older.

Section 12-2-147 Obscene Language in a Public Place

- (A) It is unlawful for any person to utter or speak any obscene or lascivious language or word in any public place or in the presence of children under ten (10) years of age.
- (B) This section is punishable by a fine up to Two Hundred Fifty Dollars (\$250.00), or imprisonment for not more than Two (2) days, or both.

Section 12-2-148 Incest

- (A) It shall be unlawful for any persons, who being within the degree of consanguinity within which marriages are by the Citizen Potawatomi Nation declared incestuous and void, to the intermarry with each other, or commit adultery or fornication with each other.

- (B) Tier I offense-Penalty. The penalty for incest shall be incarceration for not more than one (1) year and a fine of not more than Five Thousand Dollars (\$5,000.00), or both, plus costs.

Section 12-2-149 Misleading Domain Name on the Internet

- (A) It shall be unlawful for a person to knowingly use a misleading domain name on the Internet with the intent to deceive a minor or adult person into viewing material constituting obscenity.
- (B) For the purposes of this section, a domain name that includes a word or words to indicate the sexual content of the site, such as “sex” or “porn”, is not misleading.
- (C) For the purposes of this section, the term “material that is harmful to minors” means any communication, consisting of nudity, sex, or excretion, that, taken as a whole and with reference to its context:
 - 1. Is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors; and
 - 2. Lacks serious literary, artistic, political, or scientific value for minors.
- (D) Tier I offense-Penalty. Any person found to be in violation of this section shall be punished by imprisonment of not more than one (1) year or a fine of not more than Five Thousand Dollars (\$5,000.00), or both.

Section 12-2-150 Misleading Words or Digital Images on the Internet

It shall be unlawful for any person to:

- (A) Knowingly embed words or digital images into the source code of a website with the intent to deceive a person into viewing material constituting obscenity.
- (B) Knowingly embed words or digital images into the source code of a website with the intent to deceive a minor into viewing material harmful to minors on the Internet.
- (C) Construction. For the purposes of this section, a word or digital image that clearly indicates the sexual content of the site, such as “sex” or “porn”, is not misleading.
- (D) Tier I offense-Penalty. Any person found to be in violation of this section shall be punished by imprisonment of not more than one (1) year or a fine of not more than Five Thousand Dollars (\$5,000.00), or both.

Sections 12-2-151 through 12-2-174 Reserved.

Section 12-2-175. Title

The ordinances codified at Sections 12-2-175 through 12-2-204 herein establish, and shall be known as, “The Citizen Potawatomi Nation Criminal Sexual Crimes Registration Act”.

Ordinance #11-02 enacted by the Citizen Potawatomi Legislature on June 28, 2010 and Ordinance # 11-03 enacted by the Citizen Potawatomi Legislature on May 26, 2011.

Section 12-2-176 Establishment of Registries

- A. This Act hereby authorizes the Citizen Potawatomi Nation Police Department to serve as the Nation’s Sex Offender Registration Office, which shall maintain and operate a sex offender registration pursuant to the provisions of this code.
- B. This Act hereby establishes a Citizen Potawatomi Nation Sex Offender Registration and Notification system, which shall be maintained and operated pursuant to the provisions of this code.
- C. This Act hereby establishes a Citizen Potawatomi Nation Sex Offender registry website, which shall be maintained and operated pursuant to the provisions of this code.

Ordinance #11-02 enacted by the Citizen Potawatomi Legislature on June 28, 2010 and Ordinance # 11-03 enacted by the Citizen Potawatomi Legislature on May 26, 2011.

Section 12-2-177 Criminal and Civil Sanctions

- A. Offenders who reside or enter within the territorial jurisdiction of the Citizen Potawatomi Nation or otherwise reside on property owned by the Citizen Potawatomi Nation in fee or trust regardless of location, who are employed within the exterior boundaries of the Citizen Potawatomi Nation or on property owned in fee or trust regardless of location, or who attend school within the exterior boundaries of the Citizen Potawatomi Nation or on property owned in fee or trust regardless of location, that have been convicted of the offenses listed in this Act are subject to the requirements of this code.
- B. Any violation of a provision of this code by a sex offender who is an Indian shall be considered a felonious crime and subject to the penalty of one (1) year imprisonment and/or a fine of five thousand dollars (\$5,000.00) or both.
- C. 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 banishment.

Ordinance #11-02 enacted by the Citizen Potawatomi Legislature on June 28, 2010 and Ordinance # 11-03 enacted by the Citizen Potawatomi Legislature on May 26, 2011.

Section 12-2-178 Definitions

Words and phrases as used herein and elsewhere in Title 12 shall be defined as follows:

- A. “Absconder” shall mean a convicted sex offender who goes in a clandestine manner out of the jurisdiction of the Court, or lies concealed, in order to avoid process of law.
- B. “Advocate” shall mean a person who speaks or writes in support or defense of a person, cause, etc.
- C. “Bodily injury” shall mean, but is not limited to, bodily harm (however slight), disfigurement, mental anguish, chronic pain, pregnancy, disease, or loss or impairment of a sexual or reproductive organ.
- D. “Citizen Potawatomi Nation” shall mean the Government of the Citizen Potawatomi Nation and its membership as defined in Article III of the Constitution of the Citizen Potawatomi Nation.
- E. “Citizen Potawatomi Nation Sex Offender Registration Office” shall mean the office designated by the Citizen Potawatomi Nation to register sexual offenders and maintain the sex offender registry, pursuant to the Constitution and applicable laws of the Citizen Potawatomi Nation.
- F. “Consanguinity” shall mean a relationship by descent from a common ancestor.
- G. “Consent” shall mean to voluntarily give permission, approval, or agreement.
- H. “Convicted” shall mean a sex offender who has been subject to penal consequences based on a conviction, however it may be styled. This includes adults as well as juvenile offenders.
- I. “Court” shall mean the Citizen Potawatomi Nation District Court and all proceedings under this Act shall refer to the same.
- J. “Developmental Disability” shall mean an impairment of general intellectual functioning or adaptive behavior which meets the following criteria:
 - 1. It originated before the person became 18 year of age;
 - 2. It has been continuous since its origination and can be expected to continue indefinitely;
 - 3. It constitutes a substantial burden to the impaired person’s ability to perform in society; and

4. It is attributable to mental retardation, cerebral palsy, epilepsy, autism, or any other condition found to be closely related to mental retardation because it produces a similar impairment or requires treatment and services to those required for a person who is mentally retarded.
- K. “Digitized Format” shall mean information kept digitally on an electronic data base and does not mean hard copies or physical objects.
- L. “Dru Sjodin National Sex Offender Public Website (NSOPW)” shall mean the public website maintained by the Attorney General of the United States pursuant to 42 U.S.C. § 16920.
- M. “Employee” shall mean any individual who is self-employed or works for any entity whether compensated or not. Volunteers of a tribal agency or organization are included within the definition of employee for registration purposes.
- N. “Force” or “Coercion” shall mean the exercise of physical control or threatening influence over a victim sufficient to negate voluntary consent, including but not limited to any of the following circumstances:
 1. When the perpetrator overcomes the victim through the actual application of physical force or physical violence;
 2. When the perpetrator coerces the victim to submit by threatening to use force or violence on the victim;
 3. When the perpetrator coerces the victim to submit by threatening to retaliate in the future (including threats of physical punishment, kidnapping, or extortion) against the victim or against any other person, and the victim believes the perpetrator has the ability to execute this threat; and
 4. When the perpetrator, through concealment or by the element of surprise, is able to overcome the victim.
- O. “Foreign Conviction” shall mean one obtained outside of the United States.
- P. “Gender”-Throughout this code, the terms “he,” “his,” “him” and the like shall be deemed to include “she,” “her,” etc.
- Q. “Immediate” or “Immediately” shall mean within four (4) hours of first entry onto lands within the Nation’s territorial jurisdiction. Any participants of the Citizen Potawatomi Festival, who are subject to mandatory registration in any jurisdiction, must register with the Citizen Potawatomi Nation Police Department prior to entering the Festival grounds.
- R. “Imprisonment” shall mean incarceration pursuant to a conviction, regardless of the nature of the institution which the offender serves the sentence. The term is to be interpreted broadly rather than in a narrow sense, and includes for example confinement in a state “prison” as well as

in a federal, military, foreign, BIA, private or contract facility, local or tribal “jail” or mental health facility. 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”.

- S. “Indecent” shall mean morally or sexually offensive.
- T. “Indian” shall mean a person of any age who is a member of a federally recognized Indian tribe, as defined by 25 U.S.C. 450(b) et seq., and who resides or is found within, or is subject to, the jurisdiction of the Citizen Potawatomi Nation.
- U. “Intimate Parts” shall mean parts of the human body primarily in, but not limited to, the genital area, groin, inner thigh, buttocks, and breast.
- V. “Jurisdiction” shall mean, unless otherwise specified, the 50 states, District of Columbia, the five principal U.S. Territories – i.e. Commonwealth of Puerto Rico; Guam; American Samoa; the Northern Mariana Islands; the United States Virgin Islands – and Indian tribes that elect to function as registration authorities under 42 U.S.C. § 16927.
- W. “Lewd” shall mean, obscene, wicked, immoral, or lascivious.
- X. “Mental Illness” shall mean a substantial disorder of thought or mood, which significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with ordinary demands of life.
- Y. “Minor” shall mean an individual who has not attained the age of 18 years of age.
- Z. “Perpetrator” shall mean a person accused of criminal sexual conduct.
- AA. “Physically Helpless Person” shall mean a person who is unconscious, asleep, or who for any other reason is physically unable to communicate unwillingness to an act.
- BB. “Predisposition” shall mean to give an inclination or tendency to commit an act beforehand.
- CC. “Resides” shall mean, with respect to an individual, the location of the individual’s home or other place where the individual habitually lives.
- DD. “Sex Offender” shall mean a person convicted of a sex offense under state, federal, military, territorial, local, maritime, foreign, or tribal law.
- EE. “Sex Offender Registry” shall mean the registry of sex offenders and notification program maintained by the Citizen Potawatomi Nation.
- FF. “Sex Offense” shall mean, a criminal offense that has an element involving a sexual act or sexual contact with another. The term sex offense or sexual offense is not used to refer to any and all crimes of a sexual nature, but rather to those covered by definition of “sex offenses” appearing in 42 U.S.C. § 16911(5) and under this Act.

- GG. “Sexual Act” shall mean (i) oral-genital or oral-anal contact, (ii) any degree of genital or anal penetration, (iii) direct genital touching of a child under the age of 16 years, and (iv) touching of oneself in a manner to humiliate, embarrass, or harass another person.
- HH. “Sexual Contact” shall mean the intentional touching of the victim’s or perpetrator’s intimate parts by the perpetrator or by the victim through the action or initiation of the perpetrator, including the intentional touching of the clothing covering the immediate area of the victim’s or the perpetrator’s intimate parts, if that intentional touching can be reasonably construed as being for the purpose of sexual arousal or gratification, or done for a sexual purpose, or in a sexual manner, including such actions for revenge, to inflict humiliation, or out of anger.
- II. “Sexual Penetration” shall mean sexual intercourse, cunnilingus, fellatio, anal intercourse, or any other intrusion, however slight, of any part of a person’s body or of any object into the genital or anal openings of another person’s body, but emission of semen is not required.
- JJ. “SMART Office” shall mean 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. § 16920.
- KK. “SORNA” shall mean the federal Sex Offender Registration and Notification Act of 2007.
- LL. “Student” shall mean an individual who enrolls or attends an educational institution, including (whether public or private) a secondary school, trade or professional school, and institutions of higher education.
- MM. “Temporarily Incapacitated Person” shall mean a person who is rendered temporarily incapable of appraising or controlling his conduct due to the influence of a controlled substance, alcohol, anesthetic, or other substance, regardless of the voluntary or involuntary nature or method of the consumption or use, or due to any other act committed upon that person with or without his consent.
- NN. “Victim” shall mean the person alleged to have been subjected to the criminal sexual conduct.
- OO. “Weapon” shall mean any object, although not inherently dangerous, which is used in a way that is likely to cause serious injury or death. Weapons include, without limitation, firearms, whether or not loaded and whether or not capable of being fired, knives, brass knuckles, clubs, iron bars, baseball bats, and any other device capable of causing serious injury.

Ordinance #11-02 enacted by the Citizen Potawatomi Legislature on June 28, 2010 and Ordinance # 11-03 enacted by the Citizen Potawatomi Legislature on May 26, 2011.

