TABLE OF CONTENTS

Chapter 1.1 Definitions and General Provisions
1.101 Hannahville Indian Community Court Judge 13
1.102 Officers of the Community Court 13
1.103 Signature 13
1.104 Words used in present tense 13
1.105 Special provisions control general provisions 13
1.106 Code to be construed according to the plain import of its language 13
1.107 Statute of limitations 14
1.108 Definitions of terms 14
1.109 Applicability of Code provisions restricted 15
1.110 Community Court Fund 15

Chapter 1.2 Prevention of Crime
1.201 Lawful resistance by private persons 15
1.202 Private person, justification of actions 16
1.203 Preserving the peace at public gatherings 16

Chapter 1.3 Suppression of Riots and Route or Resistance of Process
1.301 Riots; definition; penalty 16
1.302 Unlawful assembly; definitions; penalty 16
1.303 Command to disperse 16
1.304 Command; when not heeded 16
1.305 Aid in dispersal; penalty 17
1.306 Aid in execution of process 17
1.307 Rout; definition; penalty 17
1.308 Disturbing the Peace 17
1.309 Disturbing lawful meeting; penalty 17

Chapter 1.4 Peace Bonds
1.401 Complaint; warrant of arrest 18
1.402 Proceedings before the HIC Judge; discharge or order for peace bond 18
1.403 Breach of peace bond; prosecution 18
1.404 Costs; peace bond procedures 18

Chapter 1.5 Tribal Court Jurisdiction, Creation and Powers
1.501 Community Court 19
1.501.1 Hannahville Indian Community Jurisdiction 19
1.502 Persons to whom jurisdiction extends 19
1.503 Repealed. Reserved for future use 19
1.504 Power and authority of Tribal Prosecutor or any prosecutor appointed by the Hannahville Indian Community Tribal Council 19
1.505 Composition of the Court 19
1.505.1 Disqualification of Tribal Court Judge; authorization to utilize Tribal Court Judge from other jurisdictions 20

1.506 Appointment of Judges 20
1.507 Term of office 20
1.508 Oath of Office 20
1.509 Qualifications of Judges 20
1.510 Reserved 21
1.511 Disqualifications of Judges 21
1.512 Qualification of Clerk of the Court 21
1.513 Rules of the Court 22
1.514 Tribal Appellate Court 22
1.515 Appeals, Procedure 23
1.520 Magistrate: Qualifications; Duties 27

Chapter 1.6 Commencement of Criminal Proceedings
1.601 Complaint defined 28
1.602 Contents of complaint 29
1.602a Minor offenses; appearance tickets; definition, filing, contents 29
1.603 Procedure upon filing of written complaint 29

Chapter 1.7 Arrest, Extradition and Warrants
1.701 Arrest defined; persons authorized to make arrests 29
1.701a Warrants, issuance 30
1.702 Warrant, contents 31
1.703 Execution of warrant 31
1.703a Return of warrant 31
1.703b Recall of warrant 31
1.704 Repealed on 12/20/00 & reserved for future use 31
1.705 Arrest, without a warrant, conditions 31
1.706 Repealed on 12/20/00 & reserved, covered in section 1.701 32
1.707 Renumbered amended & moved now appearing as 1.712 32
1.708 Arrests with or without warrant; arraignment without undue delay 32
1.709 Renumbered amended & moved, inserted in section 703a 34
1.710 Repealed on 12/20/00, covered in section 1.708 34
1.711 Arrests without warrant; personal injury crimes, domestic violence 34
1.712 Breaking into building to make an arrest; demand for admittance required 35
1.713 Breaking out of building in making arrest 35
1.714 Arrest, pursuit and recapture after escape 35

Chapter 1.8 Search Warrants
1.801 Definition 35
1.802 Issuance and contents 36
1.803 Execution of warrant; officers authorized; authority to break in structure 36
1.804 Time limit; execution of warrant; void at expiration 36
1.805 Inventory 36
1.806 Hearing on issue of search warrant; testimony must be taken, reduced to writing, filed 36
1.807 Search and seizure incidental to arrest 36

1.808 Inadmissible evidence 36

Chapter 1.9 Bail
1.901 Definition 37
1.902 Bailable offenses 37
1.902a Nonbailable offenses 37
1.903 Repealed on 12/20/00 38
1.904 Bail; when set; conditions; maximum amounts 38
1.905 Release of defendant on personal recognizance or payment of bail 40
1.906 Repealed on 12/20/00, covered in section 1.904 40
1.907 Forfeiture of bail 40
1.908 Return of cash bail 41
1.909 Repealed on 12/20/00, included in section 1.904 41
1.910 Repealed on 12/20/00, included in section 1.904 41
1.911 Repealed on 12/20/00, covered in section 1.902 41

Chapter 1.10 Arraignment
1.1001 Definition 41
1.1002 Procedure at arraignment 41
1.1003 Pleas 41

Chapter 1.11 Pre-Trial Motions
1.1101 Motions; definition 42
1.1102 Motion to set aside the complaint 42
1.1103 Order setting aside complaint not bar to subsequent prosecution 42
1.1104 Motion waived by failure to move to set aside complaint 42
1.1105 Pre-trial motions heard at time made; except good cause postponement 42
1.1106 Motion for a bill of particulars 43
1.1107 Motion for a change of Judge, procedure 43
1.1107a Method of Appeal 43
1.1108 Motion to suppress evidence 43

Chapter 1.12 Trial, General Provisions
1.1201 Criminal actions defined 43
1.1202 Irregularities, mistakes, omissions have no legal effect unless actually prejudicial 43
1.1203 Summoning witnesses 44
1.1203a Long Arm Statute 44
1.1204 Trial by jury or by the Court 44
1.1205 Rights of accused 44
1.1206 Presence of the defendant 44
1.1207 Calendar; clerk of Courts duties 44
1.1208 Setting cases for trial; max time; continuances, proof required 44
1.1209 Death, illness; substitution; authority of substitute judge 45
1.1210 Incriminating testimony and immunity of witnesses/use immunity 45

Chapter 1.13 Formation of the Jury

1.1301 Formation of trial jury....45
1.1302 Jury dismissed; matter of law....45
1.1303 Challenges; definition; kinds....45
1.1304 Panel defined....46
1.1305 Challenge to panel defined; who may challenge; reason for challenge....46
1.1306 Challenges to individual jurors....46
1.1307 Order for exercising challenges for cause; peremptory and time. 46
1.1308 Challenge for cause....46
1.1309 Peremptory challenge; parties who may take; form; definition....47
1.1310 Peremptory challenge; number; joint defendants 47
1.1311 Vacancy filled....47
1.1312 Jurors sworn....47
1.1313 Tribal Council Members not to serve as jurors....47

Chapter 1.14 Trial Procedure

1.1401 Order of procedure....47
1.1402 Presumption of innocence; effect; reasonable doubt; defendant's refusal to testify....48
1.1403 Joint defendants tried jointly; Court may direct separate trials 48
1.1404 View of premises by jury....48
1.1405 Discharge of juror for illness or disability; new trial....49
1.1406 Law questions for Court and fact questions for jury....49
1.1407 Instructions to jury....49
1.1408 Decision in court; retirement 49
1.1409 Poll of jury before recording verdict; dissenting juror, further deliberation....49
1.1410 Direction of verdict of acquittal....49
1.1410a Directed Verdict, Definition 50

Chapter 1.15 Submission to the Jury and Verdicts

1.1501 Papers taken by jury....50
1.1502 Information by Court on points of law 50
1.1503 Jury kept together....50
1.1504 Verdict....50

Chapter 1.16 Judgment

1.1601 Judgment of conviction; time for....50
1.1602 Execution of judgment; imprisonment; fine; record....51
1.1603 Presence of defendant 51
1.1604 Insanity....51
1.1605 Imprisonment for fine 51
1.1606 Suspension of sentence 51
1.1607 Commutation of sentence 52
1.1608 Application for order setting aside conviction....52

Chapter 1.17 Probation

1.1701 Condition of probation 54
1.1702 Violation of conditions of probation 55

Chapter 1.18 Parole
1.1801 Those eligible 55
1.1802 Granting parole 55
1.1803 Violation of parole 55

Chapter 1.19 New Trial
1.1901 Definition 55
1.1902 Application 55
1.1903 Grounds 55
1.1904 Effect of a new trial 56
1.1905 Status of the accused pending new trial 56
1.1906 Court costs in criminal cases 56
1.1907 Deferred payment of fine and/or Court costs 56

Chapter 1.20 Offenses and Penalties
1.2000 Mandatory Minimum Sentences 56
1.2001 Abductions 56
1.2002 Assault; violation; penalties 56
1.2003 Assault and Battery 57
1.2003a Aggravated Assault and battery 57
1.2003b Attempts to commit a crime 57
1.2004 Domestic Violence 57
1.2004(1) Definitions 58
1.2004(2) Domestic Assault and Battery 60
1.2004(3) Aggravated Domestic Battery and Battery w/o weapon 61
1.2004(4) Aggravated Domestic Battery and Battery w/weapon 62
1.2004(5) Enhanced Sentences, procedures 63
1.2004(6) Intrastate/Tribal Domestic Violence 64
1.2004(7) Personal Protection Orders 65
1.2004(8) Preservation of Inherent Authority 71
1.2005 Stalking 71
1.2005(1) Definitions 71
1.2005(2) Stalking; violation; multiple and habitual offences; penalties 73
1.2005(3) Aggravated Stalking; penalties; probation 75
1.2005(4) Prior Convictions 76
1.2005(5) Intrastate/Tribal Stalking 76
1.2005(6) Personal Protection Orders 76
1.2005(7) Preservation of Inherent Authority 77
1.2005(8) Violation of Stalking Personal Protection Orders 77
1.2006 Sex trafficking; title; definitions; penalty 77
1.2007 Bigamy 79
1.2008 Bribery 79
1.2009 Reserved 79

1.2010 Conspiracy or solicitation to commit offense or to defraud H.I.C. 79
1.2011 Contributing to the delinquency of a juvenile 79
1.2012 Communicable disease 79
1.2012a Knowledge of AIDS 79
1.2013 Police Dog; definitions; violations; penalties 80
1.2014 Curfew 81
1.2015 Cutting timber without permit 82
1.2015a Persons cutting balsam, cedar, pine, spruce 82
1.2016 Disobedience to lawful order of court 82
1.2017 Disposing of property of an estate 82
1.2018 Disorderly Person 82
1.2019 Drawing or uttering instrument on bank without funds or credit: defined, penalty 83
1.2020 Embezzlement 84
1.2021 Escape 84
1.2022 Extortion 84
1.2023 Failure to support dependent persons and abandonment 84
1.2024 Child abuse 84
1.2024a Child abuse in the first degree 87
1.2024b Child abuse in the second degree 87
1.2024c Child neglect in the first degree 87
1.2024d Child neglect in the second degree 87
1.2024e Child endangerment 88
1.2024f Persuading, inducing, enticing, coercing, causing, or knowingly allowing a child to engage in a child sexually abusive activity; penalty 88
1.2024g Distributing, promoting, displaying, providing, or financing or receiving for the purpose of distributing or promoting, any child sexually abusive material or activity; penalty. 88
1.2024h Possession of sexually abusive material; penalty 88
1.2024i Educational neglect; penalty 89
1.2025 False arrest 89
1.2026 Forcible entry or detainer of lands, buildings or other possessions 89
1.2027 Fraud 89
1.2027a False I.D. Unlawful use; misrepresentation of identification; altered; forged; stolen 89
1.2027b Use or display of official document in commission of a crime, forfeiture 90
1.2028 Forgery 90
1.2029 Reserved 90
1.2030 Indecent Liberties with a Child 90
1.2031 Injury to Public Property 91
1.2032 Public Intoxication 91
1.2033 Littering public waters, parks and roadways prohibited; penalty 91
1.2033a Illegal Dumping 91
1.2034 Malicious destruction of Property 91
1.2035 Maintaining a public nuisance 92
1.2036 Controlled substances; title; definitions 92

1.2036a Use of controlled substance, excepting marijuana; penalty 93
1.2036b Use of marijuana; penalty 93
1.2036c Possession of controlled substance, excepting marijuana; possession of prescription 94
1.2036d Possession of marijuana or drug paraphernalia; penalty 94
1.2036e Manufacture, delivery, sale or possession with intent to manufacture, deliver, sell a controlled substance, excepting marijuana; penalty 94
1.2036f Manufacture, delivery, sale or possession with intent to manufacture, deliver, sell marijuana; penalty 94
1.2037 Operation of motor vehicle without consent of owner 94
1.2038 Perjury 95
1.2039 Prostitution and solicitation 95
1.2040 Protective custody 95
1.2041 Receiving stolen property 95
1.2042 Refusing to aid officer 95
1.2043 Obstructing a Police Officers in the Performance of their duties 96
1.2044 Resisting lawful arrest 96
1.2045 Shoplifting defined; penalty 96
1.2046 Harmful objects 96
1.2047 Theft 96
1.2048 Threat and intimidation 96
1.2049 Trespass 97
1.2050 Violation of an approved tribal ordinance 97
1.2051 Violence to policeman or judge 97
1.2052 Willful obstruction of emergency telephone calls; failure to relinquish line 97
1.2053 Willful obstruction of emergency telephone calls 97
1.2054 Securing line by falsely stating emergency; misdemeanor; penalty 98
1.2054a Malicious use of service provided by communications common carrier. 98
1.2055 Concealing or harboring a fugitive of Justice 98
1.2056 Snowmobiles/ORV 99
1.2057 Throwing missiles 99
1.2058 Dangerous boxes and chests 99
1.2059 Real property unsightliness 99
1.2060 Defrauding; hotel, motel, inn, cafe, restaurant, casino 99
1.2061 Indecent Exposure 100
1.2062 Gross Indecency; between male persons 100
1.2063 Gross Indecency; between female persons 100
1.2064 Gross Indecency; between male and female persons 100
1.2065 Theft; from motor vehicles or trailers; attached accessories 101
1.2066 Breaking and entering 101
1.2066a Entering without breaking 101
1.2066b Breaking and entering without breaking; buildings, tents, boats, railroad cars 101
1.2066c Breaking and Entering coin operated device 102
1.2067 Taking or injuring trees, shrubs, vines, plants 102
1.2068 Theft of motor vehicle fuel 102
1.2069 Falsely and maliciously accusing another 102

1.2070 Wearing masks or face coverings in public 102
1.2071 Fictitious crimes; report to police officers 103
1.2072 False request for assistance of ambulance service 103
1.2073 Inhalation or consumption of chemical agent prohibited 103
1.2074 Parent taking Child 103
1.2075 Furnishing alcohol to Minors 103
1.2076 Possession of alcohol by Minors 104
1.2077 Children in places where liquor is sold 104
1.2078 Inciting, inducing or soliciting or aids and abets another to commit a crime 105
1.2079 False Personation of Public Officer 105
1.2080 Molesting and disturbing persons in pursuit or occupation, vocation or avocation 105

Major Crimes (Tribal Offense) Sections 1.2081-1.2090

1.2081 Grand Theft Automobile 105
1.2081a Welfare Fraud 106
1.2082 Murder 107
1.2083 Mayhem 107
1.2084 Criminal sexual conduct; title; definitions; general provisions 107
1.2084a Criminal sexual conduct in the first degree; penalty 111
1.2084b Criminal sexual conduct in the second degree; penalty 112
1.2084c Assault with intent to commit criminal sexual conduct in the first degree; penalty 112
1.2084d Assault with intent to commit criminal sexual conduct in the second degree; penalty 112
1.2085 Armed Robbery; aggravated assault 113
1.2086 Unarmed Robbery 113
1.2087 Bank, Safe and Vault Robbery 113
1.2090 Sex offender registration notification code 113
1.2090(1) Title 113
1.2090(2) Purpose 113
1.2090(3) Need 113
1.2090(4) Definitions 114
1.2090(5) Covered offenses 116
1.2090(6) Tiered offenses 119
1.2090(7) Required information 123
1.2090(8) Registration 127
1.2090(9) Public sex offender registry website 134
1.2090(10) Community notification 136
1.2090(11) Crimes and civil sanctions; arrests and bonds 137
1.2090(12) Immunity 137
1.2090(13) Notice to and by Employers of Sex Offenders; Requirement to Register 137
1.2090(14) Sex Offenders Subject to Banishment 138
1.2090a Student Safety Zone 138

