

TITLE 3 - OFFENSES

CHAPTER 3-3 VIOLATIONS

3-3-1 Purpose and Authority

(a) The purpose of this code is to establish certain civil violations under Tribal law and to provide for the enforcement of those violations in Tribal Court. This code is adopted to protect the health, welfare, peace and order within the territory of the Tribes.

(b) The Tribes adopt this code in order to exercise authority over violations occurring on or near tribal lands and to facilitate the vision developed by the Tribes with its community partners for a "Peacegiving Court" as a means of healing community based conflict.

3-3-2 Definitions (as used in this Chapter)

(a) "Alcoholic Beverage" and "Alcoholic Liquor" means any liquid or solid containing more than one-half (1/2) of one percent (1%) alcohol by volume and capable of being consumed by a human being.

(b) "Court" means the Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians Tribal Court.

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

(d) "Firearm" means any means of a weapon, by whatever name known, which is designed to expel a projectile and is readily capable of use as a weapon. For purposes of this section, the term also includes those commonly referred to as "BB guns" and "paintball guns."

(e) "Fireworks" means any combustible or explosive composition or substance, or any combination of such compositions or substances, or any other article which was prepared for the purpose of providing a visible or audible effect by combustion, explosion or detonation.

(f) "Guardian" means the natural or adoptive parent or parents having legal custody of the child or any other adult person who has been entrusted with the care and supervision of a child and who has legal custody of the child pursuant to court order.

(g) "Intentionally or with intent" when used with respect to a result or to conduct described by a section defining an offense, means that a person acts with a conscious objective to cause the result or to engage in the conduct so described.

(h) “Knowingly” when used with respect to conduct or to a circumstance described by a statute defining an offense, means that a person acts with an awareness that his conduct is of a nature so described or that a circumstance so described exists.

(i) “Law Enforcement Officer” means the Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians Tribal police or any county sheriff, municipal policeman or such other persons as may be designated under the laws of any tribe, state or local government.

(j) “Litter” means all waste material including but not limited to rubbish, waste, cans, refuse, garbage, trash, debris, dead animals, or discarded materials of every kind and description.

(k) “Public or Public Place” means a place to which the general public has access and includes, but is not limited to, hallways, lobbies, and other parts of apartments designed for actual residence and highways, streets, schools, places of amusement, parks, playgrounds, and premises used in connection with public passenger transportation.

(l) “School Age Child” means a child between the ages of five (5) and eighteen (18) years; provided, however, for the purpose of this code, a child shall be deemed five (5) years of age only if the child reaches such age prior to September 1, of the current school year.

(m) “Tribes” means the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians.

(n) “Truant” means absence from school without an excused absence.

(o) “Violation” means a civil offense in which the remedy involved is punishable by a fine. A violation is not a crime. Punishment may be in addition to a fine as long as the punishment does not include a term of imprisonment.

(p) “Dangerous Weapon” means any weapon, device, instrument, material or substance which under the circumstances in which it is used or threatened to be used, is readily capable of causing death or serious physical injury, or any device, substance or material either by design or by intent that resembles a dangerous weapon.

(q) “Attempt” a person is guilty of an attempt to commit a violation with the person intentionally engages in conduct which constitutes a substantial step toward the commission of the violation.

(r) “Tribal Security” means individuals employed by the Tribes to assist in maintaining security on tribal lands, including but not limited to the Tribal Casino, but who are not “law enforcement officers” as defined in this chapter.

(s) “Tribal Official” means an officer or employee of the Tribes who is responsible for carrying out specific provisions of the CLUSI Code or acts of Tribal Council.

3-3-3 Jurisdiction

The Tribes’ Tribal Court is vested with jurisdiction to enforce all provisions of this Chapter as amended from time to time, against any person violating the same within the jurisdiction of the Tribes.

3-3-4 Duties and Authority of Officers

It shall be the duty of tribal law enforcement officers to enforce the provisions of this Chapter. A citation may be issued if there are reasonable grounds to believe that the person or persons to be charged are in actual violation of a provision of this Chapter.

3-3-5 Complaints by Private Citizens

Any person may seek to have a citation issued for violation of this Chapter by filing a complaint with the tribal law enforcement officer by alleging under oath and upon personal knowledge, material facts, which if proven, would constitute a violation, provided that such person can testify at trial to materials facts in the case.