Section 12-2-179 Consideration of Foreign Sex Offenses Under This Act

- A. Convictions which require registration under this Act include convictions for sex offenses by any country, including, but not limited to, any U.S. jurisdiction, Canada, the United Kingdom, Australia, and New Zealand, including sex offenses under federal, military, state, territorial, maritime, tribal, or local law, where an independent judiciary generally enforces the right to a fair trial in that country during the year in which the conviction occurred. Sex offense convictions under the laws of any foreign country shall require registration on the same footing as domestic convictions.
- B. The following are considered sex offenses that require registration under this Act:
 - 1. Sexual acts and sexual contact offenses that have an element involving a sexual act or sexual contact with another. The offenses covered include all sexual offenses whose elements involve:
 - a. Oral-genital or oral-anal contact;
 - b. Any degree of genital, anal, or oral penetration;
 - c. Direct genital touching of a child under the age of 16 years; and
 - d. Touching of oneself in a manner to humiliate, embarrass, or harass another person.
 - 2. Specified offenses against a minor that involves any of the following:
 - a. An offense (unless committed by a parent or guardian) involving kidnapping;
 - b. An offense (unless committed by a parent or guardian) involving false imprisonment;
 - c. Solicitation to engage in sexual conduct;
 - d. Use in a sexual performance;
 - e. Any sexual touching of, or contact with, a person's body, either directly or through the clothing;
 - f. Solicitation to practice prostitution; use of other persons in prostitution, including, but not limited to the crimes of pandering, procuring, or pimping;
 - g. Video voyeurism;
 - h. Possession, production, or distribution of child pornography;
 - i. Criminal sexual crime involving a minor, or the use of the internet to facilitate or attempt such crimes; and
 - j. Any crimes that by its nature is a sex offense against a minor.

3. Any offenses listed within the Citizen Potawatomi Nation Code which are specifically set out as Sex Offenses or have an element involving a Sexual Act or Sexual Contact with another person.

Ordinance #11-02 enacted by the Citizen Potawatomi Legislature on June 28, 2010 and Ordinance # 11-03 enacted by the Citizen Potawatomi Legislature on May 26, 2011.

Section 12-2-180 Offenses Considered Felony Offenses under this Act

- A. Attempts and conspiracies to commit offense that are otherwise covered by the definition of “sex offenses.”
- B. A conviction for any of the following included within SORNA, or offenses prosecuted under the Assimilative Act (18 U.S.C. § 1752 or § 1753), or any similar offense, and any other offense listed hereafter in this code, shall be considered a felony offense:
 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 in to the United States),
 15. 18 U.S.C. § 2421 (transportation of a minor for illegal sexual activity),
 16. 18 U.S.C. § 2422 (coercion and enticement of a minor for illegal sexual activity),
 17. 18 U.S.C. § 2423 (Mann Act),
 18. 18 U.S.C. § 2424 (failure to file factual statement about an alien individual),
 19. 18 U.S.C. § 2425 (transmitting information about a minor to further criminal sexual crimes).

Ordinance #11-02 enacted by the Citizen Potawatomi Legislature on June 28, 2010 and Ordinance # 11-03 enacted by the Citizen Potawatomi Legislature on May 26, 2011.

Section 12-2-181 “Tier I” Offenses

- A. A Tier I offense includes any sex offense not included in Tier II or Tier III for which a person has been convicted by any jurisdiction, local government, tribal law, or a foreign country that involves any sexual act or sexual contact with another person, including, but not limited to any tribal offense listed under this Act which expressly states that it is a Tier I offense or is included in following list of tribal offenses as they are defined by Title 12 of the Citizen Potawatomi Nation Criminal Code:
1. Incest
 2. Indecent Exposure
 3. Sexual Assault
 4. Deviate Sexual Intercourse
 5. Coercion and Enticement
 6. Offense Resulting in Death
 7. Attempt
 8. Criminal Conspiracy
 9. Solicitation
 10. Child Pornography; Possession or Receipt of Child Pornography
 11. Child Abuse
 12. Duty to Report Child Abuse and Obscene or Pornographic Material Depicting Minors
 13. Child Endangerment by Permitting Child Abuse
 14. Indecent Solicitation of Minors
 15. Kidnapping
 16. False Imprisonment of a Minor
 17. Prostitution
 18. Misleading Domain Name on the Internet
 19. Misleading Words or Digital Images on the Internet
 20. And any other offense not covered in this Act, but addressed in the Citizen Potawatomi Nation Tribal Statutes, that would require registration in a sex offender database pursuant to federal guidelines.

Ordinance #11-02 enacted by the Citizen Potawatomi Legislature on June 28, 2010 and Ordinance # 11-03 enacted by the Citizen Potawatomi Legislature on May 26, 2011.

Section 12-2-182 “Tier II” Offenses

It is the intent of the Citizen Potawatomi Nation to reclassify all crimes which would be considered Tier II offenses under federal law as Tier III offenses pursuant to the Tribal Code.

Ordinance #11-02 enacted by the Citizen Potawatomi Legislature on June 28, 2010 and Ordinance # 11-03 enacted by the Citizen Potawatomi Legislature on May 26, 2011.

Section 12-2-183 “Tier III” Offenses

- A. Any sex offense where the offender is punishable by more than one (1) year in jail, is a Tier III offense. Tribal offenses specifically specified under this section need not include a punishment by more than one (1) year.
- B. A Tier III offense includes any sex offense for which a person has been convicted by a jurisdiction, local government, tribal law, or a foreign country, that involves:
 1. The use of minors in prostitution, including solicitations,
 2. Enticing a minor to engage in criminal activity,
 3. Sexual contact with a minor, including offenses that cover sexual touching of or contact with the intimate parts of the body, either directly or through the clothing,
 4. The use of a minor in a sexual performance, or
 5. The production for distribution of child pornography,
 6. Non-parental kidnapping of a minor,
 7. A sexual act with another by force or threat, or
 8. A sexual act with another who has been rendered unconscious or involuntarily drugged, or who is otherwise incapable of appraising the nature of the crimes or declining to participate.
- C. Conviction of any of the following federal offenses, or similar offenses, shall be considered Tier III Offenses:
 1. 18 U.S.C. § 1801 (video voyeurism of a minor),
 2. 18 U.S.C. § 2252 (material involving the sexual exploitation of a minor),
 3. 18 U.S.C. § 2252 A (possession or receipt of material containing child pornography),
 4. 18 U.S.C. § 2252 B (misleading domain name),
 5. 18 U.S.C. § 2252 C (misleading words or digital images),
 6. 18 U.S.C. § 2422 (a) (coercion to engage in prostitution),

7. 18 U.S.C. § 2423 (b) (travel with the intent to engage in illicit conduct),
 8. 18 U.S.C. § 2423 (c) (engaging in illicit conduct in foreign places),
 9. 18 U.S.C. § 2424 (failure to file factual statement about an alien individual),
 10. 18 U.S.C. § 2425 (transmitting information about a minor to further criminal sexual conduct).
 11. 18 U.S.C. § 1591 (sex trafficking by force, fraud, or coercion),
 12. 18 U.S.C. §2241 (aggravated sexual abuse),
 13. 18 U.S.C. §2242 (sexual abuse),
 14. 18 U.S.C. §2243 (sexual abuse of a minor or ward),
 15. 18 U.S.C. § 2244 (abusive sexual contact).
 16. 18 U.S.C. § 2251 (sexual exploitation of children),
 17. 18 U.S.C. §2251 A (selling or buying of children),
 18. 18 U.S.C. §2252 (production, sale, or distribution of material involving the sexual exploitation of a minor),
 19. 18 U.S.C. §2252 A (production, sale, or distribution of material containing child pornography),
 20. 18 U.S.C. §2260 (production of sexually explicit depictions of a minor for import into the United States),
 21. 18 U.S.C. §2421 (transportation for prostitution),
 22. 18 U.S.C. §2422 (b) (coercing a minor to engage in prostitution),
 23. 18 U.S.C. §2423 (a) (transporting a minor to engage in illicit conduct).
 24. Any military offense specified by the Secretary of Defense of the United States under section 175(a)(8)(C)(i) of PL 105-119 (codified at 10 U.S.C. §951).
- D. A Tier III offense includes any tribal offense listed under this Act which expressly states that is a Tier II or Tier III offense.

Ordinance #11-02 enacted by the Citizen Potawatomi Legislature on June 28, 2010 and Ordinance # 11-03 enacted by the Citizen Potawatomi Legislature on May 26, 2011.

Section 12-2-184 Procedures

All criminal procedures regarding this Act shall follow and be bound by Title 11, Criminal Court Procedures.

Ordinance #11-02 enacted by the Citizen Potawatomi Legislature on June 28, 2010 and Ordinance # 11-03 enacted by the Citizen Potawatomi Legislature on May 26, 2011.

Section 12-2-185 Rights of the Accused

- A. An accused sexual offender shall have the same rights as a non-sexual criminal offender under Title 5 of the Citizen Potawatomi Nation Code, including but not limited to the following:
 - 1. The right to jury trial upon request;
 - 2. The right to counsel;
 - 3. If the accused is indigent, the right to have counsel appointed to him free of charge by the Nation.
- B. An accused sexual offender shall have any other rights conferred by tribal law.

Ordinance #11-02 enacted by the Citizen Potawatomi Legislature on June 28, 2010 and Ordinance # 11-03 enacted by the Citizen Potawatomi Legislature on May 26, 2011.

Section 12-2-186 Inadmissible Evidence

- A. Evidence generally inadmissible. The following evidence is not admissible in any civil or criminal proceeding involving alleged sexual misconduct except as provided:
 - 1. Evidence offered to prove that any alleged victim engaged in other sexual behavior; or
 - 2. Evidence offered to prove any alleged victim's sexual predisposition.
- B. Exceptions. In a criminal case, the following evidence is admissible:
 - 1. Evidence of specific instances of sexual behavior by the alleged victim offered to prove that a person other than the accused was the source of the semen, injury, or other physical evidence; or
 - 2. Evidence of specific instances of sexual behavior by the alleged victim with respect to the person other than the accused was the source of the semen, injury, or other physical evidence; or
 - 3. Evidence, which the exclusion of, would violate the constitutional rights of the defendant.
- C. In a civil case, evidence offered to prove the sexual behavior or sexual predisposition of any alleged victim is admissible only if it is otherwise admissible under these rules and its probative value substantially outweighs the danger of harm to any victim and of unfair prejudice to any party. Evidence of an alleged victim's reputation is admissible only if it has been placed in controversy by the alleged victim.
- D. Procedure to Determine Admissibility. A party intending to offer evidence under subdivision (B) must:
 - 1. File a written motion at least fourteen (14) days before trial specifically describing the evidence and stating the purpose for which it is offered

unless the court, for good cause, requires a different time for filing or permits filing during trial; and

2. Serve the motion on all parties and notify the alleged victim or, when appropriate, the alleged victim's parent, guardian, or legal representative; and
3. Request the court to conduct a hearing out of the presence of the jury, if any, and afford the victim and parties a right to attend and be heard. The hearing shall be closed except to motion and related papers, and the record of the hearing must be sealed and remain under seal unless the court orders otherwise.

Ordinance #11-02 enacted by the Citizen Potawatomi Legislature on June 28, 2010 and Ordinance # 11-03 enacted by the Citizen Potawatomi Legislature on May 26, 2011.

Section 12-2-187 Testimony, Resistance and Suppression of Victim Information

- A. Testimony. In order to convict a person of any crime defined in this Act it shall not be necessary that the testimony of the alleged victim be corroborated.
- B. Resistance. A victim need not resist the perpetrator in the perpetrator's commission of an offense under any section or subsection of this Act. Resistance by a victim is not an element of any offense and the absence of a victim's resistance is not a defense in a prosecution under this Act.
- C. Suppression of Names and Details. Upon the request of the victim or the perpetrator in a prosecution under this Act, or by the court's own motion, the court shall order the names of the victim and the perpetrator and the details of the alleged offense to be confidential until such time as the perpetrator is convicted by a jury, the charge dismissed, or the case is otherwise concluded, whichever occurs first.

Ordinance #11-02 enacted by the Citizen Potawatomi Legislature on June 28, 2010 and Ordinance # 11-03 enacted by the Citizen Potawatomi Legislature on May 26, 2011.

Section 12-2-188 Prior Bad Acts

- A. In a criminal case in which the defendant is accused of an offense of sexual assault, evidence of the defendant's commission of another sexual offense or offenses or sexual assault is admissible, and may be considered for its bearing on any matter to which it is relevant.
- B. In a case in which the prosecutor intends to offer evidence under this rule, the prosecutor shall disclose this evidence to the defendant, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least fourteen (14) days before the scheduled date of trial or at such later time as the court may allow for good cause.

- C. This rule shall not be construed to limit the admission or consideration of evidence under any other rule.

Ordinance #11-02 enacted by the Citizen Potawatomi Legislature on June 28, 2010 and Ordinance # 11-03 enacted by the Citizen Potawatomi Legislature on May 26, 2011.

Section 12-2-189 Court Orders

- A. Court Orders of Judgment and Sentence shall contain all of the following:
1. The exact language of the Tribal criminal code under which the sex offender was convicted;
 2. If possible, the analogous federal crime statute and the maximum possible penalty for that crime under federal law;
 3. That a lengthier sentence of imprisonment for the crime would have been imposed but for the restrictions of the Indian Civil Rights Act of 1968 prohibiting a sentence of greater than one year of incarceration;
 4. The tier of the offense and the registration requirements of that tier offense. If different than the three-tiered system under SORNA, the tier that the conviction falls in under SORNA. Offender shall not be excused from mandatory registration requirements in the event that the court order fails to contain this information;
 5. Whether the defendant had a right to counsel;
 6. Whether the defendant was represented by counsel;
 7. If applicable, whether the defendant knowingly and voluntarily waived his right to counsel;
 8. Court order may also contain any additional information that the court deems necessary and appropriate.

Ordinance #11-02 enacted by the Citizen Potawatomi Legislature on June 28, 2010 and Ordinance # 11-03 enacted by the Citizen Potawatomi Legislature on May 26, 2011.