Chapter 1.21 Weapons

1.2101 Pistol defined 140
1.2102 Safety Inspection of firearms 140
1.2103 Who not to possess pistols 140
1.2104 License to carry pistol-to whom issued 141
1.2105 License to carry pistol-who may issue 141
1.2106 Carrying pistols prohibited-exceptions 141
1.2107 Juvenile carrying firearms or gun 142
1.2108 Confiscated weapons-disposition 142
1.2109 Producing license on demand-penalty 142
1.2110 False information in application prohibited 143
1.2111 Penalties 143
1.2112 Portable device or weapon directing electrical current 143
1.2113 Short-Barreled shotgun, short-barreled rifle 143
1.2114 CS device; definition, use, sale and prohibition 143
1.2115 Firearm or Dangerous weapon; carrying with unlawful intent 144
1.2116 Pocket Knife opened by mechanical device; unlawful sale or possession 144
1.2117 Concealed Weapons; carrying 144
1.2118 Pistols, unlawful possession by licensee 145
1.2119 Carrying or possessing firearm at the time of committing or attempting to commit a crime 145
1.2120 Possessing or transporting firearm in or upon vehicles, boats or aircraft 145
1.2121 Firearm; intentionally aiming without malice 146
1.2122 Firearm discharged; intentionally aimed without malice 146
1.2123 Spring gun, trap or device; setting 146
1.2124 Possession or use of firearm by person under influence of liquor or drug 146
1.2125 Firearms; altering, removing, or obliterating marks of identity; Presumption 146
1.2126 Firearms; discharging; injuries; duty to report 147
1.2127 Careless, reckless or negligent use of firearms 147
1.2128 Careless, reckless or negligent use of firearm; injury of property 147
1.2129 Reckless, wanton use or negligent discharge of firearm 147
1.2130 Discharging a firearm from a motor vehicle 147

Chapter 1.22 Fires, Regulations and Penalties

1.2201 Burning dwelling house 148
1.2202 Testifying falsely at investigation of fire 148
1.2203 Penalty if campfire burns wood, marsh, prairie, hayland buildings, improvements 148
1.2204 Misconduct at fires, penalty 148
1.2205 False alarms 148
1.2206 Firefighters 148
1.2207 Burning of other real property 149
1.2208 Burning of Personal Property 149
1.2209 Burning of insured property 149
1.2210 Applicability of proceeding sections 149
1.2211 Willfully and maliciously setting fire 149

Chapter 1.23 Traffic Offenses and Penalties

1.2300 Child restraints 150
1.2300a Safety belts 151
1.2301 Arresting person for violating traffic regulations-duty of arresting officer 151
1.2302 Reserved 152
1.2303 Failure to appear-hearing upon arrest-time of promise of defendant to appear 152
1.2304 Display of number plates 152
1.2305 Driving without a license 152
1.2306 Permitting an unauthorized person to drive 152
1.2307 Driving without required registration or with vehicle in unsafe condition 153
1.2308 Starting, turning and stopping without regard to safety 153
1.2309 Speeding 153
1.2310 Offenses under which person arrested may not be entitled to release upon promise to appear… 152
1.2311 Garages to report 155
1.2312 Reckless Driving 155
1.2312a Careless driving 155
1.2313a Driving while under the influence of intoxicants, narcotic drugs 156
1.2313b Operating impaired 157
1.2313c Habitual Offender under 1.2313a and 1.2313b 158
1.2314 Failure to drive on right side of roadway 159
1.2315 Following too closely 159
1.2316 Overtaking a vehicle without regard for safety 159
1.2317 Failure to stop for school bus flashing lights 160
1.2318 Failure to give right of way 160
1.2319 Stopping, standing or parking on a highway 160
1.2320 Coasting 161
1.2321 Obstruction to driver's view or driving mechanism 161
1.2322 Riding on fenders, bumpers or running boards 161
1.2323 Pedestrians on roadways without regard for safety 161
1.2324 Garbage, glass, etc 162
1.2325 Open container in or on vehicle; possession; consumption 162
1.2326 Driving in violation of an order of Court 163
1.2327 Duties in the event of an accident 163
1.2328 Law officers to report accidents 164
1.2329 Crash helmets required for operators of and passengers on motorcycles 164
1.2330 Number of riders on motorcycles limited 164
1.2331 When lighted lamps are required 164
1.2332 Visibility distance and mounted height of lamps 165
1.2333 Head lamps on motor vehicles 165
1.2334 Tail lamps and reflectors 165
1.2335 Lamp or flag on projecting load 165
1.2336 Brake equipment required 165
1.2337 Horns and warning devices 166
1.2338 Mufflers, prevention of noise 166

1.2339 Mirrors 166
1.2340 Windshield must be unobstructed and equipped with wipers.....167
1.2341 Restrictions on tire equipment 167
1.2342 Vehicle to be constructed to prevent shifting or leaking loads.....167
1.2343 Registration card to be carried in driver's compartment; inspection of card 167
1.2344 Transfer of title of vehicle.....168
1.2345 Special lighting and warning equipment on school buses 168
1.2346 Duty of drivers upon approach of police or fire department vehicle.....168
1.2347 Penalties not otherwise prescribed.....168
1.2348 Statute of limitations.....168
1.2349 Incorporation of State laws by reference; prospective incorporation of amendments 168
1.2350 Automobile liability insurance.....169
1.2351 Traffic safety school 169

Chapter 1.24 Fireworks and Explosives Regulation and Control
1.2400 Fireworks and Explosives Code.....169
1.2401 General Enforcement 169
1.2402 Definitions.....170
1.2403 Fireworks; permits; necessity for; when required; penalty.....171
1.2404 Fireworks; permits; number authorized; time; fees; insurance; application and issuance; qualifications; content; refusal; revocation; appeal. 171
1.2405 Fireworks; sales to juveniles prohibited; penalty.....173
1.2406 Fireworks; storage and handling; inspections.....173
1.2407 Fireworks; use by juveniles; hours permitted; pyrotechnical display; permit required; prohibition and penalty; no use of intoxicants. 174
1.2408 Fireworks and Explosives; no manufacture; penalties.....175
1.2409 Explosives, transport; possession; transfer; use.....175
1.2410 Tribal sovereignty preserved.....176

Chapter 1.25 Alcohol Free Zone
1.2500 Title.....176
1.2501 General Enforcement 176
1.2502 Definitions.....176
1.2503 Alcohol-Free Zone Established 177
1.2504 Enforcement and Penalty 177

Chapter 1.30 Animal Regulation and Control
1.3001 Definitions.....177
1.3002 Cruelty to animals.....178
1.3003 Poisoning Animals.....178
1.3004 Birds and Birds' Nest 179
1.3005 Animal Control Officer and his/her Duties.....179
1.3006 Licensing and Vaccination.....181
1.3007 Fees and Expenses 182
1.3008 Owner Responsibility.....182

1.3009 Impoundment 183
1.3010 Redemption 183
1.3011 Adoption 183
1.3012 Interference 184
1.3013 Penalty 184
1.3014 Severability 184
1.3015 Applicability 184
1.3016 Safety Clause 184
1.3017 Control of Rabies 184
1.3018 Restricted animals 185
1.3018(1) Purpose 185
1.3018(2) Definitions 185
1.3018(3) Prohibitions 186
1.3018(4) Legal possession; permit 186
1.3018(5) Care and control 187
1.3018(6) Law enforcement 188
1.3018(7) Civil liability 190
1.3019 Reserved 190
1.3020 Reserved 190

HANNAHVILLE INDIAN COMMUNITY LEGAL CODE
TITLE 1, CHAPTER 1 - 30
CRIMINAL LAW AND PROCEDURE

Chapter 1.1 Definitions and General Provisions

1.101 Hannahville Indian Community Court Judge

A Hannahville Indian Community Court Judge is an officer who has general criminal and civil powers among which are the power to issue warrants, but not issue criminal charges, and try criminal cases brought before the Court.

1.102 Officers of the Community Court

Officers of the Hannahville Indian Community Court shall include all police officers, magistrates, and judges, prosecuting attorneys and clerks of the Hannahville Indian Community Court. The police shall include all Tribal Police and their deputies plus all Bureau Police and their deputies. Police and peace officers may be used interchangeably in this Code. Tribal Police deputies shall include all cross-deputized officers. **Amended: 10/02/95**

1.103 Signature

The act of putting one's name at the end of an instrument to attest its validity. A signature may be written by hand, printed, stamped typewritten, or engraved. Whatever mark, symbol, or device, one may choose to employ as representative of himself is sufficient for the purposes of this code.

1.104 Words used in present tense

Unless otherwise provided, words used in this Code in the present tense include the future as well as the present. Words used in the masculine gender include the feminine and the neuter, and plural includes the singular and vice-versa. The term "writing" includes printing. The term "Oath" includes affirmation.

1.105 Special provisions control general provisions

In construing this Code, each general provision shall be controlled by any special provisions on the same subject if a conflict should arise.

1.106 Code to be construed according to the plain import of its language

This Code, together with any additions hereto which may be enacted, is to be construed according to the plain import of its language. No person shall be punished for an offense, which is not made penal by the plain import of the offense's definition upon the pretense that such person has offended against the statute’s spirit. Words not specifically defined herein are to be taken according to their ordinary meaning.

1.107 Statute of limitations

No prosecution shall be maintained under this Code unless the action shall have commenced within 1 year after the alleged commission of the offense unless the commission of the offense was not reasonably discoverable within that 1-year period but the prosecution must occur in any event within 1 year of discovery and in no case shall any prosecution commence later than 10 years after the commission of an offense. **Amended: 10/02/95**

1.108 Definitions of terms

In this Code the following definitions shall apply unless the context or subject matter shall otherwise require;

(1) Willfully: when applied to the intent with which an act is done or omitted, implies a purpose or willingness to commit the act or omission referred to;

(2) Neglect, negligence, negligent and negligently: import a want of such attention to the nature of probable consequences of the act or omission as a prudent man ordinarily bestows in acting in his own concerns;

(3) Corruptly: imports a wrongful design to acquire or cause some pecuniary or other advantage to the person charged with the act or omission referred to, or to some other person;

(4) Malice and maliciously: import a wish or conscious desire to vex, annoy, or injure another person or another's property, or an intent to do a wrongful act, established either by proof or presumption of law;

(5) Knowingly: imports consciousness that the facts exist which make the act or omission a crime. It does not require knowledge of the unlawfulness of the act or omission;

(6) Bribe: signifies any money, goods, right in action, property, thing of value, or advantage, present or prospective asked, promised, given, or accepted, with intent to influence unlawfully the recipient or prospective recipient, in his action, vote, or opinion in any public or official capacity;

(7) Writing: includes a printed or typewritten document;

(8) Signature: includes any name, mark, or sign written with intent to authenticate any instrument or writing;

(9) Person: includes any corporation or other legal entity as well as a natural person. When used to designate the party whose property may be the subject of any offense, it includes the Hannahville Indian Community, any state, government, or country which lawfully may own any property within this jurisdiction, and all public or private corporations, or joint associations, as well as individuals;

(10) Property: includes every estate, interest, and right in lands, tenements, and hereditament. "Personal property" includes every description of money, goods, chattels, effects, evidences of a right in action, and written instruments by which any pecuniary obligation, right, or title to property, real or personal, is created or acknowledged, transferred, increased, defeated, discharged, or diminished;

1.109 Applicability of Code provisions restricted-offenses committed before adoption of Code

The provisions of this Code shall not apply nor extend to any act done or offense committed prior to the effective date of this Code, except as to matters of procedures and as to provisions alleviating the punishment to be imposed upon conviction in any case. The provisions of law now in force and applicable to any crime to which this title relates, to the penalty affixed, as well as in all other respects, shall be and remain in full force and effect as to any offense committed before the taking effect of this title.

1.110 Community Court Fund

(1) There is hereby created a Community Court Fund for the Hannahville Indian Community. All fines and costs levied and assessed by the Hannahville Indian Community shall be paid into said Community Court Fund and receipted for.

(2) Fines shall be separately accounted for, and, no later than the 15th day of each month, the Community Court Clerk, or the Community Court Judge acting in place of the clerk, shall account to the Treasurer of the Hannahville Indian Community for all fines assessed, paid, and outstanding during the previous month. The Community Court shall remit the amount of fines so paid to the Tribal Treasurer for deposit in the general fund of the tribe. Such funds shall then be available for appropriation by the Tribal Council for any tribal or public purpose.

(3) Costs shall be separately accounted for. All amounts paid to the Community Court Fund as cost of prosecution in criminal cases or as filing fees and cost in civil cases shall be retained in the Community Court Fund and used to defray the operating expenses of the Community Court, provided, however, that no portion of the judge, the magistrate, or the clerk of courts salaries be paid from said fund.

Chapter 1.2 Prevention of Crime

1.201 Lawful resistance by private persons

Any person may lawfully resist the commission of any public offense, but the amount of force used resisting such offense shall not be greater than reasonably necessary to prevent the offense. Deadly force may be used where a private person, in resisting the commission of a public offense, reasonably believes his life to be in danger by reason of the acts of one whom he believes to be committing such an offense.

1.202 Private person, justification of actions

When police officers are by this Code authorized to act in the prevention of public offenses, other persons, who by the police officers command, act in their aid, are justified in doing so. Such other persons shall be entitled to employ the same degree of force as provided for in section 1.201 herein and shall not be liable in any civil suit or criminal action for reasonable action taken pursuant to this section.

1.203 Preserving the peace at public gatherings

The police officer having direction of the police force shall order a force sufficient to preserve the peace or to attend any public gathering or meeting when he is satisfied that a breach of the peace may reasonably be anticipated.

Chapter 1.3 Suppression of Riots and Route or Resistance of Process

1.301 Riots; definition; penalty

Any use of force or violence or any threat to use force or violence, if accompanied by immediate power of execution, by six or more persons acting together and without authority of law, is a riot. Any person found guilty of participating in a riot shall be sentenced to serve a jail term of not less than 1 month, nor more than 6 months.

1.302 Unlawful assembly; definitions; penalty

Whenever three or more persons assemble with intent or with means and preparation to do an unlawful act, which if involving more persons acting together and without authority of law would be a riot, constitutes unlawful assembly. Any person found guilty of unlawful assembly shall be sentenced to serve a jail term of not less than 1 month, nor more than 6 months.

1.303 Command to disperse

Where and when any number of persons, armed or unarmed are unlawfully or riotously assembled, the officers of the Hannahville Indian Community Tribal Police Force shall in the name of the Hannahville Indian Community Tribal Government, command such persons by going among them or otherwise to disperse immediately.

1.304 Command; when not heeded

If such unlawfully assembled persons do not disperse when so commanded, the officer in charge may proceed in a manner as in his judgment is necessary to disperse the assembly and arrest the offenders. Punishment upon conviction for violation of this section shall be as in section 1.302 above.

1.305 Aid in dispersal; penalty

In order to disperse any such unlawful assembly, the police officer or police officers may command a sufficient number of persons to aid in the dispersal. Any person so commanded who fails or refuses, without justification, to aid the police shall be deemed guilty of an offense and upon conviction thereof shall be sentenced to imprisonment for a period not to exceed 10 days, or to a fine not to exceed $100.00, or to both such imprisonment and fine with costs.

1.306 Aid in execution of process

When a police officer, authorized to execute process finds or has reason to anticipate that resistance will be made to the execution of the process, he may command as many persons as he may think necessary to assist him in overcoming such resistance, and if necessary, in seizing, arresting, confining, and charging resistors and their aiders and abettors in accordance with section 1.305 of this Code.

1.307 Rout; definition; penalty

Whenever three or more persons, acting together, make any attempt to do any act which would be a riot if actually committed and involving more persons, such assembly is a rout and upon conviction thereof shall be deemed guilty of an offense and shall be sentenced to imprisonment for a period not to exceed 30 days or to a fine not to exceed $100.00, or both such imprisonment and fine, and costs.

1.308 Disturbing the Peace

Any person who maliciously and willfully disturbs the peace and quiet of any neighborhood or person, by loud or unusual noise, or by tumultuous or offensive conduct or threatening, quarreling, challenging to fight, or fighting, or who, on the public streets of the Hannahville Indian Community or upon the public highways, runs any vehicle drag race, either for wager or amusement, or fires any firearm in the jurisdiction of the Hannahville Indian Community, or uses any vulgar, profane, or indecent language within the presence or hearing of any person, in a loud and boisterous manner, shall be guilty of an offense and upon conviction thereof, be fined an amount not to exceed $500.00, or imprisonment for a period not to exceed 6 months, or both, with costs.

1.309 Disturbing lawful meeting; penalty

Any person who without authority of law, willfully or maliciously disturbs or breaks up any assembly or meeting, not unlawful in its character, shall be deemed guilty of an offense and upon conviction thereof, shall be sentenced to imprisonment for a period not to exceed 15 days or to a fine not to exceed $50.00, or both such imprisonment and fine, and costs.