3-3-6 Classification of Violations; Penalties

(a) Unless otherwise provided by law or ordinance, all infractions of Tribal ordinances under this Chapter, are classified as violations. Violations shall be classified as Class A, B, C, D, or E.

(b) Violation of or failure to comply with any provision of this Chapter is punishable upon conviction by a fine as follows:

Class A violation, not to exceed \$5,000.00.
Class B violation, not to exceed \$3,000.00
Class C violation, not to exceed \$2,000.00
Class D violation, not to exceed \$1,000.00
Class E violation, not to exceed \$500.00
Status violation, Juvenile Court Jurisdiction

Each day that such violation shall continue and persist after due notice of the violation shall constitute a separate and distinct violation.

(c) The Tribal Court may order restitution in addition to any penalty or fine. The Tribal Court may also order community services in lieu of a penalty or fine if the defendant demonstrates an inability to pay. The court may place the defendant on probation, suspend the fine upon satisfactory completion of the conditions of probation and utilize

alternative means to dispute resolution to include but not limited to, diversion programs, youth courts, Peacegiving Courts, or mediation.

3-3-7 Rules of Procedure

(a) A citation substantially conforming to the requirements of this section may be used for citing violations of this Chapter.

(b) A citation shall contain the following:

- (1) Complaint; and
- (2) Summons.

(c) A complaint shall contain the following information

(1) The name of the Tribal Court, the name of the Tribes in whose name the action is being brought, and the name of the defendant(s).

(2) A statement of the violation in such a manner as can be readily understood by a person making a reasonable effort to do so and the time and place of the alleged violation;

(3) A verification that the complainant swears or affirms that he or she has reasonable grounds to believe and does believe, that the person or persons cited have violated a provision of this Chapter; and

(4) The identity and law enforcement agency of the citing officer.

(d) A summons shall contain the following information:

(1) The name and location of the Tribal Court, the name of the person or persons cited, the date on which the citation was issued, and the time at which the person cited is to appear in court;

(2) A statement of the violation in such manner as can be readily understood by a person making a reasonable effort to do so and the date and place the violation is alleged to have occurred;

(3) A notice to the person or persons cited that a complaint will be filed with the court based on the violation; and

(4) The maximum amount of penalty, if any, fixed for the violation, and a statement notifying the person that a money judgment may be entered up to the maximum amount of the penalty along with other costs allowed by law if the defendant fails to appear.

(5) The amount set as bail pursuant to 3-3-16.

3-3-8 Delivery and Filing of the Summons and Complaint

The tribal law enforcement officer shall cause a summons to be served on the person cited and shall file the complaint along with proof of service of the summons with the Tribal Court. Proof of service shall contain the time, place and manner of service.

3-3-9 Arraignment and Motions During Arraignment

An arraignment shall be conducted in open court upon the defendant's first appearance in Tribal Court unless the defendant is granted a continuance to seek assistance of counsel, to determine which plea to enter, or for other good or sufficient reason. The Judge shall advise each defendant of his right to have the arraignment continued upon his request for good cause, which may be made at any time prior to pleading guilty, no contest or not guilty. If no such request is made, the Judge may proceed with the arraignment in accordance with the section.

(a) A defendant may appear in person or by counsel. A defendant may be represented by counsel or a tribal court advocate, but they shall not be provided at tribal expense.

(b) Before the defendant is called upon to plead guilty, no contest or not guilty, the following proceedings shall be conducted by the Judge:

(1) The complaint shall be read to the defendant or the substance of the charge contained in the complaint shall be stated;

(2) The defendant shall be advised of the maximum penalty that the Judge may order if the defendant is convicted;

(3) The Judge shall inform the defendant of the following rights: the right to counsel at the defendant's own expense and the right to a reasonable continuance to obtain counsel; the right to be informed of the charges against him; the right to have the Tribal Court compel witnesses against him to appear and testify; the right to cross-examine and question the witnesses against him; the right to call witnesses on his own behalf and to have the Tribal Court issue subpoenas within its jurisdictional limits notifying the witnesses to appear; the right to a trial by the judge; and the right to testify or not to testify on his or her own behalf; and

(4) The court shall advise the defendant that he or she may plead guilty, no contest, or not guilty. Upon a plea of guilty or no contest, judgment shall be entered. Upon a plea of not guilty, the court shall set a trial date pursuant to this Chapter.