Section 12-2-190 Victim-Advocate Privilege

- A. For the purposes of this section, a victim advocate is a person who is an employee or volunteer at a sexual assault or sexual abuse shelter or is a service provider for victims of sexual assault or sexual abuse and who has had at least ten (10) hours of training or experience regarding sexual assault and sexual abuse or sexual assault or sexual abuse victims.
- B. The victim-advocate privilege is applicable in all sexual assault cases and in domestic violence cases.

- C. Except as otherwise provided in this section, a victim of sexual assault may prevent an advocate from disclosing confidential oral communications between the victim and the advocate and written records and reports concerning the victim unless the privilege is waived.
- D. The privilege does not relieve a person from any duty imposed in the mandatory reporting of sexual child abuse. A person may not claim privilege when providing evidence in proceedings concerning sexual child abuse.
- E. The court may order the advocate to disclose information only if the information's probative value substantially outweighs the danger of harm to any victim and of unfair prejudice to any party and only directly to the court in chambers. The court may then decide if such information shall be given to a jury.

Ordinance #11-02 enacted by the Citizen Potawatomi Legislature on June 28, 2010 and Ordinance # 11-03 enacted by the Citizen Potawatomi Legislature on May 26, 2011.

Section 12-2-191 Mandatory Restitution

Notwithstanding any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this Act.

- A. Scope and Nature of Order:
 - 1. Directions. The order of restitution under this section shall direct the defendant to pay the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court pursuant to paragraph (B).
 - 2. Enforcement. An order of restitution under this section shall be issued and enforced in accordance with laws of the Citizen Potawatomi Nation.
- B. Definitions. For purposes of this subsection, the term "full amount of the victim's losses" includes any costs incurred by the victim for:
 - 1. Medical services relating to physical, psychiatric, or psychological care;
 - 2. Physical and occupational therapy or rehabilitation;
 - 3. Necessary transportation, temporary housing, and child care expenses;
 - 4. Lost income;
 - 5. Attorneys' fees, as well as other costs incurred; and
 - 6. Any other losses suffered by the victim as a proximate result of the offense.
- C. Order mandatory. The issuance of a restitution order under this section is mandatory. The court may not decline to issue an order under this section because of the economic circumstances of the defendant or the fact that a

victim has received, or is entitled to receive, compensation for his or her injuries from the proceeds of insurance or any other source.

Ordinance #11-02 enacted by the Citizen Potawatomi Legislature on June 28, 2010 and Ordinance # 11-03 enacted by the Citizen Potawatomi Legislature on May 26, 2011.

Section 12-2-192 Criminal Forfeiture – Property Subject to Criminal Forfeiture

- A. A person who is convicted of an offense under this Act shall forfeit to the Citizen Potawatomi Nation such person's interest in:
 - 1. Any visual depiction or child pornography described in this Act, or any book, magazine, periodical, film, videotape, or other matter which contains any such visual depiction, which was produced, transported, mailed, shipped, or received in violation of this Act;
 - 2. Any property, real or personal, constituting or traceable to gross profits or other proceeds obtained from such offense; and
 - 3. Any property, real or personal, used or intended to be used to commit or to promote the commission of such offense or any property traceable to such property.
- B. The procedure for forfeiture shall follow tribal law. If not tribal law has been enacted then the court shall follow procedures directed by federal law for forfeitures.

Ordinance #11-02 enacted by the Citizen Potawatomi Legislature on June 28, 2010 and Ordinance # 11-03 enacted by the Citizen Potawatomi Legislature on May 26, 2011.

Section 12-2-193 Juveniles

- A. The term "convicted" or a variant thereof, used with respect to sex offenses, includes an adjudicated delinquent as a juvenile for that 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 or was an attempt or conspiracy to commit such an offense.
- B. Juvenile offenders not prosecuted as adults are not required to register in the sex offender registry unless the offender is 14 years of age or older at the time of the offense and has been adjudicated delinquent for an offense comparable to or more severe than aggravated sexual assault as described in this Act or an attempt or conspiracy to commit such an offense.
- C. Juveniles who are prosecuted and convicted as adults of a sex offense covered by this Act shall be treated the same as an adult sex offender.
- D. The court may, at the request of the juvenile, seal the juvenile's court record when the juvenile reaches the age of majority, however, the court

shall not remove or expunge the status of the conviction under SORNA. The juvenile must continue to comply with all the requirements of sex offender registration.

Ordinance #11-02 enacted by the Citizen Potawatomi Legislature on June 28, 2010 and Ordinance # 11-03 enacted by the Citizen Potawatomi Legislature on May 26, 2011.

Section 12-2-194 Sex Offender Mental Health

- A. Any person who has been clinically diagnosed with a mental illness, mental retardation, or a developmental disability that is convicted of any offense in this Act, shall be required to undergo a psychiatric assessment to determine if incarceration is an appropriate penalty.
- B. A psychiatric assessment may be done by a psychiatrist or a psychologist with a current license in good standing to practice in that field.
- C. If the psychiatrist or psychologist administering the psychiatric assessment determines that incarceration is not appropriate, then the convicted person may be involuntarily civilly committed to an institution or other facility for treatment. However, the offender must continue to comply with all the requirements of the sex offender registration.
- D. Such treatment shall last until the convicted person has been released by the facility under the direction of a psychiatrist or psychologist and that psychiatrist or psychologist believes that the convicted person is no longer a risk to society.
- E. Periodic review hearings may be requested by the court or by the prosecutor to inquire as to the ongoing treatment of the convicted person.
- F. If the person is released from a treatment facility, he shall immediately report to the Citizen Potawatomi Nation Sex Offender Registration Office and register as a sex offender.

Ordinance #11-02 enacted by the Citizen Potawatomi Legislature on June 28, 2010 and Ordinance # 11-03 enacted by the Citizen Potawatomi Legislature on May 26, 2011.

Section 12-2-195 Notice to the Offender

The Citizen Potawatomi Nation District Court shall notify and explain to the offender the requirements of registration either before his release from incarceration or immediately after sentencing. The Nation shall require the offender to sign a form that indicates he has been notified and explained such registration requirements and that he understands the registration requirements. The form shall be filed in the offender's criminal case.

Ordinance #11-02 enacted by the Citizen Potawatomi Legislature on June 28, 2010 and Ordinance # 11-03 enacted by the Citizen Potawatomi Legislature on May 26, 2011.

Section 12-2-196 Registry Requirements for Offenders

- A. All persons convicted under this Act must register as a sex offender. Registration is required for all offenses under this Act unless specifically stated to the contrary.
- B. Where to Register:
1. Sex offenders shall initially register with the Citizen Potawatomi Nation Sex Office within three (3) days of sentencing, if no jail time is ordered.
 2. If the offender is incarcerated, he shall register at the facility in which he is detained before his release.
 3. All offenders must also register within three (3) days in the jurisdiction in which he:
 - a. Was convicted,
 - b. Resides,
 - c. Is employed, and
 - d. Goes to school.
- C. Current information. All sex offenders convicted under this Act shall keep their information current in the registry at all times. A sex offender is required to appear in person at the Citizen Potawatomi Nation Sex Offender Office to update any change in the offender's information within three (3) days of such change. The information required to be updated includes but is not limited to: (a) name, (b) address, (c) employment or termination of employment, (d) school, or termination of school (e) termination of residence.
- D. Current information. All sex offenders convicted under this Act shall keep their information current in the registry at all times. A sex offender is required to inform the Citizen Potawatomi Nation Sex Offender Office to update any change in the offender's information within three (3) days of such change. The information required to be updated includes but is not limited to: (a) email address, (b) instant message address, (c) any other designations used in internet communications, postings, or telephone communications, (d) vehicle information, or (e) temporary lodging information in order to notify jurisdictions where the offender will be temporarily staying.
- E. Registration Period. The registration period begins to run upon release from custody for an incarcerated offender, or at sentencing for sex offenders not incarcerated.
- F. Clean Record. A Tier I sex offender who has maintained a clean record for at least ten (10) years may petition the court to reduce the registration period. A clean record is satisfied if:
1. The offender has not been convicted of any offense for which imprisonment for more than one year may be imposed;
 2. The offender has not been convicted of any sex offense;
 3. The offender has successfully completed any periods of supervised release, probation, and parole; and

4. The offender has successfully completed an appropriate sex offender treatment program certified by the jurisdiction which convicted the offender or by the Attorney General (42 U.S.C. § 16915(b)(1)). Such jurisdiction shall decide what program design is sufficient and what “successful completion” is.
- G. Clean Record. A Tier III sex offender who is required to register because of a juvenile adjudication may have a registration and notification requirement terminated if the following conditions are met:
1. The offender is required to register based on a delinquency adjudication for an offense which required Tier III registration;
 2. The offender has had twenty-five (25) years with a “clean record”;
 - a. The offender has not been convicted of any offense for which imprisonment for more than one year may be imposed;
 - b. The offender has not been convicted of any sex offense;
 - c. The offender has successfully completed any periods of supervised release, probation, and parole; and
 - d. The offender has successfully completed an appropriate sex offender treatment program certified by the jurisdiction which convicted the offender or by the Attorney General (42 U.S.C. § 16915(b)(1)). Such jurisdiction shall decide what program design is sufficient and what “successful completion” is.
- H. A Tier I sex offender is required to personally appear to take a photograph, and review and verify registration information at least one (1) time per year with the Citizen Potawatomi Nation Sex Offender Office. The offender’s date of review shall be on or before the last date of registration.
- This in-person appearance and requirements will occur at least one (1) time per year for fifteen (15) years unless otherwise established.
- I. All Tier II offenses are classified by the Citizen Potawatomi Nation as Tier III offenses for purposes of this Act and, as such, all Tier II sex offenders are required to personally appear to take a photograph, and review and verify registration information every three (3) months with the Citizen Potawatomi Nation Sex Offender Office.
- This in-person appearance and requirements will occur at least every three (3) months.
- J. A Tier III sex offender is required to personally appear to take a photograph, and review and verify registration information every three (3) months with the Citizen Potawatomi Nation Sex Offender Office.
- This in-person appearance and requirements will occur every three (3) months for life unless otherwise established.

- K. Upon entering the Nation's jurisdiction for residency, work, or school, a sex offender from another jurisdiction must register with the Citizen Potawatomi Nation Sex Offender Office within twenty-four (24) hours of entering.
- L. Failure to register in any jurisdiction, or update current information, shall carry a maximum penalty of incarceration of not more than one (1) year, or a civil penalty of not more than Five Thousand Dollars (\$5,000.00) or both.
- M. When a new jurisdiction is informed an offender intends to reside, be employed, or attend school in their jurisdiction, and that offender fails to appear for registration as required in a new jurisdiction, the jurisdiction receiving notice must inform the jurisdiction that provided notification (that the offender was to commence employment, residence, and/or school in the new jurisdiction) that the offender failed to appear for registration.
- N. International Travel Abroad: All sex offenders must inform the Citizen Potawatomi Nation Sex Offender Registry Office twenty-one (21) days in advance if they intend to travel outside of the United States. The registering office must immediately notify the United States Marshals' Service and any other jurisdiction where the sex offender is either registered or is required to register, of that updated information, and immediately update NCIC/NSOR.

Ordinance #11-02 enacted by the Citizen Potawatomi Legislature on June 28, 2010 and Ordinance #11-03 enacted by the Citizen Potawatomi Legislature on May 26, 2011. Amended by Ordinance #13-08, enacted by the Citizen Potawatomi Legislature on May 30, 2013.

Section 12-2-197 Registry Requirements of The Citizen Potawatomi Nation

- A. This Act applies to all sex offenders, including those convicted of sexual offenses prior to its enactment. The Nation is specifically required to register offenders if they are in the tribal judicial system as prisoners, supervisees, or registrants or if they re-enter the system due to another conviction. The Nation shall develop a plan to notify such offenders of the new requirement. The Nation shall register:
 - 1. Sex offenders convicted by a tribal court who are sentenced and released on probation or post-imprisonment supervision prior to the jurisdiction's passage of this Act and registration was not required at that time.
 - 2. Sex offenders who were not required to register previously, or who have completed any registration or probation requirements, and have been convicted of any new offense.
 - 3. Tier I offenders within three (3) months of becoming subject to the Act.
 - 4. Tier II offenders within three (3) months of becoming subject to the Act.

5. Tier III offenders within three (3) months of becoming subject to the Act.
- B. If a sex offender fails to register, cannot be located, or may have absconded in the Nation's jurisdiction, as required by this Act, the Nation shall:
1. Put forth an effort to determine whether the sex offender has absconded;
 2. If no determination can be made, then a law enforcement agency with the jurisdiction to investigate must be notified;
 3. If another jurisdiction or federal authorities gave notice of the possibility of a sex offender absconding, the jurisdiction proving such shall be notified.
- C. If a sex offender fails to register, cannot be located, or has absconded in the Nation's jurisdiction, as required by this Act, the Nation shall:
1. Petition the court for a warrant to arrest and detain the offender until a hearing can be set to determine the penalty, if any, for the offender's non-compliance;
 2. Revise the information in the tribal registry and the Nation Sex Offender Registry to reflect that the sex offender has failed to register and the offender's new status as an absconder;
 3. Notify the United States Marshal Service; and
 4. Enter the sex offender into the National Crime Information Center Wanted Person File.