Chapter 1.4 Peace Bonds

1.401 Complaint; warrant of arrest

A complaint may be taken before any Judge of the Community Court, stating that a person has threatened to commit an offense recognized by this Code against the person or property of another. If it appears from the complaint that there is just reason for such a person to fear the commission of the offense threatened by the person complained of, the judge shall issue a warrant directed generally to any peace officer as designated in section 1.102 of this Code reciting the substance of the complaint and commanding the officer to arrest the person complained of and to bring him before the judge.

1.402 Proceedings before the Hannahville Indian Community Judge; discharge or order for peace bond according to fact

When the person complained of is brought before the Tribal Judge, such Judge must, if the charge is denied, conduct an evidentiary hearing with all due haste, and in no case shall a person proceeded against under this section be held, after being brought before the Court, for more than four hours before being granted a hearing. Any evidence to be presented must, on the demand of the defendant, be reduced to writing by the clerk or court reporter and subscribed by the witnesses. If it appears that there is no just reason to fear the commission of the offense charged, the defendant must be discharged. If however, there is just reason to fear the commission of the offense, the defendant may be required, as provided in section 1.403, to furnish bond. In no case shall the bond exceed the maximum penalty prescribed by this Code for the offense threatened. The accused shall be directed to abide by the order of the Community Court and to keep the peace toward the people of the Hannahville Indian Community jurisdiction, and particularly toward the complainant, for a time set by the judge, not to exceed one year. The peace bond must be transferred by the judge to the clerk, who shall hold the same during the period specified.

1.403 Breach of peace bond; prosecution

A cash or surety peace bond may be forfeited upon the failure of the defendant to appear before the Hannahville Indian Community Court at the end of the specified period (section 1.402) in person or by authorized representative, after first being given notice of the command to appear by certified mail or personal service at his last known address. The bond shall be breached upon his being convicted of a breach of peace during the term of the bond, or upon his continuing the threat after the bond is issued. Upon such failure to appear, unless good cause be shown, or upon the prosecuting attorney's or other officer of the court producing evidence of such conviction, the Court shall, in its discretion, order the bond to be forfeited and the prosecuting attorney shall commence an action thereon in the name of the Hannahville Indian Community. If upon such appearance by the defendant no breach of the peace has been committed by him, as prohibited by the bond, the bond shall be returned to the defendant by the clerk. If it appears that the threat continues, the Court may renew the bond for a like period.

1.404 Costs; peace bond procedures

In all cases of security to keep the peace under this chapter, the Court shall tax the costs against the complainant or defendant or both, as justice may require, and enter judgment therefor which may be enforced as judgments for costs in civil cases.

Chapter 1.5 Tribal Court Jurisdiction, Creation and Powers

1.501 Community Court

The Hannahville Indian Community Tribal Court is hereby created pursuant to Article V, Section 1 (6), of the Hannahville Indian Community Constitution and Bylaws and pursuant to the inherent sovereign powers of the Hannahville Indian Community.
**

1.501.1 Hannahville Indian Community Jurisdiction

The Hannahville Indian Community court jurisdiction shall extend to land within the control of the Community pursuant to Article II of the Constitution and Bylaws of the Hannahville Indian Community and Indian Country as defined by 18 USCA §1151 and applicable federal case law.

1.502 Persons to whom jurisdiction extends

Any Indian, as that term is defined by applicable federal statute and case law, who is found within the territorial jurisdiction of this Court who has allegedly committed or attempted to commit an offense defined in this Code, shall be subject to the jurisdiction of this court. Also, any person shall be subject to the civil jurisdiction of the Hannahville Indian Community who commits acts within the jurisdiction of the Hannahville Indian Community which acts would be in violation of any of the civil or criminal laws of this Community, or whose actions or relationships, contractual or otherwise, either inside or outside the geographic jurisdiction of the Hannahville Indian Community, have caused actions, effects, injury or legal consequence to the Community or to persons within the territorial jurisdiction of the Community.

1.503 Repealed. Reserved for future use.

1.504 Power and authority of tribal prosecutor or any prosecutor appointed by the Hannahville Indian Community Tribal Council

In any and all criminal proceedings and in appropriate civil proceedings, within the jurisdiction of the Hannahville Indian Community, the tribal prosecutor or any person appointed to act as such shall have the power and authority to sign, file, and present any and all complaints, subpoenas, affidavits, motions, processes and papers of any kind, and to appear before all courts, commissions, or tribunals in any criminal or civil proceedings in the Hannahville Indian Community tribal court.

1.505 Composition of the Court

The Hannahville Indian Community tribal court shall consist of one chief judge and as many associate judges as the Hannahville Indian Community Tribal Council shall from time to time appoint.

1.505.1 Disqualification of Tribal Court Judge; authorization to utilize Tribal Court Judge from other jurisdictions

In the event of disqualification of the Hannahville Indian Community court judge, and where there is no associate judge of the Hannahville Indian Community tribal court who may serve, and subject to the rules for disqualification of judges, the chief judge shall appoint one or more tribal court judges from other jurisdictions. Such selection shall be from among persons who meet the qualifications for judge as contained in this Code.

1.506 Appointment of Judges

Except in the circumstances of section 1.505.1, all presiding judges shall be appointed by a simple majority of the Hannahville Indian Community Tribal Council, a quorum being present. The judge shall be selected by the judicial committee with confirmation and appointment by the Tribal Council.

1.507 Term of office

A regularly appointed judge shall have a term of office of 3 years, unless dismissed for good cause. However, during the vacancy in a position of judge, appointment may be for an indefinite term, not to exceed 6 months, unless reappointed for a longer term. In the event of the removal, resignation, or permanent incapacity of the community court judge the Tribal Council shall appoint a new community court judge at its earliest reasonable convenience.

1.508 Oath of Office

Before taking office, each judge shall take an oath as follows: I, _____, do solemnly swear that I will administer justice and do equal right without respect to persons and faithfully and impartially discharge and perform all the duties incumbent upon me as judge of the Hannahville Indian Community to the best of my abilities.

1.509 Qualifications of Judges

No person shall be eligible to be appointed as Judge of the Hannahville Indian Community Court unless he or she:

(1) Is at least 25 years of age.

(2) Has not been convicted of a misdemeanor or misdemeanor type offense, excluding a minor traffic offense, within the past 10 years.

(3) Has never been convicted of a felony or felony type offense.

(4) Is of good moral character and integrity.

(5) Has graduated from high school or received an equivalency diploma from a recognized and accepted source.

(6) Is able to demonstrate with past writing samples that he is capable of preparing opinions, orders, papers, records and reports incident to the office of judge.

(7) Has demonstrated a knowledge of, is familiar with, and is able to read and interpret the Hannahville Indian Community legal codes.

(8) Is able to demonstrate that he has received formal legal education and credentialing, and is able to speak, write and express legal principles clearly, cogently and effectively, and possesses an understanding of federal Indian law and state law and court procedures. He shall document that he has a minimum of 5 years' courtroom experience as attorney of record in either a tribal, federal or state court.

1.510 Reserved

1.511 Disqualification of Judges

Any Judge shall be disqualified to act as such in any case:

(1) In which he or she has an interest.

(2) Is or has been a material witness.

(3) In which he or she is related to any party or their attorney by marriage or blood in the first or second degree. A Judge may be disqualified on his or her own motion or by filing of an affidavit of prejudice by either party to the action with the court. If the Community Court or Community Court of Appeals, shall determine that prejudice on the part of the Judge exists, such Judge shall be disqualified to act in connection with the action resulting in his disqualification.

1.512 Qualification of Clerk of the Court.

No person shall be eligible to serve as clerk of the court of the Hannahville Indian Community Court unless he or she:

(1) Is 21 years of age or older.

(2) Has never been convicted of a felony type offense.

(3) Has not been convicted of a misdemeanor type offense, excluding a minor traffic offense, within one year past.

(4) Is of good moral character and integrity.

(5) Is capable of typing letters and reports with a minimum of errors.

(6) Is capable of accurately preparing papers and reports incidental to the Community Court

to include keeping financial records and other bookkeeping records of the court.

(7) Has demonstrated a knowledge of being familiar with, and able to read and interpret the Hannahville Indian Community Code as well as having an understanding of court procedures.

(8) Shall, prior to entering on duty, be bonded in the amount of $5,000.00 as an authorized collector of fines and other costs moneys for the Hannahville Indian Community Court. The cost of said bond is to be paid from the Community Court Fund.

1.513 Rules of the Court

The time and place of court sessions and all other details of judicial procedures not prescribed by this Code shall be laid down in rules of court approved by the Tribal Council.

It shall be the duty of the Chief Judge of the Hannahville Indian Community Tribal Court to make recommendations to the Tribal Council for the enactment or amendment of such rules of court as are in the interest of improved judicial procedure.

1.514 Tribal Appellate Court

The highest court within the jurisdiction of the Hannahville Indian Community shall be the Tribal Appellate Court which shall be comprised of 5 members of the Tribal Council who shall be appointed, qualified and authorized to act as follows:

(1) Appointment. With the advice and consent of the Tribal Council, the Council Chairperson shall appoint a panel of 5 Appellate Judges for each appeal filed in accordance with section 1.515. The appointment of the Appellate Judges shall be made either at a regular or special meeting of the Tribal Council. In the event that fewer than 5 members of the Tribal Council qualify to sit on the Appellate Court for any appeal, then the remaining Appellate Judges shall be selected from members of the other elected boards of the Hannahville Indian Community.

(2) Replacement Appellate Judge. If any Appellate Judge is subsequently disqualified from sitting on the appeal, or is otherwise unable to serve, a replacement shall be appointed in the same manner as provided in paragraph (1) above. To avoid unnecessary delays in the appeal, a replacement Appellate Judge may be appointed when the initial panel of 5 Appellate Judges is appointed. All provisions of this entire section 1.514 shall apply to each replacement Appellate Judge from the date of his or her appointment until the case is concluded, whether or not he or she serves on the panel and participates in the decision.

(3) Qualifications. An Appellate Judge shall not have an actual conflict of interest in any case on which he or she is appointed to sit. No Appellate Judge shall sit on an appeal in which he or she was a party, witness, advocate or spokesperson. No Appellate Judge shall sit on an appeal in which a party in the case is a member of his or her immediate

family or has been a member of his or her household at any time relevant to the case on appeal. "Immediate family" is defined to include parents, grandparents, children, grandchildren, spouse, brothers and sisters. A household member is any individual who is not otherwise an immediate family member but who resides in the same household as the Appellate Judge at the time of the appeal or so resided at the time of the incident which is the subject of the appeal, or so resided at any time between the incident and the appeal. For purposes of determining conflicts under this paragraph, the parties in the case are: the defendant and the victim (if any) in a criminal case; the juvenile and the victim (if any) in a juvenile delinquency/status offense case; the child or children and the parents, guardians or custodians in a child welfare case; and the plaintiff and the defendant in a civil case.

(4) Communication with Others; Disqualification. All communications concerning the appeal between an Appellate Judge and a party to the appeal shall be limited to properly convened sessions of the Appellate Court when the full panel of Appellate Judges is present. An Appellate Judge shall not have individual communications concerning the appeal with any witness or party, shall not discuss the case with any third party and shall not conduct any investigation of the case. Communications initiated by the Appellate Judge shall result in immediate disqualification from sitting on the appeal, and a replacement Appellate Judge shall take his or her place. However, if such communication is initiated by the other person, then the Appellate Judge shall immediately terminate contact with that person and report the incident to the Secretary of the Tribal Council, in which case the Appellate Judge shall continue to serve on the appeals case. For the purpose of interpreting, evaluating and deciding legal issues in an appeal, the Appellate Court may consult with a Tribal attorney who is not otherwise involved in the appeal.

(5) Training and Orientation. Prior to serving as an Appellate Judge, an individual must have received appellate court training and orientation presented by the Tribal prosecutor and the Tribal public defender, or such other training and orientation as the Tribal Council shall from time to time establish by resolution.

(6) Authority. A Tribal Appellate Court constituted in accordance with this code section shall be empowered to hear and decide appeals from any and all civil and criminal decisions of the Hannahville Indian Community Tribal Court. The Appellate Court shall be the highest court within the jurisdiction of the Hannahville Indian Community. Appeal to no other individual or body within this jurisdiction shall be allowed. The Appellate Court shall be the final authority within this jurisdiction with respect to the interpretation of the Tribal Constitution and By-laws, all provisions of the Hannahville Legal Code and Ordinances, and all Rules and Standing Court Orders governing judicial proceedings. **Amended 03, 2000.**

1.515 Appeals procedure

Appeals from all civil and criminal decisions of the Hannahville Indian Community Tribal Court

shall be governed by the following provisions:

(1) Appealable Decisions by Right. Only final decisions, orders, or actions of the Tribal Court may be appealed as a matter of right. To be final, an order, judgment or court action must be such that it concludes or brings to an end a case, which was before the Tribal Court. Examples of final decisions of the Tribal Court are: judgments of conviction in criminal cases after the sentence is imposed; adjudication and disposition orders in juvenile delinquency/status offense cases after the disposition order is entered; adjudication and disposition orders in child welfare matters after the disposition order is entered; and final judgments in civil matters.

(2) Leave to Appeal Prior to Final Order or Judgment. Interlocutory appeals from Tribal Court decisions on motions decided before the case is concluded, decisions on the admissibility of evidence during the course of hearings or trials, and decisions on procedural matters made while the case is pending and before entry of a final order, shall not be filed until the case is concluded unless leave to appeal is granted by order of the Tribal Court Judge presiding in the case. Leave to appeal any decision before entry of a final order or judgment shall only be granted when the Tribal Court Judge finds that such decision is dispositive of the case.

(3) Final Decisions Entered Upon Plea Agreements or Stipulations. Final decisions, orders, or actions of the Tribal Court entered upon the stipulation or agreement of the parties, including plea agreements in criminal, juvenile delinquency, status offense and child welfare cases, shall not be appealable as a matter of right. Appeal may be taken only upon leave granted by order of the Tribal Court Judge who presided in the case. Leave shall not be granted unless good cause is shown upon motion, notice and hearing.

(4) Identification of Parties. The party filing the appeal shall be referred to as the "appealing party" or "appellant", and the party responding to the appeal shall be referred to as the "responding party" or "appellee".

(5) Notice of Appeal. An appeal to the Appellate Court shall be commenced by filing a Notice of Appeal with the Secretary of the Tribal Council. Such notice shall briefly describe the order, judgment or other final action of the Tribal Court from which the appeal is taken, including the names of the participants in the case, the court file number, and the date of the order, judgment or final court action from which the appeal is taken.

(6) Pleadings on Appeal. The written pleadings to be filed in any appeal include the following: Notice of Appeal; Appellants Request for Preparation of Transcript; Appellee's Request for Preparation of Transcript; Stipulated Statement of Facts (to be used in place of a transcript only when the parties agree); Statement of Issues on Appeal by the appealing party (which shall specifically identify each issue or question on appeal and shall state the reasons for appeal on each issue or question); and Response to Statement of Issues by the responding party (which shall answer or respond to each issue or question raised by the appealing party and shall state the reasons why each

issue or question should be denied).

(7) Filing and Service. All pleadings filed by each party to an appeal shall by filed simultaneously with the Secretary of the Tribal Council, who shall be the Secretary of the Appellate Court, and with the Clerk of the Tribal Court. Copies of all such pleadings shall be served on all parties to the appeal and on each party's attorney, advocate or spokesperson. In all criminal, juvenile and child welfare appeals where the plaintiff in the Tribal Court was the Hannahville Indian Community, service of all appellate pleadings on the Hannahville Indian Community shall be made on the Tribal prosecutor. Responsibility for making service of each appellate pleading shall be on the party who files the pleading. Service may be made by personal delivery or U. S. mail. A written proof of service shall be filed with both courts.

(8) Time for Filing Appeal. The Notice of Appeal must be filed within 30 days after the date upon which a written final order, judgment or action of the Tribal Court is signed by the Tribal Court Judge. If the notice is filed after 30 days, then the appeal shall be denied by order of the Secretary of the Tribal Council, in which case the appeal shall not be submitted to the Tribal Council and Appellate Judges shall not be appointed. In the case of any interlocutory appeal under paragraph (2) of this section, the Tribal Court Judge shall set the time limits for filing all appellate pleadings.

(9) Time for Filing Statement of Issues on Appeal. Within 14 days after filing the Notice of Appeal, the appealing party shall file a written Statement of Issues on Appeal identifying each issue or question being appealed and stating the reasons for appeal on each issue or question. This time limit may be extended for no more than 14 additional days upon the written and filed stipulation of the parties.