(c) At any trial for a violation, the Tribal Attorney may aid the Tribal Law Enforcement Officer or designated public safety officer in preparing evidence and obtaining

witnesses, but shall not appear unless the defendant retains counsel. The Tribal Court shall give the Tribal Attorney timely notice if defense counsel is to appear at trial.

3-3-10 Pleas

(a) The defendant shall:

- (1) appear in court at the time indicated in the summons; or
- (2) deliver to the court a written request for a hearing prior to the time indicated in the summons; or
- (3) deliver to the court a written waiver of hearing and plea of guilty or no contest along with the bail set forth in the summons prior to the time indicated in the summons.

(b) If a defendant enters a plea of not guilty, the judge shall set the matter for trial without a jury.

(c) If a defendant pleads no contest or guilty, the judge shall determine that the plea was made voluntarily with the defendant understanding the nature of the charge and explaining fully to the defendant his right to trial by the judge, his right to engage counsel and the maximum penalty possible for the violation(s) charged. Upon acceptance of a plea of no contest or guilty, the Judge may sentence immediately or at a later date.

3-3-11 Subpoena

(a) A subpoena shall be issued by the Judge or by the clerk under authority of the Judge. It shall state the name of the court and the title, if any, of the proceedings, and shall command each person to whom it is directed to attend, give testimony and/or make available tangible materials at the time and place specified therein.

(b) A subpoena may be served by any law enforcement office or by any person, not a party, who is eighteen (18) years of age or over. Service of a subpoena shall be made by delivering a copy thereof to the person ordered to appear.

(c) Proof of Service of a subpoena is made in the same manner as proof of service of a summons under this Chapter.

3-3-12 Court-Ordered Trial; Judgment on Failure to Appear

(a) The court shall proceed to make a determination without a hearing in the following circumstances:

(1) The defendant fails to appear at the time, date and place specified in the citation; or

(2) The defendant appeared at the time, date and place specified in the citation and requested a hearing or was ordered by the court to appear at a subsequent hearing and the person fails to appear at the time, date and place set for the hearing or subsequent hearing on the matter;

(b) A finding under this section shall be based on the citation and on any evidence the court determines to be appropriate.

(c) Upon making a determination under this section, the court may enter judgment and may impose the penalty along with a money judgment for costs, assessments and any restitution authorized by ordinance or law.

(d) If the court orders restitution, the court need not make a determination of the defendant's ability to pay. The defendant may seek review of his or her ability to pay by filing a written request with the court within one (1) year after entry of judgment. The court shall set a hearing on the matter and may reduce the amount of restitution ordered if the defendant establishes at the hearing that he or she is unable to pay the restitution in whole or in part.

(e) If judgment is entered under this section after the defendant has failed to appear, on motion by the defendant and upon such terms as are just, the court may relieve the defendant from the judgment, upon showing that the failure to appear was due to mistake, inadvertence, surprise or excusable neglect. The motion must be made within a reasonable time, but in no event more than one (1) year after entry of judgment in the matter.

(f) No judgment may be entered under this section for failure to appear unless the summons contained a statement notifying the defendant that a money judgment may be entered against the defendant up to the maximum amount of the penalty, along with others costs allowed by law if the defendant fails to appear.

3-3-13 Discovery

(a) Upon request by the defendant, the tribal law enforcement officer or public safety officer shall disclose to the defendant the following material and information within his or her possession and control:

(1) The names and addresses of persons whom the Tribes intends to call as witnesses at trial, together with relevant written or recorded statements or memoranda of any oral statements made by such persons;

(2) Any written or recorded statements or memoranda of any oral statements made by the defendant or co-defendant if the trial is to be a joint trial;

(3) Any reports or statements of experts made in connection with the particular case, including results of examinations and of scientific tests, experiments and comparisons which the tribe intends to offer into evidence; or

(4) Any books, papers, documents, photographs, or tangible objects which the tribe intends to offer into evidence at trial or which were obtained from or belong to the defendant.