Ordinance #11-02 enacted by the Citizen Potawatomi Legislature on June 28, 2010 and Ordinance # 11-03 enacted by the Citizen Potawatomi Legislature on May 26, 2011.

Section 12-2-198 Maintenance and Management of Registry

- A. The Citizen Potawatomi Nation shall maintain a jurisdiction-wide sex offender registry conforming to the requirements of the national Sex Offender Registration and Notification Act of 2007
- B. The Nation may manage and enforce the registration of all tiers of offenders who are convicted, reside, go to school, or work within this jurisdiction.
- C. The Citizen Potawatomi Nation may implement and maintain an electronic database of information and ensure that such information can be immediately transmitted to others and immediately accessed.
- D. The Citizen Potawatomi Nation shall procure and maintain all times computer software to enable the Nation to establish and operate a uniform sex offender registry and Internet web sites. Such software shall facilitate (a) the immediate exchange of information among jurisdictions, (b) public

access over the Internet to appropriate information, including the number of registered sex offenders in the Nation's jurisdiction, (c) full compliance with the requirements of the Sex Offender Registration and Notification Act of 2007, (d) communication of information to community notification program participant.

- E. Sex Offender Website. The Nation's registered sex offender information shall be made available on the Internet, and in a manner that is readily accessible to all jurisdictions and to the public. The website shall:
1. Allow for immediate exchange of information among other jurisdictions;
 2. Provide for public access to appropriate information on sex offenders in the Nation's jurisdiction;
 3. Be able to receive information from other participating jurisdictions regarding offenders entering the tribal jurisdiction;
 4. Work in conjunction with the Dru Sjodin National Sex Offender Public Website;
 5. Allow for data links to sex offender safety and education resources;
 6. Have instructions on how to correct erroneous information on a sex offender listed on the website;
 7. Give notice and warning that information 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 address. The warning shall note that any action could result in civil and criminal penalties;
 8. Implement field search capabilities, including but not limited to, name, telephone numbers, county, city, or town, zip code, and geographical radius; and
 9. Provide an automated notification system which incorporates substantially the following features;
 - a. The information required to be included on sex offender websites is posted on the Nation's sex offender website within three (3) business days;
 - b. The Nation's sex offender website includes a function under which members of the public and organizations can request notification when sex offenders commence residence, employment, or school at attendance within zip codes or geographic radius areas specified by the requester, where the requester provides an e-mail address to which the notice is to be sent; and

- c. Upon posting on the Nation's sex offender website of new residence, employment, or school attendance information for a sex offender within an area specified by the requester, the system automatically send an e-mail notification to the requester which identifies the sex offender sufficiently that the requester can then access the Nation's website and view the information about the sex offender on the website.
- F. In addition to the public website, the Nation shall notify, within three (3) business days of an offender registering or updating information, the following:
1. The U.S. Attorney General or national database;
 2. All States, including the District of Columbia, the five principal U.S. Territories, and any tribe operating as a SORNA registration jurisdiction;
 3. All law enforcement agencies, including, but not limited to police departments, sheriff's offices, prosecutor's offices, probation agencies, and any other agencies with criminal investigation, prosecution, or sex offender supervision functions, schools, and the public housing agency in the area where the offender resided;
 4. Each jurisdiction where the offender is or will be employed, attends school, and resides;
 5. Agencies in the immediate area that conduct employment background checks under section 3 of the National Child Protection Act of 1993;
 6. Social Service or volunteer entities in the area responsible for protecting minors;
 7. Any organization or individual that has requested notification.
- G. The Citizen Potawatomi Nation shall submit all information to the Federal Bureau of Investigation's National Sex Offender Registry in a manner conforming to the requirements of the National Sex Offender Registration and Notification Act of 2007.

Ordinance #11-02 enacted by the Citizen Potawatomi Legislature on June 28, 2010 and Ordinance # 11-03 enacted by the Citizen Potawatomi Legislature on May 26, 2011. Amended by Ordinance #13-08, enacted by the Citizen Potawatomi Legislature on May 30, 2013.

Section 12-2-199 Registry Information Required to be Reserved by The Potawatomi Nation

- A. The following information on each sex offender is required to be kept by the Citizen Potawatomi Nation Sex Offender Office, and shall be used on the public website unless specifically excluded:

1. Name including a legal name, a nickname, a tribal or traditional name, any aliases;
2. Date of Birth, and dates that the offender uses at a birth date;
3. Detailed physical description. This includes a general appearance of the offender including tattoos, scars, or other identifying marks;
4. Current Photos. At least one photograph of the offender shall be posted. If available, more than one photographs should be used showing the front and back of the offender, and the offender in other presentations;
5. All internet identifiers or monikers for purposes of routing or self-identification in the Internet communications or postings and email and instant messaging addresses;
6. Telephone numbers including cell, work, and residential locations or any other designations used by sex offender for purposes of routing or self-identification in telephonic communication;
7. Residence address. Past and current street addresses only, no post office boxes. If no street address is available, then a reasonable description of where the person' home is located shall be used;
8. Other residences or temporary lodging information. This includes any place where the offender has stayed or will stay for seven (7) accumulative days or more, including the address and period of time the offender stays there;
9. Employer name and address, which included self-employment whether compensated or not. If the sex offender has no fixed place of employment, list other employment information concerning places where the sex offender works such as a normal travel route or the general area(s) in which the offender works;
10. Professional licenses;
11. School or educational information. Name and address of any educational institution where the offender is currently enrolled and physically present;
12. Vehicle information. License plate, registration number or identifier, description of any vehicle owned or regularly operated by the offender for personal or work use, and permanent or frequent location where all vehicles are kept. This includes watercraft, aircraft, and any other land vehicles, such as ATV's;
13. Text of provision of law defining the criminal offense for which the offender is registered. This can be electronic text or a data link;
14. Fingerprints and palm prints. This can be digitized form, or links to the central registry.

15. Driver's license or identification card (digitized photocopy);
 16. Tribal affiliation and CDIB card (digitized photocopy);
 17. Passport and immigration documents. However, all document numbers must be digitized;
 18. Criminal History, including the date of all arrests, the date of all convictions, any outstanding warrants, the registration status, and the status of parole, probation, or supervised release;
 19. A DNA sample taken from the sex offender for analysis and entry into the Combined DNA Index System (CODIS); and
 20. Social Security number.
- B. Such information shall be promptly shared among registration jurisdiction and disclosure of all of the information, except that which is mandatorily excluded, to the general public and specified entities.

Ordinance #11-02 enacted by the Citizen Potawatomi Legislature on June 28, 2010 and Ordinance # 11-03 enacted by the Citizen Potawatomi Legislature on May 26, 2011.

Section 12-2-200 Mandatory Exclusions

The following information shall not be placed for public viewing on the sex offender registry web site: a) the identity of any victims of a sex offense, b) the offender's social security number, c) arrests that did not result in conviction, d) travel and immigration document number, or e) internet identifiers.

Ordinance #11-02 enacted by the Citizen Potawatomi Legislature on June 28, 2010 and Ordinance # 11-03 enacted by the Citizen Potawatomi Legislature on May 26, 2011.

Section 12-2-201 Review Information

- A. Each time an offender appears before the Citizen Potawatomi Nation Sex Offender Office for review and verification of his information, the attending officer shall take a new photo of the offender and provide additional forms to the offender to verify or correct the offender's information.
- B. The updated information must be immediately entered into the register and transmitted by electronic means to all participating jurisdictions.

Ordinance #11-02 enacted by the Citizen Potawatomi Legislature on June 28, 2010 and Ordinance # 11-03 enacted by the Citizen Potawatomi Legislature on May 26, 2011.

Section 12-2-202 Citizen Potawatomi Nation as Residence, Employer, and School Jurisdictions

- A. If the Citizen Potawatomi Nation registers a sex offender because he resides, works, or attends school within its jurisdiction, the Nation shall immediately notify all jurisdictions where the offender intends to reside, work, or attend school and shall immediately notify other jurisdictions where the offender is currently registered, or is required to register.
- B. If a sex offender is currently registered in the Citizen Potawatomi Nation jurisdiction because he was convicted, resides, works, or attends school therein, and the offender gives notice that he intends to take up residence outside the Citizen Potawatomi Nation Jurisdiction, the Nation must immediately notify all jurisdictions where the offender is currently registered or is required to register. The Nation shall also notify the U.S. Marshals Service and update all of the offender's registry information.

Ordinance #11-02 enacted by the Citizen Potawatomi Legislature on June 28, 2010 and Ordinance # 11-03 enacted by the Citizen Potawatomi Legislature on May 26, 2011.

Section 12-2-203 Registration Not Required

The nation shall not require registration with the sex offender registry based on a tribal court conviction if the defendant was denied the right to the assistance of counsel and the defendant would have had a right to the assistance of counsel under the United States Constitution in comparable state court proceedings.

Ordinance #11-02 enacted by the Citizen Potawatomi Legislature on June 28, 2010 and Ordinance # 11-03 enacted by the Citizen Potawatomi Legislature on May 26, 2011.

Section 12-2-204 Miscellaneous

- A. Immunity for Good faith Conduct:
The Citizen Potawatomi Nation and their agencies, officers, and employees, shall be immune from liability for good faith conduct under this Act.
- B. Employee of the Citizen Potawatomi Nation:
Any employee of the Citizen Potawatomi Nation who fails to inform the Citizen Potawatomi Nation that he is a registered sex offender, or who fails to register as a sex offender, or who fails to keep sex offender registration current, may be discharge from employment with the Citizen Potawatomi Nation without further notice.

Ordinance #11-02 enacted by the Citizen Potawatomi Legislature on June 28, 2010 and Ordinance # 11-03 enacted by the Citizen Potawatomi Legislature on May 26, 2011.

CHAPTER THREE INCHOATE CRIMES

Section 12-3-101 Attempt

- (A) It is unlawful to engage in conduct constituting a substantial step toward commission of any offense under Tribal, Federal, or State laws applicable to the jurisdiction which any part of the offense was to be completed with the culpability required for the commission of the offense.
- (B) Anywhere constituting a substantial step toward the commission of any Tribal or Federal offenses while acting with the culpability required for the commission of the offense.
- (C) Attempts shall be punishable by the same penalties as the completed crime.

Section 12-3-102 Criminal Conspiracy

- (A) It is unlawful to agree to engage in or cause the performance of conduct with the intent to commit any offense punishable by Tribal, Federal, or State laws applicable to the jurisdiction in which the conduct is agreed to be performed, and any one person commits an overt act in pursuance of the conspiracy.
- (B) Anywhere to engage or cause the performance of conduct with the intent to commit any Tribal or Federal offense and anyone commits an overt act in pursuance of the conspiracy.
- (C) Conspiracy to commit an offense carries the same punishment as the completed offense.

Section 12-3-103 Solicitation

- (A) It is unlawful to entice, advise, incite, order, or encourage another to commit any offense, with intent such person commit an offense under laws of the jurisdiction where the conduct was to be performed.
- (B) In any place, entice, advise, incite, order, or encourage another to commit any offense, with intent such other person commit an offense punishable by Tribal Federal, or State laws within the Tribal jurisdiction.
- (C) Section 12-3-103 is punishable by fine up to Five Hundred Dollars (\$500.00), or imprisonment up to Six (6) months, or both.

CHAPTER FOUR CRIMES AGAINST PUBLIC JUSTICE

Section 12-4-101 Bribery

- (A) It is unlawful to ask for, give, or accept any money, goods, property, thing of value or advantage, or any promise or undertaking, given with intent influence a person.
- (B) Section 12-4-101 is punishable by fine up to Three Thousand Dollars (\$3,000.00); or imprisonment up to Six (6) months, or both. Banishment not exceeding Ten (10) years may additionally be imposed. For a subsequent conviction, banishment may be imposed for Ten (10) years and less than life.

Section 12-4-102 Improper Influence In Official Matters

- (A) It is unlawful to:
 - (1) Threaten harm with intent to influence decisions, recommendations, votes or discretion as a public servant, official, or voter; or,
 - (2) Threaten harm to any public servant or relative with intent to influence his decision, recommendation, vote or discretion in a judicial, legislative, or administrative, proceeding; or,
 - (3) Threaten harm to any public servant, official or relative with the intent to influence him to violate his duty; or,
 - (4) Privately address a court official in a judicial or administrative proceeding and make representation, argument, or communication designed to influence the outcome.
- (B) It is no defense a person was not qualified to act.
- (C) Section 12-4-102 is punishable by fine up to Five Thousand Dollars (\$5,000.00), or imprisonment up to One (1) year, or both. Banishment not exceeding Ten (10) years may additionally be imposed. For a subsequent conviction, banishment may be imposed for Ten (10) years and less than life.

Section 12-4-103 Retaliation For Past Official Action

- (A) It is unlawful to harm in retaliation for anything done by a person in his capacity as a public servant.

- (B) Section 12-4-103 is punishable by fine up to Five Thousand Dollars (\$5,000.00), or imprisonment up to One (1) year, or both. Banishment not exceeding Ten (10) years may additionally be imposed. For a subsequent conviction, banishment may be imposed for Ten (10) years and less than life.