(10) Time for Filing Response to Statement of Issues. The responding party shall have 14 days after the filing of the appealing party's Statement of Issues on Appeal in which to file a written Response to Statement of Issues, which shall answer or respond to each issue or question raised by the appealing party and shall state the reasons why each issue or question should be denied. This time limit may be extended for no more than 14 additional days upon the written and filed stipulation of the parties.

(11) Transcript. If the appealing party requires preparation of all or any portion of the transcript of the Tribal Court proceedings which are being appealed, then he or she shall file a written Appellants Request for Preparation of Transcript no later than the filing his or her Statement of Issues on Appeal. If the appealing party requests only a partial transcript and the responding party requires preparation of additional portions of the transcript, then the responding party shall file a written Appellee's Request for Preparation of Transcript no later than 7 days after the filing of the appealing party's request for transcript. Upon receipt of the parties' requests for preparation of the trial transcript, the Clerk of the Tribal Court shall cause that portion of the record requested by the parties to be transcribed. The completed transcript shall be delivered to the Secretary of the Tribal Council for copying and distribution to the Appellate Judges and to the parties no later than 7 days prior to the date set for the appeal hearing. As an

alternative to the preparation of a transcript of the proceedings, the parties may agree to a written stipulation of facts to be presented to the Appellate Court in lieu of a typed transcript.

(12) Notice to Tribal Council; Appeal Hearing; Notice of Appeal Hearing. Upon the filing of the Notice of Appeal with the Secretary of the Tribal Council, the Secretary shall bring the appeal to the attention of the Tribal Council at either the next regular meeting of the Council or at a special meeting of the Council, whichever is necessary to complete the appointment of the Appellate Court Judges no later than 30 days after the filing of the Notice of Appeal. The appeal hearing shall be scheduled to take place no later than 14 days after the filing of the responding party's Response to Statement of Issues. However, in cases where a transcript of proceedings has been requested, the appeal hearing may be delayed for an additional 14 days if necessary to complete preparation of the transcript. The Secretary of the Tribal Council shall provide written notice of the appeal hearing to each party to the appeal. Said notice shall be served in person or by U.S. mail no later than 7 days prior to the appeal hearing.

(13) Appeal on the Record; No Testimony or Evidence. All appeals shall be considered upon the record of the Tribal Court together with all written and oral pleadings and arguments presented by the parties on the appeal. No evidence shall be presented to or taken by the Appellate Court.

(14) Decision by Appellate Court; Harmless Error. At the conclusion of the oral argument at the appeal hearing, and upon review of the written statements and arguments offered by the parties, it shall be the right of the Appellate Court to deliberate privately in discussing and deciding the issues and questions presented for decision. The decision of the Appellate Court on each issue raised in the appeal, together with a statement of its reasons for each decision, shall be expressed in writing and shall be filed with the Tribal Court and served on the parties no later than 7 days after the appeal hearing.

In making its decision, the Appellate Court may consider only matters of fact and law which were set forth in the original trial. The Appellate Court may deny the appeal and affirm or uphold the decision of the Tribal Court, and it shall do so if it finds no errors of fact or law by the Tribal Court. If the Appellate Court determines that there was an error of fact or law by the Tribal Court, it must then determine whether or not said error was harmless. Harmless error is any error, which is trivial, is not prejudicial to the substantial rights of the appealing party, and in no way affected the final outcome of the case. If an error is determined by the Appellate Court to be harmless, then the appeal shall be denied and the decision of the Tribal Court shall be affirmed or upheld.

If the Appellate Court finds there was an error of fact or law which affected the decision of the Tribal Court, then the Appellate Court may reverse the Tribal Court decision in part and affirm it in part, or it may reverse the Tribal Court decision in full. In any case where the Tribal Court decision has been reversed in part or in full, the Appellate Court may either:

(a) Remand the case to the Tribal Court for further proceedings consistent with the Appellate Court decision; or

(b) Enter an order or judgment with respect to the issue or question on appeal, consistent with its decision, which shall be dispositive of the issue without the necessity of further proceedings in the Tribal Court.

In making its decision on an appeal, a simple majority of the Appellate Judges considering the appeal shall be sufficient. If any Appellate Judge dissents from the decision of the Appellate Court majority, the dissenting judge may set forth the reasons for his or her dissent in writing.

(15) Record of Appellate Proceedings. A written record of each and every proceeding of the Appellate Court shall be kept and shall include the following: Case title and Tribal Court file number; names of all parties to the appeal; appearances of all attorneys, advocates or spokespersons participating in the appeal hearing; date, time and place of each hearing and deliberation on the appeal; copies of all pleadings filed in the appeal; and the Appellate Court's decision on each issue raised in the appeal. The proceedings need not be recorded, and a recorded or verbatim stenographic record shall not be made unless the Appellate Court so directs.

(16) Stay of Judgment Pending Appeal. Upon motion of the appealing party, or upon the Tribal Court's own initiative, following the timely filing of a Notice of Appeal, and pending a decision by the Appellate Court, the Tribal Judge, in his or her discretion and upon such terms as he or she deems appropriate, including a requirement for the appealing party to post bond, may enter an order staying the effect of the final judgment, order or court action in connection with which the appeal is being taken. **Amended 03, 2000.**

1.520 Magistrate: qualifications; duties.

(1) There is hereby created the position of the Magistrate of the Hannahville Indian Community Court. Such Magistrate shall be appointed by the Tribal Council and shall serve until removed by the Tribal Council or until he or she resigns, whichever occurs first.

(2) No person shall be eligible to be appointed as magistrate of the Hannahville Indian Community Court unless he or she:

(a) Is an enrolled member of the Hannahville Indian Community.

(b) Has not been convicted of a misdemeanor type offense, excluding a minor traffic offense, within one year.

(c) Has never been convicted of a felony type offense.

(d) Is of good moral character and integrity.

(e) Resides on land held by the United States in trust for the Hannahville Indian Community near Harris or Wilson, Michigan.

(f) Is capable of preparing papers and reports incident to the office of judge.

(g) Has demonstrated a knowledge of being familiar with, and able to read and interpret the Hannahville Indian Community Tribal Code as well as having an understanding of Federal and State law and court procedures.

(h) Shall, prior to entering on duty, be bonded in the amount of $5,000.00 as an authorized collector of fines and other cost moneys for the Hannahville Indian Community Tribal Court. Cost of bond is to be paid from the Tribal Court Fund.

(3) The magistrate shall be empowered:

(a) To sign proper arrest warrants pursuant to section 1.702.

(b) To preside over the initial appearance of a defendant before the tribal court pursuant to section 1.708.

(c) To sign proper search warrants pursuant to Chapter 1.8.

(d) To release or refuse to release persons on bail or on personal recognizance pursuant to Chapter 1.9.

(e) To arraign persons accused of crime pursuant to Chapter 1.10, provided that the magistrate shall try no cases, and shall not pronounce sentence, but rather postpone sentencing until the next regular Community Court calendar date.

(f) To issue orders for the immediate and temporary placement of a child, in a proper case, pursuant to Chapter 2.17.

(g) To preside over extradition hearings. **Amended: 10/02/95.**

Chapter 1.6 Commencement of Criminal Proceedings

1.601 Complaint; defined

A complaint is a written statement filed with the Hannahville Indian Community Tribal Court, which alleges that a person within the jurisdiction of the court has committed an offense under this Code and requests that the person so accused be apprehended and dealt with according to tribal law. The complaint may be signed by the complaining individual, a tribal law enforcement officer, or by the tribal prosecutor and may be signed relying on information and belief even if the complainant did not see the accused commit the alleged act. The person signing the complainant shall be known as the complainant. **Amended & adopted for immediate effect on 12/20/00.**

1.602 Contents of complaint

A complaint must contain:

(1) The name of the jurisdiction where it is filed and the name of the person signing the complaint.

(2) The name~~s~~ of the person alleged to have committed or attempted to have committed the offense complained of, and if the defendant's name is unknown, then any other name by which the defendant may be known, together with any identifying information which may be used to identify the person charged with reasonable certainty.

(3) A statement signed by the complainant generally setting forth nature of the offense, in ordinary and concise language, and the time and place of the commission of the offense, as nearly as may be ascertained.

(4) The signature of the complainant shall be verified by the judge, magistrate, or other authorized court officer. **Amended & adopted for immediate effect on 12/20/00.**

1.602a Minor offenses; appearance tickets; definition, filing, contents

An appearance ticket is a complaint or written notice issued by a law enforcement officer directing a designated person to appear in court at a designated future time to be arraigned on an alleged offense as stated on the face of the ticket. The court may accept a plea of guilty upon an appearance ticket, without the necessity of a sworn complaint. **Enacted for immediate effect on 12/20/00.**

1.603 Procedure upon filing of written complaint

The complaint shall be reviewed by a tribal prosecutor. If it appears on the face of the complaint that the requirements of section 1.602 are satisfied and that the facts alleged, if true, would constitute an offense the prosecutor may authorize a warrant for the arrest of the charged individual. The complainant may then present the complaint to the court and sign it as provided in subsection 1.602(4). If the judge, magistrate, or other authorized court officer is satisfied that the offense alleged in the complaint was committed and that the defendant was the perpetrator, then the court shall issue an arrest warrant. **Amended & adopted for immediate effect on 12/20/00.**

Chapter 1.7 Arrests, Extradition and Warrants

1.701 Arrest defined; persons authorized to make arrests

Arrest is the taking into custody of a person for an alleged offense. An arrest may be made at any time, day or night. An arrest may be made by:

(1) A law enforcement officer authorized by a warrant;

(2) A law enforcement officer without a warrant, for any crime committed in his presence, and for crimes which are not committed in his presence but subject to any conditions and restrictions imposed by sections of this Code or other applicable law relating to warrantless arrest; and

(3) A person, with or without a warrant having been filed, in the following situations:

(a) For an offense categorized as a Major Crime under this Code whether or not committed in his or her presence.

(b) When requested to assist in making an arrest by a law enforcement officer.

(c) After the arrest has been made, the private person who has made the arrest must immediately deliver the person arrested to a law enforcement officer who shall, without unnecessary delay, take the person before an officer of the court authorized to conduct arraignments and state the charge against the person arrested. **Amended & adopted for immediate effect on 12/20/00.**

1.701a Warrants; issuance.

(1) A magistrate, judge, or other authorized officer of the court shall issue a warrant upon presentation of a complaint alleging sufficient facts to show that an offense has occurred within the jurisdiction of the court and that the person named in the complaint committed that offense. The complaint shall be solemnly attested to or sworn to before an officer of the court.

(2) A finding of reasonable cause shall be based upon 1 or more of the following:

(a) Factual allegations of the person complaining as set forth in the complaint.

(b) Sworn testimony or affidavit of the person complaining.

(c) Sworn testimony or affidavit of other persons presented by the person complaining or required by the officer of the court issuing the warrant.

(3) The officer of the court who will issue the warrant may require the sworn testimony of the person complaining and supplemental testimony or affidavits of other persons. Supplemental affidavits may be sworn to before other persons authorized by law to administer oaths. The factual allegations contained in the complaint, testimony, or affidavits may be based upon personal knowledge or information and belief, or both.

(4) A warrant, once issued, shall be effective for an indefinite period unless a time limitation within which the warrant is to expire clearly appears on the face of the warrant or it has been dismissed by the court. **Enacted for immediate effect on 12/20/00.**

1.702 Warrant; contents

A warrant to arrest is an order in writing, signed by a judge, magistrate, authorized officer of this court, or appropriate authorizing official of another jurisdiction, commanding the arrest of a person. The warrant must specify the name of the person subject to the warrant, or if the name of the person is unknown, the person may be designated by any name if the warrant also contains a description and sufficient identifying information by which the person can be identified with reasonable certainty. If known, the date of birth of the person identified as subject to the warrant should also be included on its face and recommended bail, if appropriate. A warrant may also include a geographic range for service. It must also state the offense or offenses charged and the date of issuance. A warrant for arrest shall be valid outside the jurisdiction of the Hannahville Indian Community unless otherwise limited by applicable law or other provisions of this Code. **Amended & adopted for immediate effect on 12/20/00.**

1.703 Execution of warrant

A warrant issued by the Hannahville Indian Community may be directed to any law enforcement officer, and may be executed by any officer of any jurisdiction to whom it may be delivered. A warrant is executed by the arrest of the person named on the warrant. The arresting officer need not have the warrant in his possession at the time of the arrest, but upon request, shall, as soon as possible, show a copy to the person subjected to the arrest. At the time of the arrest the arresting officer shall inform the person arrested of his legal rights as required under applicable law including the fact that the officer reasonably believes that there is a valid warrant in existence for the person's arrest and, if known, the nature of the offense alleged to have occurred for which the warrant was issued. **Amended & adopted for immediate effect on 12/20/00.**

1.703a Return of warrant

Upon service of a warrant under this Code by the arrest of the person who is the subject of the warrant the arresting officer or the custodial officer, as appropriate, shall sign the warrant and return the original to the Hannahville Indian Community Court for filing. **Enacted for immediate effect on 12/20/00.**

1.703b Recall of warrant

If a person who is the subject of a warrant: (a) has been arrested and has appeared before the court; or (b) is released pursuant to a personal recognizance bond or by the payment of bond; or (c) voluntarily submits to the court and pays any required bail, the court shall immediately recall the warrant by notifying law enforcement and filing a warrant recall notice. Upon receipt of the required notices the law enforcement agency receiving the notice shall take appropriate action to withdraw the warrant from L.E.I.N. **Enacted for immediate effect on 12/20/00.**

1.704 Repealed on 12/20/00 & reserved for future use. Covered section 1.703.

1.705 Arrest, without a warrant, conditions

A law enforcement officer may, without a warrant, arrest a person in the following situations:

(1) For a tribal offense committed or attempted in his presence.

(2) For an offense committed or attempted in his presence under state or federal law if the officer is certified as a state or federal officer pursuant to a deputation agreement with the respective state or federal jurisdiction, or if the officer could make the arrest as a private person under state or federal law.

(3) When the officer has reasonable cause to believe that the person to be arrested has committed or is committing an offense under this Code punishable by 90 or more days in jail, whether or not such offense was committed or is being committed in his presence.

(4) When the officer receives positive information from an authoritative source that another officer or a court holds a warrant for the person's arrest. **Amended for immediate effect on 12/20/00.**

1.706 Repealed on 12/20/00 & reserved for future use. Covered in section 1.701

1.707 Renumbered, amended & moved; now appearing as section 1.712.

1.708 Arrest with or without warrant; arraignment without undue delay

(1) Following an arrest, with or without a warrant under the laws of this jurisdiction, the arrested person shall be arraigned without undue delay. If the person is incarcerated, he or she must be arraigned before the court which issued the warrant at the earliest possible time. Arraignment may be conducted by telephone in appropriate circumstances. Bail shall be set if, and as, appropriate.

(2) If the person has been taken into custody without a warrant having been issued under this Code, the judge, magistrate, or other authorized court officer, upon finding reasonable cause shall:

(a) Issue a warrant as provided under this Code; or

(b) Endorse upon a complaint a finding of reasonable cause and determine any appropriate bail.

(3) When a person has been taken into custody pursuant to a reasonable belief that a warrant for that person's arrest exists which was issued: (a) by the State of Michigan; (b) by a federal agency; (c) by another state; or (d) by another federally recognized Indian tribe; or (e) when a person has been taken into custody by a law enforcement officer without a warrant for an offense committed in his presence pursuant to a deputation agreement, the tribal law enforcement officer shall consult with the jurisdiction which issued the warrant to determine what procedures shall be made for the transfer of the person into the issuing jurisdiction's custody.

(a) Reasonable cause to believe that a warrant exists, which was issued by another jurisdiction includes, but shall not be limited to, any of the following:

[1] The officer has been told by another officer or other reliable official that a warrant exists; or

[2] A xerox, facsimile, digital imaged or other duplicate original has been received by the Hannahville Indian Community Law Enforcement Department or the Court; or

[3] The officer has personal knowledge of the warrant.

(b) ***Except as otherwise required as a matter of federal law,*** a warrant issued by a court within the state of Michigan is presumed to be valid pursuant to Rule 1.101 of this jurisdiction's Rules Regarding Enforcement and Recognition of Foreign Judgments.

[1] If an Indian person who is in custody raises the objections specified by subsections 1.101(C)(1) or (2) of the Rules, then that person shall be brought before the Hannahville Indian Community Tribal Court, and the court shall make a determination as to whether or not the challenge is meritorious. If the court finds no merit to those challenges, law enforcement shall proceed as if no challenge had been raised. If the court finds that the challenges are meritorious, the person shall be released forthwith.

[2] Full Faith and Credit will be accorded to warrants and other proceedings of the courts of any jurisdiction as mandated by federal law. Proper inquiry into the validity of such warrants, or other court proceedings, will be accorded to the subjects of such warrants, and court proceedings as mandated by federal law.