(b) Upon request by the Tribes, the defendant shall disclose to the Tribes the following material and information within the possession and control of the defendant:

(1) The names and addresses of persons whom the defendant intends to call as witnesses at trial, together with relevant written or recorded statements or memoranda of any oral statements made by such persons;

(2) Any reports or statements of experts made in connection with the particular case, including results of examinations and of scientific tests, experiments and comparisons which the defendant intends to offer into evidence; or

(3) Any books, papers, documents, photographs, or tangible objects, which the defendant intends to offer into evidence at trial.

(c) All discovery requests shall be made not less than twenty (20) days and all exchange of discovery must be completed not less than ten (10) days prior to trial.

(d) The following material and information shall not be subject to discovery under this section:

(1) Work product, legal research, records, correspondence, reports or memoranda to the extent that they contain opinions, theories or conclusion of the Tribal Attorney, the Tribal Law Enforcement Officer, the Tribal Public Safety Officer or other tribal official in connection with the investigation, prosecution of the violation, or such documents to the extent they contain opinions, theories, or conclusions of the defendant or defendant's attorney in connection with the defense of the violation; and

(2) The identity of confidential information unless the court finds that failure to disclose the identity of the information would substantially interfere with the defendant's ability to prepare a defense.

(e) The court may order any party who refuses to comply with a discovery required under this section to permit inspection of the material, grant a continuance, refuse to permit the witness to testify, refuse to receive into evidence material not disclosed, or enter such other order appropriate under the circumstances. Upon a showing of good cause, the court may, after in camera examination, enter an order that specified

disclosures be denied, restricted or deferred or to make such other order it deems appropriate under the circumstances. The court shall make a record of such examination, which shall then be sealed and preserved in the records of the court.

3-3-14 Trial Without Jury; Commencement; Burden of Proof; Proof of Mental State Not An Element, Hearing of Evidence

(a) The trial shall be by the court without a jury, and shall be scheduled pursuant to the tribal court's regular judicial days.

(b) The Tribes shall have the burden of proving the alleged violation by a preponderance of the evidence.

(c) For purposes of this code only, surveillance tapes created by a law enforcement or regulatory agency shall be admissible upon submission of the tape with an affidavit of the custodian of records, establishing that:

(1) The tape is a permanent copy of video taken by a video surveillance system;

(2) The video surveillance system was in good working order at the time the video was recorded;

(3) The tape was made in accordance with a duly authorized regular business practice;

(4) The affiant reviewed the video surveillance tape and certifies that the copy presents a true and fair account of the incident portrayed in the tape.

(d) Notwithstanding any other provision of law, the court may admit the affidavit of any witness into evidence in lieu of taking testimony orally in court. The court shall allow testimony by affidavit only upon finding that the failure of the witness to personally appear does not substantially impair the ability of the defendant to present a defense.

(e) All evidence which the court deems proper and necessary for reaching a true and just verdict or which is in accordance with Tribal customs and traditions shall be admitted. In reaching a decision on the admissibility of any evidence, the court may avail itself of any materials, books or documents prior to ruling.

3-3-15 Records

Records of youth involved in proceedings under this Chapter shall be physically sealed when the youth reaches the age of twenty-one (21) years. Upon reaching the age of twenty-one (21) years, a person, or the person's legal representative, may petition the court to have such court records destroyed. The court, on its own motion, may order such records be destroyed five (5) years after the youth reaches the age of twenty-one (21) years.

3-3-16 Posting Bail in Lieu of Appearance

(a) A defendant, over the age of eighteen on the date of an alleged offense, may post bail in the amount of forty percent (40%) of the maximum penalty for the cited violation in any case alleging a violation of a Class C, D, or E violation, prior to the date set for first appearance on the citation, in lieu of appearing on the date set for hearing. Bail will be forfeited and applied in satisfaction of the fine on said violation. No further fine or penalty will be assessed.

(b) No bail will be permitted to be posted for Class A or Class B violations or for any matter in which the defendant is alleged to have been under the age of eighteen at the time of the offense.