Section 12-4-104 Improper Gifts To Public Servants

- (A) It is unlawful to knowingly confer, offer to agree or confer any benefit to a public servant with intent to induce an exercise of discretion or undermine official impartiality.
- (B) This section shall not apply to:
 - (1) Gifts or benefits conferred because of kinship, traditional ceremonies, or personal, professional or business relationship independent of official status; or
 - (2) Trivial benefits incidental to personal, professional or business contacts and involving no substantial risk of undermining official impartiality.
- (C) Section 12-4-104 is punishable by fine up to Five Thousand Dollars (\$5,000.00), or imprisonment up to One (1) year, or both. Banishment not exceeding Five (5) years may additionally be imposed.

Section 12-4-105 Unofficial Misconduct

- (A) It is unlawful to exercise or attempt to exercise functions of a public office when not elected or appointed.
- (B) Section 12-4-105 is punishable by fine up to Five Thousand Dollars (\$5,000.00), or imprisonment up to One (1) year, or both. Banishment not exceeding Five (5) years may additionally be imposed. For a subsequent conviction, banishment may be imposed more than Five (5) years and less than life.

Section 12-4-106 Oppression In Office

- (A) It is unlawful when acting or purporting to act in an official capacity or taking advantage of actual or purported capacity, with knowledge such conduct is illegal, to:

- (1) Subject to arrest, detention, search, seizure, mistreatment, dispossession, assessment, lien or other infringement of personal or property rights; or,
 - (2) Deny or impede the exercise or enjoyment of any right, power, or immunity.
- (B) Section 12-4-106 is punishable by fine of Five Thousand Dollars (\$5,000.00), or imprisonment up to One (1) year, or both. Banishment not exceeding Five (5) years may additionally be imposed. For a subsequent conviction, banishment may be imposed more than Five (5) years and less than life.

Section 12-4-107 Misusing Public Money

- (A) It is unlawful for a person charged with receipt, safekeeping, transfer or disbursement of public monies to:
- (1) Appropriate the money to his own use or use of another; or,
 - (2) Loan the money; or,
 - (3) Fail to keep the money in his possession or control until disbursed; or,
 - (4) Deposit the money in an unauthorized bank or with a person not authorized; or,
 - (5) Keep any false account, or make a false entry or erasure relating to the money; or,
 - (6) Fraudulently alter, falsify, conceal, destroy, or obliterate any account; or,
 - (7) Knowingly refuse or omit to pay on demand by competent authority; or,
 - (8) Knowingly omit to transfer money when transfer is required; or,
 - (9) Make a profit for himself or another out of public monies; or,
 - (10) Fail to pay the proper account or authority any fines, forfeitures, or fees; or,
 - (11) Handle public money in a manner not authorized by law; or,

- (12) Handle public money in a careless manner creating a significant risk of loss.
- (B) “Public money” includes all money, bonds, and evidences of indebtedness, belonging to, received held by the Tribe or government, or any account or money held by the Tribe or government for any individual or group.
- (C) Section 12-4-107 is punishable by fine up to Five Thousand Dollars (\$5,000.00), or imprisonment up to One (1) year, or both. Banishment not exceeding Five (5) years may additionally be imposed. For a subsequent conviction, banishment may be imposed more than Five (5) years and less than life.

Section 12-4-108 Perjury In The First Degree

- (A) It is unlawful to make a false statement under oath or affirmation, or swear or affirm the truth of a statement previously made, when the statement is material and it is not believed to be true.
- (B) Falsification is material, regardless of the admissibility of the statement, if it could have affected the course or outcome. It is no defense the declarant mistakenly believed the falsification to be immaterial. Whether a falsification is material in a factual situation is a question of law.
- (C) It is no defense the oath or affirmation was administered or taken in an irregular manner or that the declarant was not competent to make the statement. A document purporting to be made on oath or affirmation when the actor presents it as being verified shall be deemed to have been duly sworn or affirmed.
- (D) No person shall be guilty if they retracted the falsification before the falsification was or would be exposed and before the falsification substantially affected the proceeding.
- (E) No person shall be convicted where proof of falsity rests solely upon contradiction by testimony of a single other person.
- (F) Section 12-4-108 is punishable by up to Five Thousand Dollars (\$5,000.00), or imprisonment up to One (1) year, or both. Banishment not exceeding Five (5) years may additionally be imposed. For a subsequent conviction, banishment may be imposed more than Five (5) years and less than life.

Section 12-4-109 Perjury In The Second Degree

- (A) It is unlawful to:

- (1) Make any written false statement which they do not believe to be true; or,
 - (2) Purposely create a false impression in a written application by omitting information necessary to prevent statements from being misleading; or,
 - (3) Submit or invite reliance on any writing which they know to be forged, altered or lacking in authenticity; or,
 - (4) Submit or invite reliance on any sample, specimen, map, boundary mark, or object which he knows to be false, with a purpose to mislead a public servant.
- (B) It is no defense the oath or affirmation was administered or taken in an irregular manner or the declarant was not competent to make the statement. A document purporting to be made on oath or affirmation when the actor presents it as being verified shall be deemed to have been duly sworn or affirmed.
- (C) No person shall be guilty if they retracted the falsification before the falsification was or would be exposed and before the falsification substantially affected the proceeding.
- (D) No person shall be convicted where proof of falsity rests solely upon contradiction by testimony of a single other person.
- (E) Section 12-4-109 is punishable by fine up to Five Thousand Dollars (\$5,000.00), or imprisonment up to One (1) year, or both. Banishment not exceeding Five (5) years may additionally be imposed. For a subsequent conviction, banishment may be imposed more than Five (5) years and less than life.

Section 12-4-110 Tampering With Witnesses

- (A) It is unlawful:
- (1) Believing an official proceeding or investigation will begin or is pending to attempt to induce or cause a person to:
 - (a) Testify or inform falsely; or,
 - (b) Withhold any testimony, information, document or thing;
or,

- (c) Elude legal process summoning them to testify or supply evidence; or,
 - (d) Absent themselves from any proceeding or investigation to which they have been summoned; or,
 - (2) Harm another by retaliation for anything done as a witness or informant; or,
 - (3) Solicit, accept or agree to accept benefit for doing things specified in this section.
- (B) Section 12-4-110 is punishable by fine up to Five Thousand Dollars (\$5,000.00), or imprisonment not exceeding One (1) year, or both.

Section 12-4-111 Tampering With Evidence

- (A) It is unlawful, believing an official proceeding or investigation will begin or is pending to:
- (1) Alter, destroy, conceal or remove any record, document, or thing with intent to impair its verity or availability; or,
 - (2) Make, present, or use any record, document, or thing knowing it to be false to mislead a public servant.
- (B) Section 12-4-111 is punishable by fine up to Five Thousand Dollars (\$5,000.00), or imprisonment up to One (1) year, or both. Banishment not exceeding Five (5) years may additionally be imposed. For a subsequent conviction, banishment may be imposed more than Five (5) years and less than life.

Section 12-4-112 Tampering With Public Records

- (A) It is unlawful to:
- (1) Knowingly make a false entry in, or alteration of, any record, document thing belonging to or received or kept by, the Tribe or government, or required to be kept for information of the Tribe or government; or,
 - (2) Make, present or use any record, document, or thing knowing it to be false, to be taken as a genuine part of information or records referred to in subsection (1) above; or,

- (3) Purposely and unlawfully destroy, conceal, remove or otherwise impair the truth or availability of any record, document or thing.
- (B) Section 12-4-112 is punishable by fine up to Five Thousand Dollars (\$5,000.00), or imprisonment up to One (1) year, or both. Banishment not exceeding Five (5) years may additionally be imposed. For a subsequent conviction, banishment may be imposed more than Five (5) years and less than life.

Section 12-4-113 Impersonating A Public Servant

- (A) It is unlawful to pretend to hold a public office to induce submission to pretended official authority or act in reliance upon that pretense.
- (B) Section 12-4-113 is punishable by fine up to Five Thousand Dollars (\$5,000.00), or imprisonment up to One (1) year, or both.

Section 12-4-114 Obstructing Governmental Function

- (A) It is unlawful to:
 - (1) Use force, violence, intimidation, or any act to interfere with a public servant performing or purporting to perform an official function; or,
 - (2) Obstruct, impair, or prevent the administration of governmental function by force, violence, physical interference or obstacle, breach of official duty, or any act, this section does not apply to flight, refusing arrest.
- (B) Section 12-4-114 is punishable by fine up to Five Thousand Dollars (\$5,000.00), or imprisonment up to One (1) year, or both.

Section 12-4-115 through 12-4-125 Reserved

Section 12-4-126 Obstruction of a Law Enforcement Officer

- (A) Any person who willfully delays or obstructs any law enforcement officer in the discharge or attempt to discharge the lawful performance of his or her duty is guilty of obstructing a law enforcement officer.
- (B) Section 12-4-126 is punishable by fine up to Three Thousand Dollars (\$3,000.00), or imprisonment up to One (1) year, or both.

Section 12-4-127 Eluding a Law Enforcement Officer

- (A) Any operator of a motor vehicle who is given by hand, voice, emergency light, or siren, a visual or audible signal by a law enforcement officer acting in the lawful performance of his or her duty, directing the operator to bring the vehicle to a stop and who willfully increases the speed or extinguishes the lights of the vehicle in an attempt to elude the law enforcement officer, or willfully attempts in any other manner to elude the law enforcement officer, is guilty of eluding a law enforcement officer.
- (B) Section 12-4-127 is punishable by fine up to Three Thousand Dollars (\$3,000.00), or imprisonment up to One (1) year, or both.

Section 12-4-128 Resisting Lawful Arrest

- (A) It is unlawful to employ means of resistance to prevent a law enforcement officer from effecting an arrest or detention.
- (B) Section 12-4-128 is punishable by fine up to Three Thousand Dollars (\$3,000.00), or imprisonment up to Three (3) months, or both.

Section 12-4-129 Assault and Battery Upon a Law Enforcement Officer

- (A) Any person who, without justifiable or excusable cause, knowingly commits any assault upon a law enforcement officer acting in the lawful performance of his or her duties, shall be guilty of assault and battery upon a law enforcement officer.
- (B) Section 12-4-129 is punishable by fine up to Three Thousand Dollars (\$3,000.00), or imprisonment up to One (1) year, or both.

Section 12-4-130 Aggravated Assault and Battery Upon a Law Enforcement Officer

- (A) Any person who, without justifiable or excusable cause, knowingly commits any aggravated assault upon a law enforcement officer acting in the lawful performance of his or her duties shall be guilty of assault and battery upon a law enforcement officer.
- (B) Any person Section 12-4-130 is punishable by fine up to Five Thousand Dollars (\$5,000.00), or imprisonment up to One (1) year, or both.

Section 12-4-131 Mistreating or Interfering with a Police Dog or Horse

- (A) No person shall willfully torture, torment, beat, mutilate, injure, disable, or otherwise mistreat a police dog or police horse owned, or the service of which is employed, by a law enforcement agency of the Tribe or acting with or on behalf of the Tribe.

- (B) No person shall willfully interfere with the lawful performance of any police dog or police horse.
- (C) Section 12-4-131 is punishable by fine up to Two Thousand Dollars (\$2,000.00), or imprisonment up to One (1) year, or both.

Section 12-4-132 Killing a Police Dog or Horse

- (A) No person shall kill any police dog or police horse owned, or the service of which is employed, by a law enforcement agency of the Tribe or acting with or on behalf of the Tribe.
- (B) Section 12-4-132 is punishable by fine up to Three Thousand Dollars (\$3,000.00), or imprisonment up to One (1) year, or both.

Section 12-4-133 Refusing To Aid An Officer

- (A) It is unlawful to knowingly or irresponsibly refuse to aid a law enforcement officer or fireman when called upon by the officer.
- (B) Section 12-4-133 is punishable by fine up to One Thousand Dollars (\$1,000.00), or imprisonment up to Three (3) months, or both.

Section 12-4-134 False Arrest

- (A) It is unlawful for any person pretending to be a public officer to, under pretense or color of legal authority, arrest or detain any person.
- (B) Section 12-4-134 is punishable by fine up to Five Thousand Dollars (\$5,000.00), or imprisonment up to One (1) year, or both.

Section 12-4-135 Obstructing Justice

- (A) It is unlawful to hinder the apprehension, prosecution, conviction or punishment of another to:
 - (1) Harbor or conceal; or,
 - (2) Provide or aid in providing a weapon, transportation, disguise or means of avoiding apprehension or effecting escape; or,
 - (3) Conceal or destroy evidence or tamper with a witness, informant, document or source of information, regardless of admissibility; or,

- (4) Warn of impending discovery or apprehension, except to get the person to comply; or,
 - (5) Volunteer false information to a law enforcement officer; or,
 - (6) Obstruct by force, threat, bribery or deception anyone from performing an act which might aid in the discovery, apprehension, prosecution or conviction.
- (B) Section 12-4-135 is punishable by fine up to Five Thousand Dollars (\$5,000.00), or imprisonment up to One (1) year, or both. Unless the recipient of above aid has been previously banished a conviction may result in both parties being banished equal to one half of the original sentence, plus a fine up to One Thousand Dollars (\$1,000.00).

Section 12-4-136 Providing Contraband

- (A) It is unlawful to provide any person under arrest or in detention with alcoholic beverages, drugs, weapons, implements of escape, or other thing or substance which the actor knows is improper or unlawful.
- (B) Section 12-4-136 is punishable by fine up to Five Thousand Dollars (\$5,000.00) or imprisonment up to Three (3) months, or both.