(c) If an Indian person is taken into custody pursuant to a reasonable belief that a warrant exists and Rule 1.101 of this jurisdiction's Rules Regarding Enforcement and Recognition of Foreign Judgments <u>does not</u> apply and if there is a reasonable doubt that the person taken into custody is, in fact, the subject of the warrant, then the person shall be taken before the judge, magistrate, or other authorized court officer who shall sign the warrant if satisfied that the person is, in fact, the person who is the subject of the warrant. If the judge, magistrate, or other authorized officer of the court determines that the person is not the person who is the subject of the warrant, the person shall be released.

[1] In such cases, a copy of the warrant shall be filed with the Tribal Court. Upon assurance by the local sheriff that the out-of-state agency will extradite the wanted fugitive, the warrant shall be executed by the arrest of the fugitive and the fugitive shall be surrendered to the Sheriff for extradition under state law. **Amended for immediate effect on 12/20/00.**

1.709 Re-numbered, amended & inserted as section 1.703a on 12/20/00, for

immediate effect. Reserved for future use.

1.710 Repealed on 12/20/00 & reserved for future use. Covered in section 1.708.

1.711 Arrests without warrant; personal injury crimes; domestic violence

(1) A law enforcement officer who has reasonable cause to believe that any violation(s) of sections 1.2001 through 1.2004, (relating to abduction, attempt to commit rape and assaults & batteries); 1.2006 through 1.2006(b), (relating to aggravated assaults, attempted assault with intent to commit other crimes, and with a weapon); 1.2030, (relating to indecent liberties with a child); 1.2080 (relating to molesting & disturbing persons in pursuit of occupation); and 1.2082 through 1.2087, (relating to murder, mayhem, rape and robbery), including any attempts to violate these sections of the Hannahville Legal Code has taken place or is taking place and that the person who committed or is committing the violation is the spouse or former spouse of the victim, or is a person who is residing or has resided in the same household as the victim, or is a person with whom the victim has, or has had a child in common, including an adopted child, or is a person with whom the person has or has had a dating relationship, shall arrest the violator with or without a warrant for that violation, irrespective of whether the violation was committed in the presence of the law enforcement officer.

(a) "Dating relationship" does not include a casual relationship or an ordinary association between persons in a business or social context.

(2) A law enforcement officer, without a warrant, may arrest and take a person into custody when the law enforcement officer has reasonable cause to believe that all of the following exist:

(a) An ex-parte or final personal protection order issued pursuant to any title of the Hannahville Legal Code or any other chapter or section of this Code exists;

(b) A true copy of the order has been filed with the law enforcement agency or the personal protection order is entered in L.E.I.N. A true copy of the order shall include a xerox, facsimile, digital or any other duplicate original copy of the order.

(c) The person subject to the order is alleged to be acting in violation of the order within the jurisdiction of the Hannahville Indian Community. A person is in violation of the order if that person commits one or more acts which the person named in the order is to generally refrain from doing.

(d) The order states on its face that a violation of its terms may subject the person to contempt of court, including possible criminal penalties.

(3) A person arrested and in custody pursuant to this section shall be brought before the Hannahville Indian Community Court as soon as reasonably possible for arraignment on contempt for violation of the personal protection order, at which time the court shall:

(a) Set a time for a hearing on the alleged violation of the personal protection order at the next available court session or as soon as reasonably possible after the arrest if the person continues to be held without the setting of bond, unless that time is extended by the court on the motion of the arrested person.

(b) If appropriate, set a reasonable bond pending a hearing on the alleged violation of the personal protection order. But in no event shall the perpetrator be allowed to have contact with the victim for a period of 72 hours after the alleged commission of the violation.

(c) Notify the victim of the release of the defendant. **Amended & adopted for immediate effect on 12/20/00.**

1.712 Breaking into building to make arrest; demand for admittance required

Any law enforcement officer having authority to make an arrest may break open an outer or inner door or window of a building in which the person to be arrested is located or reasonably believed to be located, if, after presenting reasonable notice of his intention and authority, he is refused admittance. **Amended and adopted for immediate effect on 12/20/00.**

1.713 Breaking out of building in making arrest

A law enforcement officer who has lawfully entered a building for the purpose of making an arrest and is detained in the building, may break open a door or window of the building if necessary, to escape from the building. A law enforcement officer may break open a door or window of a building if necessary, to liberate a person who lawfully entered the building and is detained in the building. **Enacted for immediate effect on 12/20/00.**

1.714 Arrest, pursuit and recapture after escape

If a person who has been lawfully arrested escapes or is rescued, the person from whose custody he or she escaped or was rescued may immediately pursue and retake him or her at any time within this jurisdiction without a warrant. **Enacted for immediate effect on 12/20/00.**

Chapter 1.8 Search Warrants

1.801 Definition

A search warrant is an order in writing, signed by a Tribal Court Judge or magistrate, directed to any peace office, as designated by section 1.102 of this Code, commanding him to search specifically defined areas for items or articles designated in the warrant and bring them before the Hannahville Indian Community Court.

1.802 Issuance and contents

A search warrant shall not be issued except upon probable cause, supported by oath or

affirmation, naming or describing the person, and particularly describing the items or articles to be seized, the place to be searched, and the reason or reasons for its issuance.

1.803 Execution of warrant; officers authorized; authority to break in structure

A search warrant shall be served by any duly authorized peace officer during any time of the day or night unless the court finds sufficient reason to limit the time and manner in which the warrant may be served and so endorses the warrant. The officer may break open any building, structure, or container after reasonably identifying himself and his authority, requesting entry or access from the occupant, if any, and being refused such entry or access.

1.804 Time limit; execution of warrant; void at expiration

A search warrant must be executed and returned within seven days to the Community Court Judge or magistrate by whom it was issued. After the expiration of such time the warrant, unless the time is extended in the discretion of the Community Court by endorsement, is void.

1.805 Inventory

The executing officer must immediately return the warrant to the Community Court Judge or magistrate, as set forth in section 1.804, together with a complete inventory of the items or articles taken. The inventory must be made before witnesses or in the presence of the person from whose possession it was taken. The Community Court Judge or magistrate or their representative, must deliver a copy of the inventory to the person from whose possession the items or articles were taken.

1.806 Hearing on issue of search warrant; testimony must be taken, reduced to writing, filed

If the grounds on which the warrant was issued be denied, the Community Court Judge must proceed to take testimony in relation thereto, reduce it to writing, cause it to be authenticated, and transmit the same to the Tribal Appellate Court, which shall be the judge of the validity of the issuance of the search warrant.

1.807 Search and seizure incidental to arrest

All reasonable searches and seizures, which are incidental to a legal arrest, shall be valid.

1.808 Inadmissible evidence

All evidence unlawfully obtained shall be inadmissible in criminal prosecution.

Chapter 1.9 Bail

1.901 Definition

Bail is the security, which a person charged with an offense under this Code is required to give to obtain his or her release from custody during the course of a particular case. Bail includes the conditions under which the person may be released together with the person's promise to appear in all subsequent court proceedings. The words "bail" and "bond" may be used interchangeably throughout this Code. **Amended & adopted for immediate effect on 12/20/00**

1.902 Bailable offenses, generally

Except as otherwise provided, all persons charged with an offense pursuant to this Code shall be entitled to release upon payment of sufficient bail to ensure the safety of the public and to guarantee his or her appearance before the court throughout the course of the proceedings. If bail is not paid, or no bail may be set, the person shall be incarcerated or otherwise properly committed until the conclusion of all legal proceedings, including any appeal which may be taken. As appropriate, bail may be modified and other conditions imposed at any stage of the court proceedings. **Amended & adopted for immediate effect on 12/20/00.**

1.902a Nonbailable offenses; Offenses for which bail may not be available

(1) A defendant charged with violation(s) of a personal protection order or of sections 1.2001 through 1.2004, (relating to abduction, attempt to commit rape and assaults & batteries); 1.2006 through 1.2006(b), (relating to aggravated assaults, attempted assault with intent to commit other crimes, and assault with a weapon); 1.2030, (relating to indecent liberties with a child); 1.2080 (relating to molesting & disturbing persons in pursuit of occupation); and 1.2082 through 1.2087, (relating to murder, mayhem, rape and robbery), including any attempts to violate these sections of the Hannahville Legal Code and the person who committed the violation is the spouse or former spouse of the victim, or is a person who is residing or has resided in the same household as the victim, or is a person with whom the victim has, or has had a child in common, including an adopted child, or with whom the person has or has had a dating relationship, shall be held without bail or bond unless the court finds by clear and convincing evidence that the defendant is not likely to pose a danger to other persons. In no event shall the perpetrator be allowed to have contact with the victim for a period of 72 hours after the alleged commission of the violation. Bail may also be denied for any offense under this Code, which would be a felony if committed under state law.

(a) If a judge, magistrate, or other authorized court officer releases a defendant under this section, the judge, magistrate, or other authorized court officer shall make a finding on the record of the need or lack of need for protective conditions and shall inform the defendant on the record, either orally or by a writing that is personally delivered to the defendant, of the specific conditions imposed and that if the defendant violates a condition of release, he or she will be subject to arrest without a warrant and shall have his or her bail forfeited and revoked and new conditions of release imposed, in addition to any other penalties that may be imposed if the defendant is found in contempt of court; and

(b) An order or amended order issued under this subsection (1) shall contain all of the

following:

[1] A statement of the defendant's full name.

[2] A statement of sufficient physical identifying information as the judge or magistrate considers appropriate, including, if known, the defendant's height, weight, race, gender, hair color and eye color.

[3] A statement of the date the conditions become effective.

[4] A statement of the date on which the order will expire.

[5] A statement of the conditions imposed.

[6] An order or amended order issued under this subsection and subsection (1) may impose a condition that the defendant not purchase or possess a firearm.

[7] The court shall immediately direct the Hannahville law enforcement agency in writing, to enter an order or amended order into the L.E.I.N.

[8] Law enforcement shall immediately enter the order or amended order into L.E.I.N.

[9] All efforts reasonably calculated to give actual notice to the victim shall be made, including notice to the office of the victims of crime advocate.

(c) Hearings conducted under this section may be by recorded teleconference in appropriate circumstances. **Enacted for immediate effect on 12/20/00.**

1.903 Repealed, effective 12/20/00 and reserved for future use. Included in other §§s.

1.904 Bail: when set, conditions, maximum amount

(1) Bail shall be set in a bailable offense by the judge, magistrate, or other authorized court officer upon a showing of probable cause by the prosecutor or complainant. Bail may appear on the face of the warrant for the defendant's arrest. Subsequently, with notice to the prosecutor and upon request of the defendant, the amount and circumstances of bail may be considered by the court, and any appropriate change in bail and/or the conditions for the release of the defendant may be ordered. Bail, in the discretion of the judge, magistrate, or other authorized court officer, may be in the form of cash, personal recognizance, personal or real property, or any combination of these.

(2) Bail shall be fixed in an amount and in a form as, in the judgment of the court, will ensure the safety of the public and the presence of the defendant in all proceedings in the case, including any appeal, which may be taken. The court may order the release of the defendant subject to any combination of conditions which it determines are

appropriate including, without limitation, the following:

(a) That the defendant will appear as required, will not leave the state or other specified geographic area without permission of the court, and will not commit any crime while released;

(b) Will make reports to a court and/or agency as are specified by the court or agency;

(c) Not use alcohol or illicitly use any controlled substance;

(d) Participate in a substance abuse testing or monitoring program;

(e) Participate in a specified treatment program for any physical or mental condition, including substance abuse;

(f) Comply with restrictions on personal associations, place of residence, and place of employment or travel;

(g) Surrender driver's license or passport;

(h) Continue to seek employment;

(i) Comply with a specified curfew;

(j) Continue or begin an educational program;

(k) Remain in the custody of a responsible member of the community who agrees to monitor the defendant and report any violation of any release condition to the court;

(l) Not possess a firearm or other dangerous weapon;

(m) Not enter specified premises or areas and not assault, beat, molest or wound a named person or persons;

(n) Satisfy any injunctive order made a condition of release; or

(o) Comply with any other condition, including the requirement of money bail or other property, reasonably necessary to ensure the defendant's appearance as required and the safety of the public.

(3) In setting bail and the terms and conditions to be imposed upon the defendant in regard to his or her release and in any court proceeding relative to the modification of bail, the court may consider, without limitation, and make findings on the record relative to the following factors:

(a) The defendant's prior criminal record;

(b) The defendant's record of appearance or nonappearance at court proceedings or flight to avoid prosecution;

(c) The defendant's history of substance abuse or addiction;

(d) The defendant's mental condition, including character and reputation for danger to himself or others;

(e) The seriousness of the offense charged, the presence or absence of threats, and the probability of conviction and the likely sentence;

(f) Defendant's employment status and history and financial history as these factors relate to the ability to post money bail;

(g) The availability of responsible members of the community who would vouch for or monitor the defendant;

(h) Facts indicating the defendant's ties to the community, including family ties and relationships and length of residence; and

(i) Any other facts bearing on the risk of nonappearance or danger to the public.

(4) In no case shall the bail exceed four times the maximum fine for each offense with which the defendant has been charged. **Amended & adopted for immediate effect on 12/20/00.**

1.905 Release of defendant on personal recognizance or payment of bail

Upon execution of the requisite recognizance or payment of bail and execution of the bail bond together with the defendant's promise that he or she will appear as required, will not leave the state or other specified geographic area without permission, and will not commit any crime while released, as well as any other conditions imposed by the court, the defendant shall be released. **Amended & adopted for immediate effect on 12/20/00.**

1.906 Repealed, effective 12/20/00 and reserved for future use. Covered in 1.904.

1.907 Forfeiture of bail

If the defendant fails to appear at any court proceeding for which he or she has been given proper notice, the court shall make an entry of the failure to appear in the record, and any bond may be forfeited without further proceedings, and the court may issue a bench warrant for the arrest of the defendant. When the court receives notice that reasonable cause exists to believe that the defendant has failed to comply with any of the conditions imposed in regard to the defendant's release, the court may immediately revoke the defendant's bail or bond and order the defendant taken into custody pursuant to a warrant, and the defendant may be held without bail until further order of the court. After hearing, unless waived, bail may also be forfeited for failure to comply

with any of the conditions imposed for the defendant's release. **Amended & adopted for immediate effect on 12/20/00.**

1.908 Return of cash bail

Upon the return of a not guilty verdict, bail shall be returned to the defendant or to the person who posted the bail. Upon the execution of the sentence, following a guilty plea or verdict, any bail may be applied to any fines and costs, which are owed to the court by the defendant. **Amended & adopted for immediate effect on 12/20/00.**

1.909 Repealed, for immediate effect on 12/20/00 and reserved for future use. Included in section 1.904.

1.910 Repealed, for immediate effect on 12/20/00 and reserved for future use. Included in section 1.904.

1.911 Repealed, for immediate effect on 12/20/00. Covered in section 1.902.

Chapter 1.10 Arraignment

1.1001 Definition

Arraignment consists of reading the charges to the defendant as stated on an appearance ticket, complaint, or warrant and asking how he or she pleads to the offense charged.

1.1002 Procedure at arraignment

Arraignment shall be conducted on the record and shall consist of:

(1) Reading the complaint to the accused; and

(2) Stating the substance of the charges and the language of the law establishing the offense and fixing the penalty; and

(3) Advising the defendant of his or her various rights under Federal law; and

(4) Asking how the defendant pleads to the charges.

(5) Failure to create a record shall not result in the dismissal of charges.

1.1003 Pleas

The defendant may plead "guilty," "not guilty," "stand mute," or "no contest." A plea of "no contest" means that the defendant does not admit his guilt but does not dispute the facts before the court. A finding of "guilty" may be entered by the court upon its determination that the defendant committed the offense charged. A plea in which the defendant "stands mute" has the same effect as a plea of "not guilty." If the defendant wishes to plead not guilty, he or she may

demand a jury trial. After a plea of not guilty, the Court shall set a date for trial, which shall allow sufficient time for the defendant to prepare his or her defense. In no case shall the time be less than seven days unless waived by the defendant. If the defendant refuses to plead, a plea of not guilty will be entered by the Court. If the defendant pleads guilty he or she may be sentenced immediately or within a reasonable time. Any plea made shall be made on the record which may be by teleconference with the defendant present. The defendant's presence may be excused at the discretion of the Court. Where the penalty to be imposed consists of a civil fine, or as otherwise provided by this Code or other law of this jurisdiction, the defendant may be allowed to enter a plea by mail. **Amended 1/8/01.**

Chapter 1.11 Pre-Trial Motions

1.1101 Motions; definition

A motion is the formal mode in which a party submits a proposed measure or resolution for the consideration and action of the Court.