3-3-17 – 3-3-18 Reserved for Expansion

3-3-19 Prohibited Acts Include Causing and Permitting

Whenever the ordinances of the Tribes make an act or omission unlawful, such ordinance shall include as unlawful the act or omission of causing, aiding, abetting or concealing such act or omission.

3-3-20 Trespass

A person commits the violation of trespass if the person:

- (a) enters or remains unlawfully in a dwelling or premises; or
- (b) having been denied future entry to a tribal building or property, pursuant to a tribal administrator notice of trespass, reenters the tribal building or property; or
- (c) as a guest, intentionally remains beyond fourteen (14) days in violation of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians' housing policies.
- (d) Trespass constitutes a Class D violation

3-3-21 Criminal Mischief

(a) A person commits the violation of criminal mischief if, with intent to cause substantial inconvenience to the owner or to another person, and having no right to do so nor reasonable ground to believe that the person has such right, the person tampers or interferes with the property of another.

(b) Criminal Mischief is a Class C Violation.

3-3-22 Curfew

(a) A person commits the violation of curfew by failing to obey the curfew regulations as follows:

(1) A person under the age of twelve (12) shall be within a private residence and off the public streets between the hours of 9:00 PM and 6:00 AM on all weekday school nights; or

(2) Between 10:00 PM and 6:00 AM on all other nights, except when the person described in section (1) is accompanied by his or her parent or guardian or is attending or returning from a school or community function authorized by the person's parent or guardian.

(3) A person over the age of twelve (12), but under the age of eighteen (18) shall be within a private residence and off the public streets between the hours of 11:00 PM and 5:00 AM on all weekday school nights; or

(4) Between 12:00 AM and 5:00 AM on all other nights, except when the person described in section (3) is accompanied by his or her parent or guardian or is attending or returning from a school or community function authorized by the person's parent or guardian.

(5) A Parent or guardian of a child under the age of eighteen (18) shall take reasonable steps to assure that the child complies with the applicable provisions of this section.

(b) A violation of subsections (a) (1) through (a)(4) is a status offense in the exclusive jurisdiction of the Juvenile Court.

(c) A violation of subsection (a)(5) is a Class E violation.

3-3-23 Use or Possession of Alcoholic Beverages

(a) A person commits the violation of use or possession of alcoholic beverages if the person uses or possesses alcoholic beverages.

(1) On the premises of any tribal buildings, lands or properties, except

(A) The private areas of tribal housing,

(B) Any specific area or tribal lands, buildings or properties licensed or permitted for the service of alcohol by Tribal Council

(2) While such person is under the age of twenty-one (21) years and attempts to purchase, purchases or acquires alcoholic liquor. Except when such minor is in a

private residence accompanied by the parent or guardian of the minor and with such parent's or guardian's consent, no person under the age of twenty-one (21) years shall have personal possession of alcoholic liquor.

(b) Violation of this section is a Class E violation

3-3-24 Possession of Less than One (1) Ounce of Marijuana and Inhalation of Toxic Fumes

(a) A person commits the violation of possession of less than one (1) ounce of marijuana if the person knowingly or intentionally possesses less than one (1) avoirdupois ounce of the dried leaves, stems and flowers of the plant Cannabis family Moraceae.

(b) A person commits the violation of inhalation of toxic fumes which shall include the fumes and vapors from any drug or noxious substance or chemical containing ketones, aldehydes, organic acetates, ether, toluene, chlorinated hydrocarbons or other substances containing solvents or other matter releasing or having the propensity to release toxic vapors including fingernail polish, polish remover, model glue and lighter fluid.

(c) Violation of this section is a Class D violation

3-3-25 Harassment

(a) A person commits the violation of harassment if the person intentionally:

(1) Harasses or annoys another person by:

(A) Subjecting such other person to offensive physical contact; or

(B) Publicly insulting such other person by abusive words or gestures in a manner intended and likely to provoke a violent response;

(2) Subjects another to alarm by conveying a false report, known by the conveyor to be false, concerning death or serious physical injury to a person, which report reasonably would be expected to cause alarm; or

(3) Subjects another to alarm by conveying a telephonic or written threat to inflict serious physical injury on that person or to commit a felony involving the person or property of that person or any member of that person's family, which threat reasonably would be expected to cause alarm.