Section 12-4-137 Escape

- (A) It is unlawful to:
- (1) Remove oneself or fail to return to official detention; or,
 - (2) Knowingly procure, make, or possess anything which may facilitate escape; or,
 - (3) Aid another to escape; or,
 - (4) Knowingly provide a person in detention with anything which may facilitate escape.
- (B) “Detention” means arrest, detention in any facility or any other detention for law enforcement purposes.
- (C) Section 12-4-137 is punishable by fine up to Five Thousand Dollars (\$5,000.00), or imprisonment up to One (1) year, or both.

Section 12-4-138 Bail Jumping

- (A) It is unlawful to fail to appear after release by court order or upon condition they subsequently appear.
- (B) Section 12-4-138 is punishable by fine up to Five Thousand Dollars (\$5,000.00), or imprisonment up to One (1) year, or both.

Section 12-4-139 Failure To Obey A Lawful Order Of The Court

- (A) It is unlawful to purposely or knowingly fail to obey an order, subpoena, warrant or command issued, or given by Court or any officer.
- (B) This Section shall not apply to a failure to appear in a Civil action.
- (C) Section 12-4-139 is punishable by fine up to Five Thousand Dollars (\$5,000.00) or imprisonment up to One (1) year, or both.

Section 12-4-140 Unlawful Return Of Banished Persons

- (A) It is unlawful during the term of banishment to:
 - (1) Physically return to the territorial jurisdiction except while actually traveling a public highway, or as allowed by law, or,
 - (2) To apply or attempt to claim any right, privilege or immunity by Tribal membership Tribe except as provided.
- (B) Section 12-4-140 is punishable by fine up to Five Thousand Dollars (\$5,000.00), and imprisonment not exceeding One (1) year, or both. Banishment not exceeding One (1) year may additionally be imposed.
- (C) Any personal property which the person brought with them or used to return shall be contraband and forfeited by civil forfeiture provided, if any property belongs to another, that person, if known, shall be served with forfeiture proceeding and may defend.

Section 12-4-141 Aiding Return Of Banished Persons

- (A) It is unlawful to aid, abet, or assist a person under banishment to:
 - (1) Physically return to the territorial jurisdiction except while traveling a public highway, or as allowed by law; or,
 - (2) Apply or attempt to claim any right, privilege, or immunity by Tribal membership except as allowed.

- (B) Section 12-4-141 is punishable by fine up to Five Thousand Dollars (\$5,000.00), and imprisonment not exceeding Six (6) months. Banishment not exceeding One (1) year may additionally be imposed.
- (C) Any personal property which the banished person brought with him or used to return shall be contraband and forfeited by civil forfeiture if any property belongs to another, that person, if known, shall be served with forfeiture proceedings, and may defend.

Section 12-4-142 through 12-4-144 Reserved

Section 12-4-145 False Alarms

- (A) It is unlawful to knowingly:
 - (1) Cause a false fire alarm or alarm of other emergency to be transmitted to or within any organization, official or volunteer, for dealing with emergencies involving danger to life or property; or,
 - (2) Give false information to any law enforcement officer with purpose to implicate another in an offense; or,
 - (3) Report to law enforcement authorities an offense or other incident knowing or believing it did not occur; or,
 - (4) Pretend to furnish law enforcement authorities with information when one knows they have no information relating to such offense or incident; or,
 - (5) Give a false name or address to a law enforcement officer.
- (B) Section 12-4-145 is punishable by fine up to Three Thousand Dollars (\$3,000.00), or by imprisonment up to Six (6) months, or both.

Section 12-4-146 Doing Business Without A License

- (A) It is unlawful to commence or carry on business, trade, or profession, without having an appropriate license.
- (B) Section 12-4-146 is punishable by fine up to Three Thousand Dollars (\$3,000.00), or imprisonment up to Three (3) months, or both.

Section 12-4-147 Tampering With Public Property

- (A) It shall be unlawful to:

- (1) Steal, deface, mutilate, alter, falsify, or remove any notice, sign, record, map, book, document or thing, or court documents or records, placed or filed in any public place, office, or with any public officer, or permit another to do so; or,
 - (2) Knowingly injure, deface or remove any signal, monument or other marker placed or erected as part of an official survey; or,
 - (3) Intentionally deface, obliterate, tear down, or destroy any copy or transcript or law extract or proclamation, advertisement, or notice set up or displayed by any public officer or court; before the expiration of the set up time.
- (B) Section 12-4-147 is punishable by fine up to Three Thousand Dollars (\$3,000.00), or imprisonment up to Three (3) months, or both.

Section 12-4-148 Injuring Public Property

- (A) It is unlawful to:
- (1) Intentionally break, pull down, injure or destroy any jail or place of confinement; or,
 - (2) Intentionally dig up, remove, displace, injure or destroy any public roadway, bridge, private road or bridge or public building or structure; or,
 - (3) Remove or injure any milepost, guidepost or road or highway sign or marker or any inscription erected along a road or highway; or,
 - (4) Knowingly remove, injure, deface, or destroy any public or structure, or personal property belonging to the Tribe or other government or government agency.
- (B) Section 12-4-148 is punishable by a fine up to Five Thousand Dollars (\$5,000.00), or imprisonment up to One (1) year, or both.

Section 12-4-149 through 12-4 155 Reserved

Section 12-4-156 Compensation For Past Official Behavior

- (A) It is unlawful to solicit, accept or agree to accept financial benefit for having, as a public servant, given a decision, opinion, recommendation or favorable vote or having exercised a discretion in his favor, or having violated their duty; or offer, confer or agree to confer compensation.

- (B) Section 12-4-156 is punishable by fine up to Five Thousand Dollars (\$5,000.00) or imprisonment up to One (1) year, or both. Banishment not exceeding Five (5) years may additionally be imposed. For a subsequent conviction, banishment may be imposed more than Five (5) years and less than life.

Section 12-4-157 Official Unlawful Action

- (A) It is unlawful, being a public servant, and with the intent to materially benefit them self or another to harm another, to:
- (1) Knowingly commit an unauthorized act which purports to be an act of their office, or knowingly refrains from performing a non-discretionary duty; or,
 - (2) Knowing official action is contemplated or in reliance on information acquired by virtue of their office or another public servant, which information has not been made public, they:
 - (a) Acquires or divests them self of a valuable interest in property, transaction, or enterprise which may be affected by such action or information; or,
 - (b) Speculates or wagers on the basis of such action or information, or knowingly aid another to do any of the foregoing.
- (B) Section 12-4-157 is punishable by fine up to Five Thousand Dollars (\$5,000.00), or imprisonment up to one year, or both. Banishment not exceeding Five (5) years may additionally be imposed. For a subsequent conviction, banishment may be imposed more than Five (5) years and less than life.

Section 12-4-158 Special Influence

- (A) It is unlawful to solicit, receive, or agree to receive any financial benefit for exerting special unlawful influence upon a public servant, to influence that public servant to violate law or exercise discretion in a particular fashion or procuring another to do so; or to offer, confer or agree to confer any financial benefit receipt of which is prohibited.
- (C) Section 12-4-158 is punishable by fine up to Five Thousand Dollars (\$5,000.00), or imprisonment up to one year, or both. Banishment not exceeding Five (5) years may additionally be imposed. For a subsequent conviction, banishment may be imposed more than Five (5) years and less than life.

CHAPTER FIVE
CRIMES AGAINST PUBLIC HEALTH, SAFETY, AND WELFARE

Section 12-5-101 Rioting

- (A) It is unlawful to simultaneously, with others engage in tumultuous or violent public conduct which endangers person or property, and knowingly or recklessly create a risk of public alarm; or to assemble with the purpose of engaging in the above conduct.
- (B) Section 12-5-101 is punishable by fine up to Three Thousand Dollars (\$3,000.00), or imprisonment up to Six (6)six months, or both.

Section 12-5-102 Failure To Disperse

- (A) It is unlawful to refuse or knowingly fail to obey an order to disperse or leave the vicinity given by a law enforcement officer or other public servant at the scene of a riot, fire, or public disorder or given during the investigation of an accident, fire, offense or suspected offense.
- (B) Section 12-5-102 is punishable by fine up to Three Thousand Dollars (\$3,000.00); or imprisonment up to Three (3) months, or both.

Section 12-5-103 Disorderly Conduct

- (A) It is unlawful to purposely cause public inconvenience, annoyance or alarm, or irresponsibly create a risk there of, by:
 - (1) Engaging in fighting, or threatening to engage in violent or tumultuous behavior; or,
 - (2) Making unreasonable noise or offensively coarse utterances, gestures, or displays, or abusive language to persons present; or,
 - (3) Creating a hazardous or physically offensive condition which serves no legitimate purpose; or,
 - (4) Appearing in public in an intoxicated condition and:
 - (a) Passing out or falling or sleeping in a public place or property of another without permission; or,

- (b) Bothering, disrupting or otherwise intruding upon another person; or,
 - (c) Wandering without giving a reasonable destination to a law enforcement officer; or,
 - (d) Appearing or being found in a religious area or traditional ceremonial site, or by order of the Tribal or conducting authorities, set aside free from alcoholic beverage consumption or presence of intoxicated persons, during religious or ceremonial or public activity.
- (B) Section 12-5-103 is punishable by fine up to Three Thousand Dollars (\$3,000.00) or imprisonment up to Six (6) months, or both.
- (C) A subsequent conviction is punishable by a fine up to Five Thousand Dollars (\$5,000.00) or imprisonment up to Nine (9) months, or both. Banishment not exceeding Two (2) years may additionally be imposed.

Section 12-5-104 Harassment

- (A) It is unlawful with the purpose to annoy or alarm to insult, taunt, or challenge in a manner likely to provoke a violent or disorderly response; or make repeated communications anonymously or at extremely inconvenient hours or in offensively coarse language.
- (B) Section 12-5-104 is punishable by fine up to Two Thousand Dollars (\$2,000.00); or imprisonment up to Three (3) months, or both.

Section 12-5-105 Public Nuisance

- (A) It is unlawful to do any act, or fail to perform any duty, which act or omission either:
- (1) Unreasonably and substantially annoys and injures or endangers the comfort, repose, health, or safety of three or more persons; or,
 - (2) Offends public decency; or,
 - (3) Interferes obstructs, or renders dangerous for use or passage any lake, stream, or campground, pow-wow ground, public park, square, street, highway or road; or,
 - (4) Unreasonably renders three or more persons insecure in life or the use of property.

- (B) Section 12-5-105 is punishable by fine up to Three Thousand Dollars (\$3,000.00); or imprisonment up to Three (3) months, or both.

Section 12-5-106 Disrupting A Public Or Religious Assembly

- (A) It is unlawful to intentionally prevent or disrupt a meeting or religious assembly, by obstructing or interfering physically; or utterance, gesture or display which outrage the sensibilities or prevent the conducting of business.
- (B) Section 12-5-106 is punishable by fine up to Three Thousand Dollars (\$3,000.00), or imprisonment up to Three (3) months, or both.

Section 12-5-107 Weapons Offense

- (A) Definitions:
 - (1) “Dangerous weapon”: any item in its use or intended use is capable of causing death or serious bodily injury. Whether an item, object or thing not commonly known as a dangerous weapon is a dangerous weapon, the character of the thing, wound and the manner used shall be determinative.
 - (2) “Firearms”: Any device that expels a projectile by some means of force.
 - (3) A firearm shall be deemed loaded when an unexpended cartridge, shell or projectile is in firing position except in pistols and revolvers, which shall be deemed loaded when the unexpended cartridge, shell or projectile is in position as next to be fired.
- (B) It is unlawful to:
 - (1) Have a dangerous weapon in one’s possession:
 - (a) While being addicted to any narcotic; or,
 - (b) After being declared mentally incompetent; or,
 - (c) While intoxicated or under the influence of alcohol or other intoxicating substance, drug, or medicine; or,
 - (d) With intent to assault another; or,
 - (e) After having a domestic violence conviction in any Tribal or state jurisdiction.

- (f) An exception exists for law enforcement and officers of the court.
- (2) Carry a loaded firearm in a vehicle on a public road without authority or firearm from a motor vehicle without authority or a firearm from upon or across any public highway without authority.
- (C) Section 12-5-107 is punishable by fine up to Five Thousand Dollars (\$5,000.00), or imprisonment up to One (1) year, or both. Banishment less than life may additionally be imposed.

Section 12-5-108 Aggravated Weapons Offense

- (A) It is unlawful to carry a concealed dangerous weapon or threaten or exhibit a dangerous weapon in a dangerous and threatening manner, or use a dangerous weapons in a fight or quarrel; or to possess a dangerous weapon at any meeting held pursuant to the Constitution or laws, including, but not limited to, Legislature, Election Committee, General Council and Tribal Court; (OR TO POSSESS A SHOTGUN HAVING A BARREL OR BARRELS OF LESS THAN EIGHTEEN , OR RIFLE HAVING A BARREL OR BARRELS LESS THAN SIXTEEN INCHES IN LENGTH).
- (B) Section 12-5-108 is punishable by fine up to Five Thousand Dollars (\$5,000.00), or imprisonment up to One (1) year, or both. Banishment less than life may additionally be imposed.
- (C) Individuals may possess firearms in and around their homes for protection and hunting, except those persons convicted of a domestic violence offense.