1.1102 Motion to set aside the complaint

The complaint must be set aside by the Community Court upon the defendant's motion in the following cases:

(1) Where it is found not to comply with the requirements of section 1.602.

(2) Where it is found that the defendant has been charged or committed without reasonable or probable cause.

(3) Upon a determination that the Court has no jurisdiction over the person or the offense.

1.1103 Order setting aside complaint not bar to subsequent prosecution

An order to set aside the complaint, as provided for in this chapter, is no bar to future prosecution for the same offenses, except in the case wherein the Community Court has no jurisdiction of the subject matter or of the person of the defendant.

1.1104 Motion waived by failure to move to set aside complaint

If the motion to set aside the complaint is not made before the defendant pleads, the defendant is precluded from afterwards making the motion, except in the case wherein the Court has no jurisdiction.

1.1105 Pre-trial motions heard at time made; except good cause postponement

All pre-trial motions shall be ruled upon at the time they are made unless for good cause the Community Court postpones the hearing to another time.

1.1106 Motion for a bill of particulars

The defendant may, in order to obtain facts other than those specified in the complaint, make a motion for a bill of particulars, stating specifically what facts are being alleged and must show a need for the bill of particulars.

1.1107 Motion for a change of Judge; procedure

If the defendant shall make affidavit of prejudice, that he cannot have an impartial trial by reason of the bias or prejudice of the presiding Judge of the Community Court, the Judge may call some other Judge of the Community Court to preside at said trial. It shall be the duty of such other Judge to preside at said trial and do any other act with reference thereto as though he were the Judge before whom the action was originally brought. If the Judge honors the affidavit of prejudice, the defendant shall be entitled to such change of the Judge at once.

1.1107a Method of Appeal

Appeal may be taken to a 5 member appeals panel selected by the means established for selection of the Court of Appeals.

1.1108 Motion to suppress evidence

A defendant has the right to file with the Community Court a motion to suppress evidence which he contends has been obtained from him in an unlawful manner. If the Community Court is satisfied that the evidence has been unlawfully obtained, it shall order that the evidence be suppressed. If the Community Court decides that the evidence was lawfully obtained, it may be used against the defendant.

Chapter 1.12 Trial, General Provisions

1.1201 Criminal actions defined

A criminal action is one prosecuted by the Tribe as a party against a person charged with violating the Tribal laws, for the punishment thereof.

1.1202 Irregularities, mistakes, omissions have no legal effect unless actually prejudicial

Neither a departure from the form or mode prescribed in this chapter in respect to any pleading or proceedings nor an error or mistake therein renders it invalid, unless it has prejudiced the defendant.

1.1203 Summoning witnesses

The Community Court shall have the power to issue summons to witnesses from within or

without the reservation. The summons must contain the reason for summoning the person and the number of days the person will be required to be present. If the witness is summoned to attend and testify, he shall be tendered the sum of $.325 a mile or the current community rate for each mile by ordinary traveled route to and from the Court where the prosecution is pending, and $8.00 for each half day or portion thereof which he is required to travel and attend as a witness.

1.1203a Long Arm Statute

Service may be as designated by the Court in a manner calculated to give actual notice.

1.1204 Trial by jury or by the Court

Cases shall be tried by the Court, unless the defendant demands a jury trial in writing and meets the requirements of section 1.1003 of this Code. Juries shall be 6 in number, and the method of jury selection and procedure shall be the same as in Chapter 1.13 of this Code.

1.1205 Rights of accused

In all criminal prosecutions, the accused person shall have the right to defend himself in person or by counsel; to demand the nature and cause of the accusation against him; to have a copy thereof; to meet the witnesses against him face to face; to have compulsory process served to obtain witnesses in his behalf; and to a speedy public trial by an impartial jury. No person shall be compelled in any criminal case to give evidence against himself or be twice put in jeopardy for the same offense.

1.1206 Presence of the defendant

The defendant in a criminal case shall be present in court at every stage of the proceedings, including impaneling of the jury and the return of the verdict, where trial is by jury, and at the imposition of sentence.

1.1207 Calendar; Clerk of Courts duties

The clerk of the court must keep a calendar of all criminal actions pending in the court, enumerating them according to the date of the filing of the complaint, specifying the offense charged and whether the defendant is in custody or on bail.

1.1208 Setting cases for trial; maximum time; continuances, proof required, precedence of criminal cases

The Court shall set all criminal cases for trial as soon as possible after the date of entry of the plea of the defendant, so long as said trial date is in conformity with the provisions of section 1.1003 of this Code. No continuances of the trial shall be granted except upon good cause shown in open court, upon reasonable notice, that the ends of justice require a continuance. The defendant shall be entitled to a reasonable continuance, but such continuance shall not exceed 30 days, unless for good cause. Criminal cases shall be given precedence over civil cases.

1.1209 Death, illness; substitution; authority of substitute Judge

If, after the commencement of the trial of a criminal action or proceeding, the Judge presiding at such trial shall die, become ill, or for any other reason be unable to proceed with the trial, any other Judge of the Tribal Court in which the trial is proceeding may proceed with and finish the trial. If there be no other Judge of that Court available, then the clerk of that court shall adjourn the court until such time as a Judge shall be appointed in conformity with the provisions of this Code and such Judge shall arrive to complete said trial. The Judge authorized by the provision of this section to proceed with and complete the trial shall have the same power, authority and jurisdiction as if the trial had been commenced before such Judge.

1.1210 Incriminating testimony and immunity of witnesses/use immunity

Incriminating testimony and immunity of witness except for perjury. No person shall be excused from attending and testifying, or producing any books, papers or other documents before any court or magistrate, upon any investigation, proceeding or trial, for violation of any of the provisions of this code, upon the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to degrade or incriminate him; but no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he may so testify or produce evidence, documentary or otherwise, and no testimony so given or produced shall be received against him in any criminal investigation, proceeding or trial: Provided, that no person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.

Chapter 1.13 Formation of the Jury

1.1301 Formation of trial jury

Trial juries for all criminal actions are formed in the same manner as trial juries in civil actions.

1.1302 Jury dismissed; matter of law

It shall be discretionary with the Court as to whether the jury impaneled for trial prior to postponement pursuant to section 1.1209 shall remain seated or a new jury seated in its stead.

1.1303 Challenges; definition; kinds

A challenge is an objection made to the trial jurors and is of two kinds:

(1) To the panel, or

(2) To an individual juror.

1.1304 Panel defined

A panel is a list of jurors returned by the board of jury selectors.

1.1305 Challenge to panel defined; who may challenge; reason for challenge

A challenge to the panel is an objection in writing made to all the jurors returned, and may be taken by either party. The panel may be challenged when any of the following appear:

(1) There is an error in the procedure used in summoning the juror;

(2) Bias can be shown; or

(3) There was an omission to summon one or more of the jurors drawn.

1.1306 Challenges to individual jurors

A challenge to an individual juror is an objection which may be taken orally, and is either for cause or peremptory.

1.1307 Order for exercising challenges for cause; peremptory and time

All challenges for cause must be taken first by the defendant and then by the Tribe. Peremptory challenges may be taken by either party at any time during the seating of the jury and before the jury is sworn.

1.1308 Challenge for cause

A challenge for cause may be made by the Tribal Prosecutor or by the defendant, and must specify the facts constituting the causes thereof. Challenge for cause are unlimited. They may be made for any of the following causes:

(1) A previous conviction of a felony;

(2) A lack of any of the qualification set out in section 2.903 of this Code;

(3) Unsoundness of mind, or such defects in the faculties of mind or the organs of the body as to render him incapable of performing the duties of a juror;

(4) Having served as a juror in a civil action brought against the defendant for the act charged as an offense;

(5) Being a party adverse to the defendant in a civil action, or having complained against or been accused by him in a criminal action;

(6) Having formed or expressed such an opinion as to the guilt or innocence of the defendant as would prevent him from a fair verdict upon the evidence submitted on the trial;

(7) Having served in the Community Court as a juror during the last month.

(8) Standing in the relation of guardian and ward, attorney and client, employer and employee, or landlord and tenant; or being a member of the family, or a relative of the defendant, or of the person alleged to be injured by the offense charged, or on whose complaint, or at whose instance the prosecution was instituted, or in his employ. Failure to challenge of cause shall constitute a waiver of the basis for challenge.

1.1309 Peremptory challenge; parties who may take; form; definition

A peremptory challenge can be taken by either party and may be oral. It is an objection to a juror for which no reason need be given, but upon which the Court must exclude him.

1.1310 Peremptory challenge; number; joint defendants

The defendant is entitled to two and the Tribe to two peremptory challenges. If two or more defendants are jointly tried for any public offense, the Tribe and the defendants shall be entitled to two peremptory challenges for each defendant.

1.1311 Vacancy filled

After each challenge, sustained for cause or made peremptorily, another juror shall be called, may be challenged for cause, and shall be subject to peremptory challenge.

1.1312 Jurors sworn

When the jury has been accepted they shall be sworn to try the facts.

1.1313 Tribal council members not to serve as jurors

Members of the Hannahville Indian Community Tribal Council shall be excluded from jury duty.

Chapter 1.14 Trial Procedure

1.1401 Order of procedure

The jury having been impaneled and sworn, the trial must proceed in the following order:

(1) The clerk or the Tribal Court Judge must read the complaint, and state the plea of the defendant to the jury.

(2) Opening statements shall be given by the Tribal Prosecutor followed by the defendant and his counsel.

(3) The Tribal Prosecutor must open the case and offer evidence in support of the charge.

The defendant or his counsel shall have the right to cross-examine any witness called to the stand by the Tribal Prosecutor.

(4) The defendant or his counsel may then open the defense and offer evidence in support thereof. The Tribal Prosecutor shall have the right to cross-examine any witness called to the stand by the defendant or his counsel.

(5) The parties may then respectively offer rebutting testimony only, unless the Court, in furtherance of justice, permits them to offer evidence upon their original case. Rebuttal evidence is evidence offered in response to new evidence first presented by the opposing party.

(6) When the evidence is concluded the Tribal Prosecutor and the defendant or his counsel may argue the case to the Court and jury, the Tribal Prosecutor opening the argument and having the right to close. Rebuttal is limited to new evidence presented by the opposing party.

(7) Upon the conclusion of the arguments, the Court shall charge the jury orally or in writing, stating the law of the case. However, at the beginning of the trial or from time to time during the trial and without any request from either party, the judge may give the jury such instructions on the law applicable to the case as he may deem necessary for their guidance on hearing the case.

1.1402 Presumption of innocence; effect; reasonable doubt; defendant's refusal to testify

A defendant in a criminal action need not testify. He is presumed to be innocent until the contrary is proved. The effect of this presumption is to place upon the Tribe the burden of proving him guilty beyond a reasonable doubt. The defendant's failure to testify on his own behalf shall in no way be construed against him nor commented upon by the prosecutor.

1.1403 Joint defendants tried jointly; court may direct separate trials

When two or more defendants are jointly charged with a Tribal offense, they shall be prosecuted jointly, provided that the Court may, in its discretion, on application duly made prior to trial, direct that separate trials be had.

1.1404 View of premises by jury

When the Court is of the opinion that it is proper for the jury to view the place in which the material facts occurred, it may order the jury to be conducted in a body in the custody of proper officers to the place which shall be shown them by a person appointed by the Court for that purpose.

1.1405 Discharge of juror for illness or disability; new trial

If before the jury has returned its verdict into court, a juror becomes sick, or upon other good cause shown to the Court is found to be unable to perform his duty, the Court may order him to be discharged. When a juror is discharged for any of the above reasons, the Court may, upon stipulation, proceed in the absence of said juror. In the absence of such stipulation, the jury shall be discharged and a new jury shall be impaneled to hear the case.

1.1405a Extra juror to be sworn

The Court may allow an extra juror to be sworn at time of impaneling. This juror shall be discharged prior to the jury being sent to deliberation.

1.1406 Law questions for court and fact questions for jury

Questions of law are to be decided by the Court, questions of fact by the jury.

1.1407 Instructions to jury

At the close of evidence or at such time during the trial as the Judge directs, counsel for each party may file with the Tribal Judge written instructions on the law which the party requests the judge to deliver to the jury. At the same time, copies of such requests shall be furnished to the opposing counsel. The Judge shall deliver his instructions to the jury after arguments are completed. No party may assign as error any portion of the Judge's charge or omission therefrom unless he makes his objection before the jury retires to consider its verdict. Objections must be given out of the hearing of the jury.

1.1408 Decision in court; retirement

After hearing the charge, the jury shall retire for deliberation.

1.1409 Poll of jury before recording verdict; either party authorized; dissenting juror, further deliberation, dismissal of jury

When a verdict is rendered and before it is recorded, the jury may be polled on the request of either party or the Court, in which case each juror must be asked whether it is his verdict. If any juror answers in the negative, the jury must be sent out for further deliberation. If upon returning after further deliberation, the jury is polled again and a juror answers that the verdict is not his own, then the judge shall dismiss the jury and a new trial will be ordered.

1.1410 Direction of verdict of acquittal

At any time after the evidence on either side is closed, the Tribal Court may, upon motion of the defendant or upon its own motion for directed verdict, direct the jury to return a verdict of acquittal; and in the event of the failure of the jury to return such a verdict of acquittal, the Court may refuse to receive any other verdict and may discharge the jury and enter a judgment of acquittal. The denial of the motion may be reviewed upon appeal to the Tribal Court of Appeals by the defendant. Upon request the Court must state the reasons for granting a directed verdict.

1.1410a Directed verdict, definition

Considering all the evidence in the light most favorable to the prosecution, a reasonable jury could not decide that the defendant was guilty beyond a reasonable doubt of the crime charged.

Chapter 1.15 Submission to the Jury and Verdicts

1.1501 Papers taken by jury

Upon retiring for deliberation, the jury may take with it all instruction, exhibits, and papers, which have been received in evidence. Also any notes of the testimony taken in the trial by the jurors may be taken.

1.1502 Information by court on points of law

After the jury has retired for deliberation, if there is a disagreement as to any part of the testimony or if it desires to be informed on any point of law arising in the case, it must require the officer to conduct it into court, and upon its being brought in, the information required may be given at the discretion of the Tribal Court.

1.1503 Jury kept together

The jury shall be under the charge of the bailiff or other officer appointed by the Court. The jury must be kept together after the cause is submitted to them by the clerk of the court until they have agreed upon and rendered a verdict, unless, for good cause, the judge sooner discharges them.

1.1504 Verdict

The jury must render a general verdict of "guilty" or "not guilty", which imports a conviction or acquittal on every material allegation in the complaint. The verdict in all criminal actions must be unanimous.

Chapter 1.16 Judgment

1.1601 Judgment of conviction; time for

Upon a plea of guilty or a verdict of guilty, the Community Court must fix a time for pronouncing judgment, which must be pronounced within a reasonable time after the verdict is rendered. Prior to pronouncing judgment, the Court must make a pre-sentence investigation unless waived by the defendant on prosecution.

1.1602 Execution of judgment; imprisonment; fine; record

When judgment of imprisonment is entered, a signed copy thereof must be delivered to the

police officer as defined in section 1.102 of this Code, or other officer, which is a sufficient warrant for its execution. When a judgment is entered imposing a fine and ordering the defendant to be imprisoned until the fine and costs are paid, he must be held in custody during the time specified in the judgment in the discretion of the Court, unless the fine and costs are sooner paid. Upon payment of a fine by the defendant, the defendant shall be immediately set free unless detained for other legal cause.

1.1603 Presence of defendant

When judgment is pronounced the defendant must be personally present.

1.1604 Insanity

If the Court is of the opinion that there is reasonable ground for believing the defendant is insane or incompetent, the question of his sanity and commitment shall be determined as provided in Chapter 2.11 of this Code. The defendant may not be tried nor convicted of a crime, nor shall sentence be carried out if the defendant is declared insane during the proceedings or prior to execution of the sentence. Subject to the Statute of Limitations herein provided, an individual may again be made subject to criminal proceedings or shall be sentenced at such time as sanity is regained.

1.1605 Imprisonment for fine

A judgment that the defendant pay a fine and costs may also direct that he be imprisoned until the fine and costs are satisfied, specifying the extent of the imprisonment, which shall not exceed one day for every ten dollars of fine. Upon showing of indigence, a defendant may not be incarcerated solely because of his inability to pay the assessed fine but may, in the discretion of the Court, be given the choice of:

(1) Release on probation the terms of which shall include, performing services for the Tribe which are within his range of skills and at a wage rate commensurate with services rendered until such time as the assessed fine and costs have been satisfied; or

(2) Release on probation, one of the terms of which shall include the payment, in regular installments within his means, of the total fine and costs assessed.