(b) Violation of this section is a Class B violation.

3-3-26 Disorderly Conduct

(a) A person commits the violation of disorderly conduct if, with intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, the person:

- (1) Engages in fighting or in violent, tumultuous or threatening behavior;
- (2) Makes unreasonable noise;
- (3) Disturbs any lawful assembly of persons without lawful authority;
- (4) Obstructs vehicular or pedestrian traffic on a public way;
- (5) Congregates with other persons in a public place and refuses to comply with a lawful order of the police to disperse;
- (6) Initiates or circulates a report, knowing it to be false, concerning an alleged or impending fire, explosion, crime, catastrophe or other emergency; or
- (7) Created a hazardous or physically offensive condition by any act that the person is not licensed or privileged to do.
- (8) Refuses to observe promptly any lawful order by any member of law enforcement or a fire department or to resist, obstruct, or hinder any member of law enforcement or a fire department in performing their lawful duties.

(b) Violation of this section is a Class D violation

3-3-27 Fireworks

(a) A person commits a fireworks violation if the person sells or uses fireworks within the lands of the Tribes, except as hereby provided:

- (1) Only those fireworks allowed by the State of Oregon are approved for use on tribal lands;
- (2) Any person under the age of eighteen (18) must have the immediate supervision of an adult;
- (3) Improper or unsafe use will result in the confiscation by law enforcement of all fireworks in the possession of the person;

(4) Tribal officials may make subsequent restrictions on the use of fireworks based on public safety, weather conditions and fire concerns.

(5) In addition and not in lieu of any other penalty allowed at law, a fifty dollar (\$50) assessment shall be paid to the Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians Housing Authority by any person found in violation of this section.

(b) Violation of this section is a Class E violation

3-3-28 Littering

A person commits the violation of littering if he:

(a) intentionally, carelessly, or recklessly throws, scatters, spills, drops, discards or otherwise disposes of any litter anywhere within the lands of the Tribes, except in authorized public waste disposal grounds or an authorized receptacle made available for such purpose, or

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

(c) Whenever litter is blown, scattered, spilled, thrown or dropped from a vehicle, the operator thereof shall be presumed to have committed such offense.

(d) Violation of this section is a Class E violation

3-3-29 Violation of Tribal Law

(a) A person commits the violation of violation of tribal law if the person violates any tribal law, or any other council enactment intended to preserve the peace, health, safety, welfare and morals of the lands of the Tribes, to included but not limited to Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians Housing Authority policies, when a punishment for such violation is not provided under any other provision of this Code.

(b) Violation of this section is a Class E violation

3-3-30 Interference with Judicial Process

A person commits the violation of interference with Judicial process if he:

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

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

(c) Knowingly certifies falsely to matters in connection with the issuance of a citation or the filing of a complaint under this code.

Nothing in this Section shall effect or limit the lawful authority of the Tribal Council to carry out its constitutional authority.

(d) Violation of this section is a Class C violation

3-3-31 Tampering with a Witness

(a) A person commits the violation of tampering with a witness if he knowingly induces or attempts to induce a witness in any official proceeding to offer false testimony or unlawfully withhold any testimony or if he knowingly induces or attempts to induce a witness to absent himself from any official proceeding to which he has been legally summoned.

(b) Violation of this section is a Class B violation

3-3-32 Tampering with Public Records

(a) A person commits the violation of tampering with public records, if, without lawful authority, he knowingly destroys, mutilates, conceals, removes, makes a false entry in or falsely alters any public record.

(b) Violation of this section is a Class D violation

3-3-33 Simulating Legal Process

(a) A person commits the violation of simulating legal process if he knowingly issues or delivers to another any document that in form and substance falsely simulates civil or criminal process.

(b) Violation of this section is a Class D violation

3-3-34 Menacing

(a) A person commits the violation of menacing, if by word or conduct he intentionally attempts to place another person in fear of imminent serious physical injury.

(b) Violation of this section is a Class D violation

3-3-35 Recklessly Endangering Another Person

(a) A person commits the violation of recklessly endangering another person if he recklessly engages in conduct which creates a substantial risk of serious physical injury to another person.