Section 12-5-109 Dangerous Devices

- (A) It is unlawful to:
 - (1) Deliver or cause to be delivered to any express, railway company or common carrier, or place in the mail or deliver to any person, or throw or place on or about the premises or property of another a dangerous device, knowing it to be such; or,
 - (2) Knowingly construct or contrive any dangerous device, or with the intent to injure another have a dangerous device in one's possession.

- (B) A “dangerous device” is any box, package, contrivance, bomb, or apparatus containing or arranged with an explosive or acid or poisonous or inflammable substance, chemical, or compound, knife, loaded firearm or other dangerous or harmful weapon or thing, constructed, contrived, or arranged so as to explode, ignite, or throw forth its contents, or strike when moved handled, or opened or after the lapse of time or in a manner calculated to endanger health, life, limb, or property.
- (D) Section 12-5-109 is punishable by fine up to Five Thousand Dollars (\$5,000.00), or imprisonment up to One (1) year, or both.

Section 12-5-110 Terroristic Threats

- (A.) It is unlawful to knowingly, willfully or recklessly threaten to commit any crime of violence with the purpose to terrorize another or cause evacuation of a building, place of assembly or facility of public transportation, or otherwise to cause serious public inconvenience or in reckless disregard of the risk of causing such terror or inconvenience.
- (B.) Violation of this Section is punishable by fine up to Five Thousand Dollars (\$5,000.00), or imprisonment up to One (1) year, or both.

Amended by Ordinance #13-05, enacted by the Citizen Potawatomi Legislature on May 30, 2013.

Section 12-5-111 through 12- 5 115 Reserved

Section 12-5-116 Desecration

- (A) It is unlawful purposely desecrate any public monument or structure; or place of worship or burial, or other sacred place.
- (B) Desecrate: deface, damage, pollute, destroy, take or otherwise physically mistreat in a way the actor knows, or believes will outrage, the sensibilities of persons likely to observe or discover his action.
- (C) Section 12-5-116 is punishable by fine up to Three Thousand Dollars (\$3,000.00), or imprisonment up to Three (3) months, or both.

Section 12-5-117 Littering

- (A) It is unlawful to throw, dump, place or deposit upon the lands of another or Tribal or public property, or highway, street, road, or area without consent of the owner or other permission, any garbage, debris, junk, carcasses, trash, refuse or substances of any nature which could mar the appearance or detract from the cleanliness of the area; or to store, keep, or

allow to accumulate an unreasonable number of any wrecked, junked, or unserviceable vehicles, appliances, or implements.

- (B) Section 12-5-117 is punishable by fine up to One Thousand Dollars (\$1,000.00), or imprisonment up to Three (3) months, or both.

Section 12-5-118 through 12-5-125 Reserved

Section 12-5-126 Abusing A Corpse

- (A) It is unlawful to purposely remove, conceal, dissect, or destroy a corpse or disinter a corpse.
- (B) Section 12-5-126 is punishable by fine up to Five Thousand Dollars (\$5,000.00), or imprisonment up to One (1) year, or both. Banishment not exceeding Five (5) years may additionally be imposed.

Section 12-5-127 Prostitution

- (A) It shall be unlawful to:
 - (1) Be a resident of a house of prostitution or engage in sexual activity as a business; or,
 - (2) Loiter in or within view in public to be hired to engage in sexual activity; or,
 - (3) Engage in, offer or agree to engage in sexual activity with another for a fee; or,
 - (4) Pay, offer or agree to pay another to engage in sexual activity; or,
 - (5) Enter or remain in a house of prostitution to engage in sexual activity; or,
 - (6) Own, control, manage, supervise, or otherwise keep, alone with another, a house of prostitution or a prostitution business; or,
 - (7) Solicit a person to patronize a prostitute; or,
 - (8) Procure or attempt to procure a prostitute for another; or,
 - (9) Lease or otherwise permit a place controlled by the actor, alone or with others, to be used for prostitution or promotion of prostitution; or,

- (10) Procure an inmate for a house of prostitution; or,
 - (11) Encourage, induce, or cause another to become or remain a prostitute; or,
 - (12) Transport a person to promote that person's engaging in prostitution or procuring or paying for transportation with the purpose; or,
 - (13) Share in the proceeds of a prostitute unless one is the child or legal dependent of a prostitute; or,
 - (14) Solicit, receive, or agree to receive any benefit for doing any of the acts prohibit by this subsection.
- (B) Definitions:
- (1) "Sexual Activity" intercourse or any sexual act involving the genitals of one person and the mouth or anus of another regardless of the sex of either participant.
 - (2) "House of prostitution" a place where prostitution or promotion of prostitution is regularly carried on under the control, management, or supervision of another.
 - (3) "Inmate" a person who engages in prostitution in or through the agency of a house of prostitution.
 - (4) "Public" any place which the public or a substantial group has access.
- (C) The following shall be admissible whether a place is a house of prostitution: Its general reputation; the reputation of the persons who reside in or frequent the place; the frequency, timing and duration of visits by non-residents. Testimony against a spouse shall be admissible.
- (D) Section 12-5-127 is punishable by fine up to Three Thousand Dollars (\$3,000.00), or imprisonment up to Six (6) months, or both. Banishment not exceeding Two (2) years may additionally be imposed.

Section 12-5-128 Spreading Venereal Disease

- (A) It shall be unlawful to infect another person with venereal disease, if one knows or has reason to believe she/he is infected.

- (B) The Court shall have power to order medical examination and treatment of the convicted offender and an investigation to determine what others may have been infected.
- (C) Section 12-5-128 is punishable by fine up to Three Thousand Dollars (\$3,000.00) or imprisonment up to Three (3) months, or both.

Section 12-5-129 Obscenity

- (A) It is unlawful to:
 - (1) Sell, deliver or provide, or offer or agree to sell, deliver or provide, obscene writing, picture, record, representation or embodiment; or,
 - (2) Present or direct an obscene play, dance, or performance, or participate in that portion which makes it obscene; or,
 - (3) Publish, exhibit, transmit electronically or make available obscene material; or,
 - (4) Possess obscene material for purposes of sale or commercial dissemination; or,
 - (5) Sell, advertise or commercially disseminate material, whether or not obscene, by representing or suggesting it is obscene.
- (B) Material is obscene if, considered as a whole:
 - (1) It lacks serious literary, artistic, political, or scientific value; and,
 - (2) It depicts or describes nudity, sex or excretion in patently offensive manner that goes substantially beyond customary limits of candor in describing or representing such matters; and,
 - (3) If the average person, applying contemporary community standards, would find that the material, taken as a whole, appeals predominantly to a morbid or unnatural interest in nudity, sex, or excretion.
- (C) A person who disseminates or possesses obscene material in the course of his business is presumed to do so knowingly or recklessly.
- (D) Predominant appeal shall be judged with reference to ordinary adults unless the character of the material or circumstances of its dissemination is designed for children or some specially susceptible audience.

- (E) Undeveloped photographs molds, printing plates and the like, shall be deemed obscene notwithstanding processing or other acts may be required to make the obscenity patent or to disseminate it.
- (F) It shall be a defense that dissemination was restricted to institutions or persons having scientific, educational, governmental or similar justification for possessing obscene material.
- (G) Section 12-5-129 is punishable by fine up to Three Thousand Dollars (\$3,000.00), and imprisonment up to Three (3) months. All obscene material shall be confiscated and destroyed.

Section 12-5-130 through 12-5-134 Reserved

Section 12-5-135 Minor in Possession of Intoxicating Beverage

- (A) It shall be unlawful for any person under the age of twenty-one (21) years of age to be in possession of any intoxicating beverage containing at least three and two-tenths percent (3.2%) or more by weight while such person is upon any public street, road or highway; or in any public building, Tribal place of business or public place; or in any parking lot or other area exposed to public view or to which the public is invited.
- (B) Violation of this Section is punishable by a fine up to One Thousand Dollars (\$1,000.00) or imprisonment up to Three (3) months, or both, if over the age of eighteen (18) years. If the Minor is under the age of eighteen (18) years, by a fine up to One Thousand Dollars (\$1,000.00) and Juvenile Detention up to three (3) months, or both.

Enacted by Ordinance #13-05, by the Citizen Potawatomi Legislature on May 30, 2013.

Section 12-5-136 Intoxication

- (A) It is unlawful to be under the influence of an intoxicating beverage, drugs, or controlled substance, or a substance which releases vapors, to any degree, in a public or private place under circumstances not amounting to disorderly conduct.
- (B) Section 12-5-136 is punishable by fine up to One Thousand Dollars (\$1,000.00), or imprisonment up to Three (3) months, or both. A judge or arresting officer may order release and the dropping of a charge if he believes further imprisonment is unnecessary and the individual is sober. The Judge may commit a convicted person to a facility for treatment if it appears the person is dependent upon an intoxicant.

Section 12-5-137 Possession Of An Alcoholic Beverage

- (A) It shall be unlawful to buy, sell, serve, give away, consume, furnish, or possess any beer, ale, wine, liquor, spirits, or product containing alcohol or appear or be found in a place where alcoholic beverages are sold and/or consumed, without authority of the Tribal Legislative Body.
- (B) Section 12-5-137 is punishable by fine up to One Thousand Dollars (\$1,000.00), or imprisonment up to Three (3) months, or both.

Section 12-5-138 Open Container in a Vehicle

- (A) No person, while operating or occupying a motor vehicle shall have within the passenger or driving area of that vehicle, any alcoholic liquor or malt beverage regarding which the seal has been broken.
- (B) Section 12-5-138 is punishable by fine up to One Thousand Dollars (\$1,000.00) or imprisonment up to Three (3) months, or both.

Section 12-5-139 Tobacco Offense

- (A) It is unlawful to:
 - (1) Purchase, obtain, possess, smoke, chew, inhale or ingest any tobacco product under eighteen (18) years old; or,
 - (2) Sell to, obtain or arrange obtaining of a tobacco product for a person under the age of eighteen (18), or knowingly permit such a person to operate a machine dispensing tobacco products in his place of business or in an area over which he is charged with the management or operation.
- (B) Section 12-5-139 is punishable by fine up to Two Hundred Fifty Dollars (\$250.00) or imprisonment up to Three (3) months, or both.

Section 12-5-140 Abuse Of Psychotoxic Chemical Solvents

- (A) It is unlawful to smell or inhale the fumes of any psychotoxic chemical solvent, or possess, purchase, or attempt to possess or purchase psychotoxic chemical solvent; or to sell, give away, dispense, or distribute, or offer to sell, give away, dispense, or distribute any psychotoxic chemical solvent.
- (B) "Psychotoxic chemical solvent" includes, but is not limited to, any glue, cement, or substance containing the following chemical compounds: acetone and acetate, benzene, butyl-alcohol, methyl ethyl, petone, pentachlorophenol, petroleum ether, or chemical substance capable of

causing a condition of intoxication, inebriation, excitement, stupefaction, or the dulling of the brain or nervous system. The listing of contents by the manufacturer or producer shall be proof of the contents.

- (C) Section 12-5-140 is punishable by fine up to Five Thousand Dollars (\$5,000.00) or imprisonment up to Six (6) months, or both. The Court may order the convicted person to be committed to a facility for treatment.
- (D) Such psychotoxic chemical solvents used for intoxicating purposes are declared contraband and shall be confiscated.

Section 12-5-141 Dangerous Drug Offense – Unlawful Possession

- (A) No person shall knowingly or intentionally:
 - (1) Possess, use, or be under the influence of a controlled substance unless the substance was obtained pursuant to a valid prescription and directly from an order of a licensed practitioner while acting in the course of his professional practice; or,
 - (2) Possess any drug paraphernalia including, but not limited to, pipes, bong, clips, or other article used or likely to be used to directly assist in the injection, ingestion, or inhalation of a controlled substance.
- (B) As used in this Section:
 - (1) “Controlled substance” means, for purposes of definition only, a drug, substance, or immediate precursor in Schedule I, II, III, IV, or V of the Federal Control Substance Act, except Peyote in the Native American Church;
 - (2) “Drug paraphernalia” means all equipment, products, and materials of any kind when used, advertised for use, intended for use, or designed for use for manufacturing, converting, preparing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of this Code;
 - (3) “Marijuana” includes all parts of the plant, cannabis sativa L., whether growing or not; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture or preparation of such plant, its seeds or resin; but shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant or any other compound, manufacture, salt, derivative, mixture or preparation of such

mature stalks, fiber, oil or cake except the resin extracted therefrom.

- (4) “Narcotic drug” means any drug which is produced directly or indirectly by extraction from substances of vegetable origin, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis; and
 - (5) The weights designated shall include the weight of the controlled substance and the weight of any carrier element, cutting agent, diluting agent, or any other substance excluding packaging material.
- (B) Section 12-5-141 is punishable by fine up to Five Thousand Dollars (\$5,000.00), or imprisonment up to One (1) year, or both. The Court may order the convicted person to be committed to a facility for treatment.
- (C) Any personal property used in conjunction with the unlawful commission of this section shall be subject to civil forfeiture proceedings.