A defendant, indigent or not, may be incarcerated for his failure to comply with the Court's order to perform services as is specified in subsection (1), above, or his failure to comply with the terms of his probation with respect to timely payments as is set forth in subsection (2), above.

1.1606 Suspension of sentence

The Court may, on such terms and conditions as the Court may impose, suspend the sentence and release a convicted person on probation upon that person's signed pledge of good conduct for the duration of the sentence.

1.1607 Commutation of sentence

If the Court is satisfied that justice will best be served by reducing a sentence, the Court may, at any time after one-half of a sentence has been served, commute to a lesser period any sentence imposed upon a person, served without misconduct.

1.1608 Application for order setting aside conviction; eligibility; contents of application; submitting application and fingerprints; application fee; contest of application by prosecuting attorney; notice to victim; proofs

(1) Eligibility. Except as provided in subsection (2), a person who has no pending charges and who has not been convicted under the laws of any jurisdiction within the preceding 3 years may file an application with the tribal court to have not more than 2 tribal court convictions set aside in one lifetime. There shall be no waiver of the 3 year waiting period, nor the number of convictions that may be set aside.

(2) Exception. A person shall not apply to have set aside, and a judge shall not set aside a conviction for any of the following crimes or their attempts: a crime listed as a Major Crime under this Code; aggravated assaults or assaults with weapons; criminal sexual conduct; child sexual assault, molestation or abuse; any offense required to be reported pursuant to the Adam Walsh Sex Offenders Registration Act; or a conviction for a traffic offense.

(3) Filing of Application; time. An application shall not be filed until at least 3 years following the imposition of any sentence for any conviction in any jurisdiction, or 3 years following the completion of any term of incarceration for any conviction, whichever occurs later.

(4) Application; contents. An application shall contain the following information and shall be signed under oath by the applicant

(a) The full name and current address of the applicant and any aliases by which the applicant has been known in any jurisdiction.

(b) A certified record of the conviction(s) to be set aside.

(c) A statement that the applicant has no pending charges and no convictions within the preceding 3 years in any jurisdiction.

(d) A statement as to whether the applicant has previously filed an application to set aside this or any other conviction and, if so, the disposition of the application.

(e) A consent to the use of the non-public record created under subsection (10) of this section to the extent authorized by that subsection.

(5) Filing of Application. The applicant shall file the application with the Hannahville Indian Community Tribal Court, together with the applicable filing fee, and shall submit to, and pay for fingerprinting, the results of which shall be released to the court and to the Adjudicator for employment background investigations of the Hannahville Indian Community.

(6) Crimes Against Persons; Notice to Victim. If the conviction was for an assaultive crime or was a crime against a person, the victim shall be notified that the application has been made at the last known address of the victim, and the victim shall have the right to appear at any proceeding pursuant to the application and shall have the right to make a written or oral statement.

(7) Committee Review and Recommendation. At a date or dates convenient to a committee composed of the tribal prosecutor, tribal defense counsel, chief of police or designee, and probation officer, the applicant shall appear before the committee, which shall consider the application and any related information, and shall make a recommendation to the tribal court, for or against the application. In reaching a recommendation the review committee may consult with any other appropriate department or resource.

(8) Court Determination. The court shall consider the recommendation of the review committee for or against setting aside the conviction, and shall make a determination for or against the setting aside of the conviction. The court shall consider the behavior of the applicant from the date of the applicant's conviction to the filing of the application and whether setting aside the conviction is consistent with the public welfare. The setting aside of a conviction is a privilege and is not a right.

(9) Entry of Order; Effect. Upon entry of an order setting aside a conviction, the applicant, for purposes of the law, shall be considered not to have been previously convicted, except as further set forth in this section.

(a) Fines, Costs, Owed or Paid. The applicant shall not be entitled to remission or cancellation of any fine, costs, or other money owed or paid as a consequence of a conviction that is set aside, nor shall the applicant have a cause of action for damages for incarceration served before the conviction was set aside. Fines and costs and any other monies that are owed by the applicant at the time of the application to set aside a conviction shall not be determinative of whether or not an application is granted, but may be considered as a behavioral characteristic along with the protection of the public welfare.

(b) Background Investigations; Reporting of Conviction. A conviction that has been set aside by order of the court does not have to be reported by the applicant for purposes of an employment background investigation.

(c) Enhancement of Subsequent Conviction. The previous conviction may not be used for enhancement purposes in relation to any subsequent conviction or pending criminal charge.

(10) Nonpublic Record; Disclosure. Upon entry of an order setting aside a conviction, the court shall provide copies to the Hannahville Indian Community Tribal Police Department, to the applicant, to the review committee and to the Adjudicator responsible for employment background investigation determinations.

(a) Disclosure; Persons, Agencies. The nonpublic record shall be made available only to a court of competent jurisdiction, a law enforcement agency, a prosecuting attorney, a school board or other adjudicating official.

(b) Purposes for Disclosure. Disclosure that the conviction has been set aside may be made for the following purposes:

[1] To show that a person who has filed an application to set aside a conviction has previously had a conviction set aside pursuant to this section.

[2] Consideration by law enforcement if a person whose conviction has been set aside applies for employment with a law enforcement agency.

[3] Consideration in the course of a required background investigation and adjudication pursuant to federal, tribal, and applicable state law.

[4] Consideration by the governor of any state if a person whose conviction has been set aside applies for a pardon for another offense.

(11) Appeal of Denial of Order Setting Aside Conviction. An appeal of a denial of an order setting aside a conviction may be made to the Hannahville Indian Community Tribal Council under established rules for appeals. The 3 year waiting period and the number of convictions that may be set aside are not subjects for appeal. **Adopted for immediate effect by the Tribal Council of the Hannahville Indian Community on 03/02/2009, meeting in regular session, by a vote of 7 yes; 2 no; and 1 abstaining.**

Amended, for immediate effect by the Tribal Council of the Hannahville Indian Community on 6/6/2011, meeting in regular session, by a vote of 9 yes; 0 no; and 0 abstaining

Chapter 1.17 Probation

1.1701 Condition of probation

The Court may release on probation a convicted person on such terms and conditions as are just and appropriate, taking into consideration the prior criminal record of the defendant, his background, character, financial condition, family obligation, and any other pertinent circumstances.

1.1702 Violation of conditions of probation

Any person who violates the terms and conditions of his probation or suspension of sentence

under section 1.1606 shall be required to serve the original sentence or may be re-sentenced to a lesser term or any term in accordance with law.

Chapter 1.18 Parole

1.1801 Those eligible

Any person confined to jail who shall have served without misconduct one-half of the sentence imposed shall be eligible to be considered for parole, upon written application to the Court.

1.1802 Granting parole

Parole may be granted by the Community Court upon such terms and conditions, including the requirement of personal reports from the parolee, as the Community Court may prescribe.

1.1803 Violation of parole

Any paroled person who shall violate any provision of his parole, at the discretion of the Court, shall be apprehended and confined to serve the remainder of the original sentence, provided that the probationary period has not expired.

Chapter 1.19 New Trial

1.1901 Definition

A new trial is a re-examination of an issue of fact in the same court after a verdict has been given.

1.1902 Application

Application for a new trial may be made only by the defendant or his attorney and must be made before the completion of the sentence. Application must be made to the Court before which the case was tried. Except that the prosecution could recharge after acquittal if new evidence was discovered.

1.1903 Grounds

The Court, on application from the defendant or on its own motion, may grant a new trial based on the following cause or causes:

(1) When proper evidence has been presented that the jury has received any evidence, paper or document out of court not authorized by the Court.

(2) When the verdict has been decided by lot or by means other than a fair expression of opinion on the part of all the jurors.

(3) When the Community Court has refused to instruct the jury properly as to the law.

(4) When for any other cause the defendant has not received a fair and impartial trial.

1.1904 Effect of a new trial

The granting of a new trial places the parties in the same position as if no trial has been held; all testimony must be reproduced and the former verdict cannot be used or referred to either in the evidence or in argument.

1.1905 Status of the accused pending new trial

Pending a new trial the accused shall be entitled to bail the same as before trial.

1.1906 Court costs in criminal cases

The judgment of conviction in criminal cases shall include costs of court, not to exceed $100.00.

1.1907 Deferred payment of fine and/or Court costs

Where fines and/or Court costs are imposed in criminal cases, the Court may defer payment to a date agreed upon by the defendant on condition that the defendant also agrees that in case of non-payment by the agreed upon date, he or she will voluntarily go to jail and begin serving the sentence imposed or agree to a wage deduction if the defendant is employed.

Chapter 1.20 Offenses and Penalties

1.2000 Mandatory minimum sentences

The court may depart from mandatory minimum terms of incarceration and mandatory minimum fines imposed by this Code if the court finds on the record that there are substantial and compelling reasons to do so. **Enacted for immediate effect on 11/19/01.**

1.2001 Abduction

Any person who shall willfully take away or detain another person against his will or without his consent of the parent or other persons having lawful care or charge of him or her, shall be deemed guilty of abduction and upon conviction thereof, shall be sentenced to imprisonment for a period not to exceed 180 days or to a fine not to exceed $500.00, or to both such imprisonment and fine, with costs.

1.2002 Assault; violation; penalties

(1) Without Weapon. A person who commits an assault, as defined by subsection 1.2004(1)(a) of this Code, but without a weapon, may be punished upon plea or conviction by incarceration for not more than 60 days or by a fine of not more than

$300.00, or both, plus costs.

(2) With Weapon. A person who commits an assault, as defined by subsection 1.2004(1)(a) of this Code, but with the use of a weapon, as defined by subsection 1.2004(1)(i) of this Code, shall be punished upon plea or conviction by incarceration for not more than 1 year, or by a fine of not more than $5,000.00, or both, plus costs. It shall not be a defense that the perpetrator has or had a permit to carry a concealed weapon. **Amended for immediate effect on 11/19/01.**

1.2003 Assault and battery

A person who commits a battery, or an assault and battery, as defined by subsection 1.2004(1)(b) of this Code, may be punished upon plea or conviction by incarceration for not more than 90 days or by a fine of not more than $500.00, or both, plus costs. **Amended for immediate effect on 11/19/01.**

1.2003a Aggravated assault and battery; violation; penalty

(1) A person who commits a battery or an assault and battery, as defined by subsection 1.2004(1)(b) of this Code and who inflicts a serious or aggravated injury upon a victim, as defined in subsection 1.2004(1)(h) of this Code, may be punished upon plea or conviction by incarceration for not more than 1 year, or by a fine of not more than $5,000.00, or both, plus costs.

(2) If a weapon, as that term is defined in subsection 1.2004(1)(i) of this Code, is used in the commission of the above described offense(s), the perpetrator shall be punished upon plea or conviction by incarceration for not less than 120 days nor more than 1 year, or by a fine of not more than $5,000.00, or both, plus costs. It shall not be a defense that the perpetrator has or had a permit to carry a concealed weapon. **Amended for immediate effect on 11/19/01.**

1.2003b Attempts to commit crime

Unless otherwise provided by applicable law, a person who attempts to commit a crime under this Code, as evidenced by the doing of any act directed toward the commission of a crime, but who fails to complete the crime, may be incarcerated upon plea or conviction by no more than half the potential maximum or minimum sentence which could have been imposed had the crime been completed and may be fined for not more than half of the potential minimum or maximum fine which could have been imposed, or both, plus costs. **Amended for immediate effect on 11/19/01.**

1.2004 Domestic violence

This section may also be cited as the “Hannahville Indian Community Domestic Violence Code,” or the “Domestic Violence Code.” References to “this Code” within this section refer to the Hannahville Indian Community Legal Code.

(1) Definitions. The following definitions shall apply.

(a) Assault: an offer or threat of physical injury to another by force unlawfully directed to the person of another under such circumstances as to create a reasonable fear of imminent battery with the apparent present ability to carry out the threat. An assault does not require actual touching or physical contact. Intoxication or being under the influence of mind-altering substances, does not in and of itself, constitute a defense to any crimes of assault.

(b) Battery: the intentional, non-accidental, unconsented to touching of another by a person or by some substance, object, or instrument put in motion by a person. A battery also includes, without limitation, pushing, punching, scratching, shoving, spitting, striking, urinating on, or otherwise touching a person, whether or not emotional or physical injury results from the contact. The crime of battery shall also be known as the crime of assault and battery. Intoxication or being under the influence of mind altering substances does not, in and of itself, constitute a defense to any crimes of assault and battery or other personal injury crimes.

(c) Dating Relationship: frequent, intimate associations primarily characterized by the expectation of affectional involvement. Whether or not a dating relationship exists is a question of law for judicial decision. The term does not include a casual relationship or an ordinary association between two individuals in a business or social context. Factors to be considered in finding a dating relationship shall be:

[1] The length of the relationship.

[2] The type of relationship.

[3] The frequency of interaction between the parties.

[4] The current status of the relationship including, without limitation, whether or not the relationship has been terminated by either of the parties and the length of time since the termination of the relationship.

(d) Domestic Assault and/or Domestic Assault and Battery: as appropriate, an assault and/or assault and battery or other personal injury crime which is perpetrated on a victim and with whom the perpetrator has, or has had one or more of the following relationship(s):

[1] Spouse or intimate partner.

[2] Has, or has had, a child in common, including an adopted child.

[3] Is a resident, or former resident, of his or her household.

[4] Has, or has had, a dating relationship.

(e) Domestic Relationship: the relationship between any two persons in which they have or have had the following relationships:

[1] Spouse or intimate partner.

[2] A child in common, including an adopted child.

[3] Cohabitant or resident of a household.

[4] A dating relationship.

(f) Personal Protection Order: for purposes of this section, an order of the court of any jurisdiction, which may be ex-parte, issued upon reasonable cause, restraining the associations, contact or conduct of a person or persons who have a domestic relationship to the person or persons to be protected by the order. Personal Protection Orders may be granted in appropriate circumstances under other provisions of this jurisdiction's civil and criminal codes or under the law of any other jurisdiction without the requirement of a domestic or intimate relationship.

(g) Spouse or intimate partner: includes, as appropriate, all of the following:

[1] A spouse or former spouse of a victim or person to be protected by a personal protection order.

[2] A person who shares a child in common with the victim or person to be protected by a personal protection order.

[3] A person who has, or had, a dating relationship with the victim or person to be protected by a personal protection order.

[4] A person who cohabits, or has cohabited, or is residing, or has resided, in the same household as the victim or person to be protected by a personal protection order.

(h) Serious or Aggravated Injury: a physical injury, not necessarily permanent, which requires immediate medical attention or which causes disfigurement, impairment of health, or impairment of a part of a body, organ, limb, or function.

(i) Weapon: 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, including automobiles and human body parts such as the head, hands, or feet. Where charges are brought under any subsection of this section or under any section of this Code, involving a weapon it shall not be a

defense that the perpetrator has or had a permit to carry a concealed weapon.

(2) Domestic Assault; assault, assault and battery; multiple and habitual offenses; penalties.

(a) Except as provided in subsection (b) and (c) of this subsection, a person who commits a domestic assault and/or a domestic assault and battery may be punished upon plea or conviction by incarceration for not more than 90 days and/or a fine of not more than $500.00, plus costs.

[1] If, upon plea or conviction of a first offense under this section the court orders that a period of incarceration shall be suspended or no period of incarceration is ordered, then an order of probation shall require the defendant to participate in the following mandatory programs:

[a] Batterers' intervention program.

[b] Mental health services as assessed, including sexual offenders' treatment if criminal sexual conduct was involved in the incident.

[c] Substance abuse counseling programs as assessed, if alcohol or controlled substances were involved in the occurrence or incident.

[d] Participation in an effects on children program if any children reside in the home at the time of the occurrence or incident.

[e] After an opportunity to be heard and in consultation with the Victims of Crime office, a domestic violence personal protection order shall be entered, if desired by the victim.

(b) Enhancement, 2 or more previous pleas or convictions. A person who commits a domestic assault and/or domestic assault and battery who has 2 or more previous pleas or convictions for domestic assault and/or domestic assault and battery or other personal injury crimes under any Code of the Hannahville Indian Community shall be punished upon plea or conviction by incarceration for not less than 30 days, nor more than 180 days, and by a fine of not less than $500.00, but not more than $750.00, plus costs.

(c) Enhancement, 4 or more previous pleas or convictions. A person who commits a domestic assault and/or domestic assault and battery who has 4 or more previous pleas or convictions for domestic assault and/or domestic assault and battery or other personal injury crimes under any Code of the Hannahville Indian Community shall be punished upon plea or conviction by incarceration for not less than 90 days, nor more than 270 days, and by a fine of not less than $750.00, but not more than $900.00, plus costs.