(b) Violation of this section is a Class C violation

3-3-36 Custodial Interference

(a) A person commits the violation of custodial interference, if knowing or having reason to know that he has no legal right to do so, he takes, entices, or keeps a person from his lawful custodian with intent to hold him permanently or for a protracted period or causes the person taken, enticed or kept from his lawful custodian to be removed from the state.

(b) Violation of this section is a Class A violation

3-3-37 Public Indecency

(a) A person commits the violation of public indecency if, while in, or in the view of, a public place he performs an act of sexual intercourse, an act of deviate sexual intercourse, an act of exposing his genitals with intent of arousing the sexual desire of himself or another person or an act of exposing his genitals to a child under the age of fourteen (14).

(b) Violation of this section is a Class C violation

3-3-38 Accosting for Deviate Purposes

(a) A person commits the violation of accosting for deviate purposes, if, while in a public place, he invites or requests another person to engage in deviate sexual intercourse.

(b) For purposes of this section, "deviate sexual intercourse" means sexual conduct between persons consisting of contact between the sex organs of one person and the mouth or anus of another.

(c) Violation of this section is a Class C violation

3-3-39 Theft

(a) A person commits the violation of theft when, with intent to deprive another of property or to appropriate to property to himself or a third person, he takes, appropriates, obtains or withholds such property from the owner thereof.

(b) If the total value of the property involved is less than fifty dollars (\$50.00), a violation is a class E violation.

(c) If the total value of the property involved is more than fifty dollars (\$50.00), but less than seven hundred fifty dollars (\$750.00), a violation is a class D violation.

(d) If the total value of the property involved is more than seven hundred fifty dollars (\$750.00), a violation is a class A violation.

3-3-40 Theft of Lost or Mislaid Property

(a) A person who comes into control of property of another that knows or has good reason to know to have been lost, mislaid or delivered under a mistake as to the nature or amount of the property or the identity of the recipient, commits theft if, with intent to deprive the owner thereof, he fails to take reasonable measures to restore the property to the owner.

(b) If the total value of the property involved is less than fifty dollars (\$50.00), a violation is a class E violation.

(c) If the total value of the property involved is more than fifty dollars (\$50.00), but less than seven hundred fifty (\$750.00), a violation is a class D violation.

(d) If the total value of the property involved is more than seven hundred fifty (\$750.00), a violation is a class A violation.

3-3-41 Defenses to Theft

In a prosecution for theft, it is a defense that the defendant acted under an honest claim of right that he was unaware that the property was that of another or that he reasonably believed that he was entitled to the property involved or had a right to acquire or dispose of it as he did.

3-3-42 Truancy

A person commits the violation of truancy by failing to obey school attendance provisions as follows:

(a) Any parent or guardian of a school age child who fails to enroll the child in school; or

(b) Any parent or guardian of a school aged child who knowingly permits the child to be truant; or

(c) Any school age child who fails to attend all scheduled class sessions at the school in which the child is enrolled unless the child has an excused absence.

(d) This section shall not apply to those children that have a high school equivalency certificate, a child barred from school by a school disciplinary action, provided the child is at all times in the immediate supervision of the guardian, a child that has a physical or mental condition that causes regular attendance at school to be impracticable, or if the guardian has presented satisfactory reasons for non-attendance to the school district to include but not be limited to active participation in an approved home school program.

(e) Violation of subsection (a) or (b) of this section is a Class E violation.

(f) Violation of (c) of this section is a status offense in the exclusive jurisdiction of the Juvenile Court.

3-3-43 Nuisance

(a) A person commits the violation of nuisance if the person maintains an area of real property which is unsafe, unsanitary, or an eyesore as the result of abandoned materials or debris of any kind, including substances that have accumulated as the

result of fires, vandalism, weather conditions or neglect affecting the public health, comfort, safety and welfare.

(b) Upon receipt of a notification of a nuisance violation, the person or persons responsible shall be allowed forty-eight (48) hours to commence the abatement, remedy or removal of the nuisance and shall employ sufficient labor to abate, remedy or remove such nuisance as expeditiously as possible. If forty-eight (48) hours is impracticable due to public safety concerns, tribal officials shall arrange for the immediate abatement, remedy or removal of the nuisance and the person or person responsible shall reimburse the expense in addition to and not in lieu of any other penalty allowed at law.