Section 12-5-142 Dangerous Drug Offense – Unlawful Sale or Delivery

- (A) No person shall knowingly or intentionally sell, barter, give away, or deliver a controlled substance to another unless acting as a licensed practitioner in the course of his professional practice.
- (B) As used in this Section:
- (1) “Controlled substance” means, for purposes of definition only, a drug, substance, or immediate precursor in Schedule I, II, III, IV, or V of the Federal Control Substance Act, except Peyote in the Native American Church;
 - (2) “Deliver” or “delivery” means the actual, constructive, or attempted transfer from one person to another of a controlled substance;
 - (3) “Marijuana” includes all parts of the plant, *cannabis sativa* L., whether growing or not, the resin extracted from any part of such plant, and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or resin; but shall not include the mature stalks of such plant, fiber produced from such stalks, oil, or cake made from the seeds of such plant, or any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks, fiber, oil, or cake except the resin extracted therefrom; and,

- (4) Narcotic drug” means any drug which is produced directly or indirectly by extraction from substances of vegetable origin, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis.
- (C) Section 12-5-142 is punishable by fine up to Five Thousand Dollars (\$5,000.00), or imprisonment up to One (1) year, or both. The Court may order the convicted person to be committed to a facility for treatment.
- (D) Any personal property used in conjunction with the unlawful commission of this section shall be subject to civil forfeiture proceedings.

Section 12-5-143 Dangerous Drug Offense – Unlawful Manufacture

- (A) No person shall manufacture or possess with intent to manufacture a controlled substance.
- (B) As used in this Section:
 - (1) “Controlled substance” means, for purposes of definition only, a drug, substance, or immediate precursor in Schedule I, II, III, IV, or V of the Federal Control Substance Act, except Peyote in the Native American Church;
 - (2) “Manufacture” means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin, independently by means of chemical synthesis, or by a combination of extractions and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation, compounding, packaging, or labeling of a controlled substance by a licensed practitioner as an incident to his administering or dispensing a controlled substance in the course of this professional practice;
 - (3) “Marijuana” includes all parts of the plant, cannabis sativa L., whether growing or not, the resin extracted from any part of such plant, and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or resin; but shall not include the mature stalks of such plant, fiber produced from such stalks, oil, or cake made from the seeds of such plant, or any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks, fiber, oil, or cake except the resin extracted therefrom.

- (4) "Narcotic drug" means any drug which is produced directly or indirectly by extraction from substances of vegetable origin independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis.
- (C) Section 12-5-143 is punishable by fine up to Five Thousand Dollars (\$5,000.00), or imprisonment up to One (1) year, or both. The Court may order the convicted person to be committed to a facility for treatment.
- (D) Any personal property used in conjunction with the unlawful commission of this section shall be subject to civil forfeiture proceedings.

Section 12-5-144 through 12-5-152 Reserved

Section 12-5-153 Animals at Large

- (A.) No owner, keeper or other person in control shall permit any animal, harbored or kept by him, to be at large. It is unlawful for any such animal to be at large at any time with the Citizen Potawatomi Nation, with the exception of rural residences that are exempt from this Section.
- (B.) Violation of this Section is punishable by a fine up to Five Hundred Dollars (\$500.00)

Enacted by Ordinance #13-05, by the Citizen Potawatomi Legislature on May 30, 2013.

Section 12-5-154 Cruelty To Animals

- (A) It is unlawful to purposely or knowingly:
 - (1) Torture or seriously overwork an animal; or,
 - (2) Fail to provide necessary food, care, or shelter for an animal in one's custody; or,
 - (3) Abandon an animal in one's custody; or,
 - (4) Transport or confine an animal in a cruel manner; or,
 - (5) Kill, injure, or administer poison to an animal without legal privilege; or,
 - (6) Cause one animal to fight with another.
- (B) Section 12-5-154 is punishable by fine up to Three Thousand Dollars (\$3,000.00), or imprisonment up to Three (3) months, or both.

Section 12-5-155 Livestock Offense

- (A) It is unlawful to:
- (1) Knowingly or recklessly refuse or fail to mark or brand livestock when required in the interest of livestock identification or directed by Tribal officials; or,
 - (2) Alter, obliterate, or remove a brand or mark, or misbrand or mismark livestock with a purpose to deceive another; or,
 - (3) Knowingly permit livestock to graze or trespass on the property of another or Tribe without permission in excess of permitted time or amount; or,
 - (4) Knowingly fail to treat or dispose of a sick animal where there is a substantial danger of infecting other livestock; or,
 - (5) Fail to dip, inoculate or treat livestock in the manner which the representative of the Tribe shall direct; or,
 - (6) Make a false report of livestock owned.
- (B) Except where the owner or person having custody cannot be found, for subsections 1, 3, 4, 5, or 6 no conviction may be sustained unless the owner or person having custody is given forty-eight hours written notice of his alleged violation.
- (C) Livestock found in violation may be impounded without prior notice if a court orders upon receipt of evidence such animals seriously threatens the property of the Tribe or another or health of other livestock and immediate action is necessary to protect such interests from serious harm. A reasonable fee for the care maybe collected prior to their release.
- (D) Section 12-5-155 is punishable by fine up to One Thousand Dollars (\$1,000.00), or imprisonment up to Six (6) months, or both.
- (E) Livestock handled or in violation are declared to be contraband and civil proceedings may be had for forfeiture.

Section 12-5-156 through 12-5-163 Reserved

Section 12-5-164 False Reports

- (A) It is unlawful to initiate or circulate a report or warning of a fire, bombing, or other crime or catastrophe, knowing the report is false or baseless and it is likely to cause evacuation of any building, place or assembly, or facility of public transport, or to cause public inconvenience or alarm or action by an official or volunteer emergency agency.
- (B) Section 12-5-164 is punishable by fine up to Two Thousand Dollars (\$2,000.00), or imprisonment up to Three (3) months, or both.

Section 12-5-165 Emergency Telephone Abuse

- (A) It is unlawful to knowingly refuse to yield or surrender the use of a party line or public pay telephone upon being informed said telephone is needed to report a fire, or summon police, medical or other aide in case of an emergency; or to ask for or request the use of a party line or public pay phone on the pretext an emergency exists, knowing no emergency exists.
- (B) “Emergency”: A situation where property or human life or their safety is in jeopardy and the prompt summoning of aid or reasonable appears to be essential.
- (C) Section 12-5-165 is punishable by fine up to One Thousand Dollars (\$1,000.00), or imprisonment up to Three (3) months, or both.

Section 12-5-166 Violation Of Privacy

- (A) It is unlawful to:
 - (1) Trespass with intent to subject anyone to eavesdropping or surveillance in a private place; or,
 - (2) Install in any private place, without consent any device for observing, photographing, recording, amplifying, or broadcasting sounds or events, or use any such unauthorized installation; or,
 - (3) Install or use outside of any private place any device for hearing, recording, amplifying, or broadcasting sounds originating in such place which would not ordinarily be audible or comprehensible outside, without consent; or,
 - (4) Divulge without consent of the sender or receiver the existence or contents of any message if the actor knows the message was illegally intercepted, or if he learned of the message in the course of employment with a transmitting agency.
- (B) Definitions:

- (1) “Eavesdrop” to overhear, record, amplify, or transmit any part of an oral or written communication of others without consent of at least one party by means of any electrical, mechanical or device.
 - (2) “Private place” a place where one can reasonably expect to be safe from casual or hostile intrusion or surveillance.
- (C) Section 12-5-166 is punishable by fine up to Three Thousand Dollars (\$3,000.00), or imprisonment up to Three (3) months, or both.

Section 12-5-167 Criminal Defamation

- (A) It is unlawful to knowingly and with malicious intent communicate to any person orally or in writing any information which one knows or should know to be false and knowingly the information tends to impeach the honesty, integrity, virtue or reputation, or publish the natural defects of one who is alive, or who has not been declared missing or dead, and thereby expose them to public hatred, contempt or ridicule. An injurious publication is presumed to have been malicious if justifiable motive is not shown by way of defense.
- (B) Section 12-5-167 is punishable by fine up to Three Thousand Dollars (\$3,000.00), or imprisonment up to Six (6) months, or both. It shall be a defense the person was engaged in the formal broadcast or publication of news by public news media and in good faith believed he was reporting a newsworthy event concerning a public figure with a basis in truth.

Section 12-5-168 Gambling

- (A) It is unlawful to:
- (1) Participate in any tribally unauthorized gambling; or,
 - (2) Knowingly permit any tribally unauthorized gambling to be conducted upon any real or personal property owned, rented, or under the control of the actor; or,
- (B) Section 12-5-168 is punishable by fine up to Three Thousand Dollars (\$3,000.00), or imprisonment up to Six (6) months, or both.

Section 12-5-169 Waters Offense

- (A) It is unlawful to:
- (1) Interfere with or alter the flow of water in any stream, river, or ditch, in violation of the right of any other person; or,
 - (2) Knowingly break, injure, alter or destroy any bridge, dam, levee, embankment, reservoir, water tank, water line, or other structure intended to create hydraulic power or pressure to direct the flow of water; or,
 - (3) Pollute or befoul any water in the following ways:
 - (a) Construct or maintain a corral, sheep pen, goat pen, stable, pig pen, chicken coop, or other offensive yard or outhouse where the waste or drainage there from shall flow directly into the waters of any stream, well, spring, or source of water used for domestic purposes; or,
 - (b) Deposit, pile, unload or leave any manure heap, rubbish, or the carcass of any dead animal where the waste or drainage there from will flow directly into the waters of any stream, well, spring or source of water used for domestic purpose; or,
 - (c) Knowingly cause or allow any substance harmful or potentially harmful to human life to enter into a source of water used for domestic purposes.
- (B) Section 12-5-169 is punishable by fine up to Three Thousand Dollars (\$3,000.00), or imprisonment up to Six (6) months, or both.

Section 12-5-170 Contributing To The Delinquency Of A Minor

- (A) It is unlawful for a person twenty-one (21) years of age or older to:
- (1) Knowingly or recklessly sell or give to or otherwise make beer, liquor, wine or other alcoholic beverages available to a person under the age of twenty-one; or,
 - (2) Knowingly or recklessly, by act or omission, encourage, cause or contribute to the delinquency or unlawful conduct of a minor under the age of twenty-one.

- (B) Section 12-5-170 is punishable by fine less than Three Thousand Dollars (\$3,000.00), or imprisonment up to Six (6) months, or both.

Section 12-5-171 Trafficking In Children

- (A) It is unlawful to:
 - (1) Accept compensation, money, property or thing of value, from persons adopting a child, for services performed or rendered, or purported to be performed or rendered, in connection with such adoption; or,
 - (2) Accept compensation money, property or thing of value, from any person, in return for placing, assisting to place, or attempting to place a child for adoption or care in a foster home; or,
 - (3) Offer to place, or advertise to place, a child for adoption or care in a foster home, as inducement to any woman to enter an institution or home or other place for maternity care for the delivery of a child.
- (B) “Child” means an unmarried or unemancipated person under the age of eighteen.
- (C) Section 12-5-171 is punishable by a fine up to Five Thousand Dollars (\$5,000.00), or imprisonment up to One (1) year, or both.

Section 12-5-172 Curfew Violation

- (A) It is unlawful for a parent, guardian or person having physical charge of a minor to allow said minor under eighteen to be away from his residence in a public or private place other than where he intends to spend the night with permission of the owner or in a vehicle driving about, after eleven o'clock p.m. unless accompanied by parent, guardian, or person having physical charge of said minor or in attendance at or returning directly home from an organized school, church, Tribal or public function.
- (B) Section 12-5-172 punishable by fine up to One Thousand Dollars (\$1,000.00), or imprisonment up to Three (3) months, or both.

Section 12-5-173 Fireworks Offense

- (A) It is unlawful to possess, buy, sell distribute, transport, activate, ignite, or detonate or to allow any minor under one’s physical or care, custody, or control to possess, buy, sell distribute, transport, activate, ignite, or detonate any firecracker or firework device which is intended to explode,

ignite, become self-propelled, give off any object or manifestation, or give off sound or light.

- (B) It shall not be an offense:
- (1) To use or ignite hand-held sparkler devices that burn openly and singly or toy caps and cap guns singly in the intended fashion; or,
 - (2) To use or ignite fireworks at a patriotic, religious, or Tribal ceremony, gathering, or celebration in a safe manner with a permit from the Tribe or Tribal agency prior to importation and use.
 - (3) To buy, possess, use, or ignite fireworks between June 25 and July 10 provided such devices are handled safely with regard to the safety of others and their property, and minors under twelve buying, possessing, using, or igniting fireworks must be under the actual direct physical supervision of some responsible adult over twenty-one.
 - (4) To possess or sell fireworks between June 25 and July 10 with a permit from the Tribe or Tribal agency prior to possession and sale, provided upon proof of a secure and safe facility, such permit may state a particular location for year round storage by a business engaged in retail or wholesale of fireworks.
- (C) Section 12-5-173 is punishable by a fine up to Two Thousand Dollars (\$2,000.00), or imprisonment up to Three (3) months, or both.

Section 12-5-174 Negligent Burning

- (A) No person shall purposely or knowingly start a fire or cause an explosion whether on his own property or another's property, including property of the Tribe, and thereby negligently:
- (1) Place another person in danger of death or bodily injury; or,
 - (2) Place property of another, including the Tribes', in danger of damage or destruction.
- (B) Section 12-5-174 is punishable by a fine up to Three Thousand Dollars (\$3,000.00), or imprisonment up to Six (6) months, or both.