(c) Violation of this section is a Class D Violation; however, bail in lieu of appearance may not be posted.

3-3-44 Improper Management of an Animal

A person commits the violation of improper management of an animal if the person is the owner or keeper of an animal and on tribal lands or property:

(a) fails to promptly remove in a sanitary manner any waste deposited by the animal on public property or on the property of another; or

(b) allows animal excrement to accrue on the person's property to such a degree that a person of normal sensibilities would be bothered; or

(c) fails to prevent such animal from running at large on public property or on the property of others. When off the property of the owner or keeper, dogs shall be restrained by a dependable leash and controlled by a person physically capable of controlling the animal.

(d) a sightless person who has charge or control of a guide dog, or a police dog in the performance of law enforcement duties, shall be exempt from the provisions of this section 3-3-44(c).

(e) Violation of this section is a Class E Violation

3-3-45 Possession or Discharge of a Firearm or Dangerous Weapon

(a) A person commits the violation of discharging a firearm if the person, other than law enforcement officers acting within the scope of their employment, discharges a firearm on tribal lands.

(b) A person commits the violation of possession of a weapon if the person, other than police officers acting within the scope of their employment or weapons properly stored within the private areas of a home in tribal housing, possesses a weapon on tribal lands.

(c) Possession of a weapon or discharge of a firearm on tribal lands, shall not be a violation if it is done by a tribal member or guest as part of a tribe sponsored cultural activity, or legal hunting or target shooting in an area in which hunting or shooting is permitted.

(d) Violation of this section is a Class E Violation.

(e) Violation of this section, if committed during the commission of any other violation of this chapter is a Class B violation.”

3-3-46 Severability

The sections and subsections of this code are severable. The invalidity of any one (1) section or subsection shall not affect the validity of the remaining sections or subsections.

3-3-47 Sovereign Immunity

Nothing in the provisions of this code constitutes consent by the Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians, tribal entities, agencies, tribal officials or employees, agents or departments to be sued in any court. This code does not represent a waiver of the Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians sovereign immunity for any purpose. The right to protection under the Tribes' sovereign immunity is in no way waived by members of the Tribal Council, the Tribes' officials, tribal entities, agencies or employees or any attorney or agent of the Tribes.

APPENDIX A

LEGISLATIVE HISTORY AND EDITORIAL CHANGES

VIOLATIONS

LEGISLATIVE HISTORY AND EDITORIAL CHANGES

The Tribal Council of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians enacted the amended "Violations" Code, Resolution No. 05-112, Ordinance No. 052B, in a regular Tribal Council meeting on November 13, 2005. Vote was 6 (for), 0 (against) and 0 (abstaining).

The Tribal Council of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians approved the revisions of the "Violations" Code, Resolution No. 05-086, in a Regular Tribal Council meeting on September 11, 2005. This revision eliminated 3-3-12(a) failure to appear, the court may direct a hearing to be held; and numbering change in 3-3-12. 3-3-14(c) added regarding surveillance tapes; (d) added sentence "The Court shall allow testimony by affidavit only upon finding that the failure of the witness to personally appear does not substantially impair the ability of the defendant to present a defense." 3-3-20, "or property" added after tribal building in 2 incidences. 3-3-22 "Curfew" added. 3-3-42 "Truancy" added. 3-3-45(b) "weapons properly stored within the private areas of a home in tribal housing" added. Vote was 6 (for), 0 (against) and 0 (abstaining).

The Tribal Council of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians enacted the revised "Violations" Code with suggested changes, Resolution No. 05-026, in a regular Tribal Council meeting on May 15, 2005. The Ordinance Number was changed to No. 052A. Vote was 5 (for), 0 (against) and 0 (abstaining).

The Tribal Council of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians approved the revision of the "Violations" Code, Resolution No. 04-074, in a Regular Tribal Council meeting on November 14, 2004. Vote was 7 (for), 0 (against) and 0 (abstaining).

The Tribal Council of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians enacted the "Violations" Code, Resolution No. 03-026, Ordinance No. 052, in a special Tribal Council meeting on May 29, 2003. Vote was 5 (for), 0 (against) and 0 (abstaining).