(3) Aggravated Domestic Battery and/or Aggravated Domestic Assault and Battery;

without weapon.

(a) Except as provided in subsections (b) and (c) of this subsection, a person who commits a domestic battery and/or a domestic assault and battery without a weapon and inflicts serious or aggravated injury upon a victim but without intending to commit murder, may be punished upon plea or conviction by incarceration for not less than 180 days, and not more than 1 year, and by a fine of not more than $1,000.00, plus costs.

[1] An order of probation shall require the defendant to participate in the following mandatory programs:

[a] Batterers' intervention program.

[b] Mental health services as assessed, including sexual offenders' treatment if criminal sexual conduct was involved in the incident.

[c] Substance abuse counseling programs as assessed, if alcohol or controlled substances were involved in the occurrence or incident.

[d] Participation in an effects on children program if any children reside in the home at the time of the occurrence or incident.

[e] After an opportunity to be heard and in consultation with the Victims of Crime office, a domestic violence personal protection order shall be entered, if desired by the victim.

(b) Enhancement, 1 or more previous pleas or convictions. A person who commits an aggravated domestic battery and/or aggravated domestic assault and battery without a weapon, in violation of subsection (a) of this subsection, and who has 1 or more previous pleas or convictions for domestic assault and/or domestic assault and battery or other personal injury crimes under any Code of the Hannahville Indian Community shall be punished upon plea or conviction by incarceration for not less than 210 days, nor more than 1 year, and by a fine of not more than $1,500.00, plus costs.

(c) Enhancement, 2 or more previous pleas or convictions. A person who commits an aggravated domestic battery and/or aggravated domestic assault and battery without a weapon, in violation of subsection (3)(a) of this section, and who has 2 or more previous pleas or convictions for domestic assault and/or domestic assault and battery or other personal injury crime under any Code of the Hannahville Indian Community shall be punished upon plea or conviction by incarceration for not less than 270 days, nor more than 1 year, and by a fine of not less than $1,500.00, but not more than $5,000.00, plus costs.

(4) Aggravated Domestic Battery and/or Aggravated Domestic Assault and Battery; with

weapon.

(a) A person who commits a domestic assault and/or a domestic assault and battery with a weapon but without injury, or who inflicts an injury which is not serious or aggravated upon a victim, may be punished upon plea or conviction by incarceration for not less than 210 days, nor more than 1 year, and by a fine of not more than $1,500.00, plus costs.

[1] An order of probation shall require the defendant to participate in the following mandatory programs:

[a] Batterers' intervention program.

[b] Mental health services as assessed, including sexual offenders' treatment if criminal sexual conduct was involved in the incident.

[c] Substance abuse counseling programs as assessed, if alcohol or controlled substances were involved in the occurrence or incident.

[d] Participation in an effects on children program if any children reside in the home at the time of the occurrence or incident.

[e] After an opportunity to be heard and in consultation with the victim of crime office, a domestic violence personal protection order shall be entered, if desired by the victim.

[f] The court may also restrict possession and use of firearms for any period of time which seems appropriate to the court.

(b) Except as provided in subsection (d) of this subsection, a person who commits a domestic assault and/or a domestic assault and battery with a weapon and inflicts serious or aggravated injury upon a victim shall be punished upon plea or conviction by incarceration for not less than 270 days, nor more than 1 year, and by a fine of not less than $500.00, nor more than $2,500.00, plus costs.

(c) Enhancement, 1 or more previous pleas or convictions. A person who commits an aggravated domestic assault and/or aggravated domestic assault and battery with a weapon in violation of subsection (a) of this subsection and who has 1 or more previous pleas or convictions for domestic assault and/or domestic assault and battery or other personal injury crime under any Code of the Hannahville Indian Community shall be punished upon plea or conviction by incarceration for not less than 240 days, nor more than 1 year, and by a fine of not less than $1,500.00, nor more than $5,000.00, plus costs.

(d) Enhancement, 1 or more previous pleas or convictions. A person who commits an aggravated domestic battery and/or aggravated domestic assault and battery with a

weapon, in violation of subsection (b) of this subsection, and who has 1 or more previous pleas or convictions for domestic assault and/or domestic assault and battery or other personal injury crime under any Code of the Hannahville Indian Community may be charged as a habitual offender under this subsection and shall be punished upon plea or conviction by incarceration for not less than 300 days, nor more than 1 year, and by a fine of not less than $3,000.00, nor more than $5,000.00, plus costs.

(5) Enhanced Sentences, procedures. The following procedures apply in any case in which the prosecuting official seeks an enhanced sentence under this section of the Hannahville Indian Community Criminal Code. A previous plea or conviction under the law of another jurisdiction which substantially corresponds to a statute of this jurisdiction may be relied upon for purposes of enhancement under this section.

(a) The charging document or amended charging document shall include a notice that the prosecuting official intends to seek an enhanced sentence, citing the appropriate subsection(s) of this section and listing the prior convictions which will be relied upon for that purpose. The notice shall be separate and distinct from the language charging the current offense and shall not be read or otherwise disclosed to the jury if the case is tried to a jury.

(b) The defendant's prior conviction or convictions shall be established at, or prior to sentencing. The existence of a prior conviction and the factual circumstances establishing any relationship between the defendant and the victim of the prior domestic assault and/or domestic assault and battery may be established by any evidence that is relevant for that purpose, including, but not limited to one or more of the following:

[1] A copy of the judgment of plea or conviction.

[2] A transcript of a prior trial, plea-taking, or sentencing proceeding.

[3] Information contained in a pre-sentence report.

[4] A statement by the defendant.

[5] Other reliable testimony or evidence.

(c) The defendant or his or her attorney shall be given the opportunity to deny, explain or refute any evidence or information relating to the defendant's prior plea or convictions before sentence is imposed and shall be permitted to present relevant evidence for that purpose unless the court determines and states upon the record that the challenged evidence or information will not be considered as a basis for imposing an enhanced sentence.

(d) Prior Convictions; basis for enhancement. A prior conviction may be considered as

a basis for imposing an enhanced sentence under sections: 1.2001 through 1.2005 (relating to abduction, assaults & batteries, aggravated assault & battery, domestic assaults & batteries, and stalking, including attempts to commit these enumerated crimes); 1.2030, (relating to indecent liberties with a child); 1.2044, (resisting lawful arrest); 1.2048, (relating to threats and intimidation of public officials); 1.2051, (relating to violence to law enforcement officers and court officials); 1.2080, (relating to molesting & disturbing persons in pursuit of occupation); and 1.2082 through 1.2087, (relating to murder, mayhem, rape and robbery,); and including any attempts to violate these sections of this Code, and also including any amendments which may be made to these sections of this Code from time to time, if the court finds by a preponderance of the evidence that the prior conviction(s) exist.

(6) Intrastate/Tribal Domestic Violence.

(a) Crossing Tribal/State Line. A person who travels across a tribal/state jurisdictional line or who enters or leaves Indian country with the intent to assault, batter, injure, harass, or intimidate a person with whom he or she has a domestic relationship as defined in this Code, and who, in the course of or as a result of such travel, commits a personal injury crime or other crime of violence on such person, with or without injury, may be punished upon plea or conviction as provided by subsection (c) of this subsection.

(b) Causing the crossing of Tribal/State Line. A person who causes a person with whom that person has a domestic relationship as defined in this section, to cross a tribal/state jurisdictional line or to enter or leave Indian country by force, fraud, coercion, or duress and, in the course of or as the result of that conduct, commits a personal injury or other crime of violence on such person, and with or without injury, may be punished upon plea or conviction as provided by subsection (c) of this subsection.

(c) Penalties. A person who violates subsection (a) or (b) of this subsection may be incarcerated for up to 1 year and may be fined by not more $5,000.00, plus costs.

(7) Personal Protection Orders; terms; reasonable cause; exceptions; application of section; entry into law enforcement information network.

(a) Petition or Motion. A person may petition the court in an independent action to obtain relief under this section or may obtain a personal protection order by motion or petition in an already existing action between the parties in order to restrain or enjoin a person with whom the petitioner has a domestic or intimate relationship.

(b) Scope. A personal protection order may restrain a person with whom the petitioner has a domestic or intimate relationship from doing 1 or more of the following:

[1] Entering onto premises.

[2] Assaulting, attacking, beating, molesting, or wounding a named individual.

[3] Threatening to kill or physically injure a named individual.

[4] Removing minor children from the individual having legal custody of the children, except as otherwise authorized by a custody or parenting time order issued by a court of competent jurisdiction.

[5] Purchasing or possessing a firearm.

[6] Interfering with petitioner's efforts to remove petitioner's children or personal property from premises that are solely owned or leased by the individual to be restrained.

[7] Interfering with petitioner at petitioner's place of employment or education or engaging in conduct that impairs petitioner's employment or educational relationship or environment.

[8] Having access to information in records concerning a minor child of both petitioner and respondent that will inform respondent about the address or telephone number of petitioner and petitioner's minor child or about petitioner's employment address.

[9] Engaging in conduct that is prohibited under section 1.2005 (relating to stalking) of this Code.

[10] Any other specific act or conduct that imposes upon or interferes with personal liberty or that causes a reasonable apprehension of violence.

(c) If the respondent is a person who is issued a license to carry a concealed weapon and is required to carry a weapon as a condition of his or her employment, or is a certified law enforcement officer of this community, the petitioner shall notify the court of the respondent's occupation prior to the issuance of the personal protection order. This subsection does not apply to a petitioner who does not know the respondent's occupation.

(d) A petitioner may omit his or her residence address from documents filed with the court under this section. If petitioner omits his or her residence address, the petitioner shall provide the court with a mailing address.

(e) The court shall issue a personal protection order under this section if the court determines that there is reasonable cause to believe that the individual to be restrained or enjoined may commit 1 or more of the acts listed in subsection (7)(b) of this section. In determining whether reasonable cause exists, the court shall consider all of the following:

[1] Testimony, documents, or other evidence offered in support of the request for a personal protection order.

[2] Whether the individual to be restrained or enjoined has previously committed or threatened to commit 1 or more of the acts listed in subsection (7)(b) of this section.

(f) A court shall not issue a personal protection order that restrains or enjoins conduct described in subsection (b)[1] of this subsection if all of the following apply:

[1] The individual to be restrained or enjoined is not the spouse or intimate partner of the moving party.

[2] The individual to be restrained or enjoined or the parent, guardian, or custodian of the minor to be restrained or enjoined has a property interest in the premises.

[3] The moving party or the parent, guardian or custodian of a minor petitioner has no property interest in the premises.

(g) A court shall not refuse to issue a personal protection order due solely to the absence of any of the following:

[1] A police report.

[2] A medical report.

[3] Physical signs of abuse or violence.

(h) If the court refuses to grant a personal protection order, it shall state immediately in writing the specific reasons it refused to issue a personal protection order. If a hearing is held the court shall also immediately state on the record the specific reasons it refuses to issue a personal protection order.

(i) A personal protection order shall not be made mutual. Correlative separate personal protection orders are prohibited unless both parties have properly petitioned the court pursuant to subsection (a) of this subsection.

(j) A personal protection order is immediately effective when signed by the judge.

(k) Tribal law enforcement shall be responsible for entering the personal protection order into the law enforcement information network.

(l) A personal protection order shall include all of the following, and to the extent practicable, the following shall be contained in a single form:

[1] A statement that the personal protection order has been entered to restrain or enjoin conduct listed in the order and that violation of the personal protection order will subject the individual restrained or enjoined to either of the following:

[a] If the respondent is 17 years of age or more, immediate arrest and the civil and criminal contempt powers of the court. If he or she is found guilty of criminal contempt, he or she shall be incarcerated for not more than 1 year, and may be fined not more than $5,000.00, plus costs.

[b] If the respondent is less than 17 years of age, immediate apprehension of being taken into custody, and subject to the dispositional alternatives available which applies to juveniles under tribal law.

[2] A statement that the personal protection order is effective and immediately enforceable when signed by a judge.

[3] A statement listing the type or types of conduct enjoined.

[4] An expiration date stated clearly on the face of the order.

[5] A statement that the personal protection order is enforceable anywhere in the United States by any law enforcement agency.

[6] The law enforcement agency designated by the court to enter the personal protection order into the law enforcement information network.

[7] For ex parte orders, a statement that the individual restrained or enjoined may file a motion to modify or rescind the personal protection order and request a hearing within 14 days after the individual restrained or enjoined has been served or has received actual notice of the order and that motion forms and filing instructions are available from the magistrate or other authorized court official.

[8] In any event, a preliminary hearing shall be scheduled at the next available court date, or within a reasonable time, and the date of the hearing shall appear on the face of the personal protection order.

[a] If the petitioner does not appear at the preliminary hearing and is not otherwise represented, the court shall make reasonable inquiry into his or her circumstances and shall dismiss only if satisfied that there is not a sufficient basis to continue the order. The reasons for dismissal shall be stated on the record. If the order is continued, one further hearing shall be scheduled.

[b] If both petitioner and respondent fail to appear at the preliminary hearing and are not otherwise represented, the order will continue and the court shall schedule one further hearing. If both parties again fail to appear the order will be dismissed.

[c] If respondent fails to appear at the preliminary hearing and is not otherwise represented, the order will continue according to its terms.

(m) An ex parte personal protection order shall be issued and effective without written or oral notice to the individual restrained or enjoined or his or her attorney if it clearly appears from specific facts shown by verified complaint, written motion, or affidavit that immediate and irreparable injury, loss, or damage will result from the delay required to effectuate notice or that the notice will itself precipitate adverse action before a personal protection order can be issued.

(n) A personal protection order issued under subsection (m) is valid for not less than 182 days. The individual restrained or enjoined may file a motion to modify or rescind the personal protection order and request a hearing. The motion to modify or rescind the personal protection order shall be filed within 14 days after the order is served or after the individual restrained or enjoined has received actual notice of the personal protection order unless good cause is shown for filing the motion after the 14 days have elapsed.

(o) Except as otherwise provided in this subsection, the court shall schedule a hearing on the motion to modify or rescind the ex parte personal protection order within 14 days or within a reasonable time after the filing of the motion to modify or rescind. If the respondent is a person described in subsection (7)(c) and the personal protection order prohibits him or her from purchasing or possessing a firearm, the court shall schedule a hearing on the motion to modify or rescind the ex-parte personal protection order within 5 days after the filing of the motion to modify or rescind.

(p) The magistrate or other authorized court official that issues the personal protection order shall do all of the following immediately upon issuance and without requiring a proof of service on the individual restrained or enjoined:

[1] File a true copy of the personal protection order with tribal law enforcement.

[2] Provide the petitioner with not less than 2 true copies of the personal protection order.

[3] If respondent is identified in the pleadings as a law enforcement officer, notify the officer's employing law enforcement agency, if known, about the existence of the personal protection order.

[4] If the personal protection order prohibits respondent from purchasing or possessing a firearm, notify the concealed weapon licensing board in respondent's county of residence about the existence and contents of the personal protection order.

[5] If the respondent is identified in the pleadings as a department of corrections employee, notify the state department of corrections about the existence of the personal protection order.

[6] If the respondent is identified in the pleadings as being a person who may have access to information concerning the petitioner or a child of the petitioner or respondent and that information is contained in friend of the court records, notify the friend of the court for the county in which the information is located about the existence of the personal protection order.

(q) The magistrate or other authorized court official shall inform the petitioner that he or she may take a true copy of the personal protection order to tribal law enforcement or to any local law enforcement agency to be immediately entered into the law enforcement information network.

(r) Tribal law enforcement shall immediately and without requiring proof of service enter the personal protection order into the law enforcement information network as provided by the Michigan L.E.I.N. Policy Council Act of 1974, 1974 PA 163, MCL 28.211 to 28.216.

(s) PPO; Method of Service; Notice. A personal protection order issued under this section shall be served personally or by registered or certified mail, return receipt requested, delivery restricted to the addressee at the last known address or addresses of the individual restrained or enjoined or by any other manner, as directed by the court. If the individual restrained or enjoined has not been served, a law enforcement officer or authorized court official who knows that a personal protection order exists may, at any time, serve the individual restrained or enjoined with a true copy of the order or advise the individual restrained or enjoined about the existence of the personal protection order, the specific conduct enjoined, the penalties for violating the order, and where the individual restrained or enjoined may obtain a copy of the order. If the respondent is less than 18 years of age, the parent, guardian, or custodian of that individual shall also be served personally or by registered or certified mail, return receipt requested, delivery restricted to the addressee at the last known address or addresses of the parent, guardian, or custodian of the individual restrained or enjoined. A proof of service or proof of oral notice shall be filed with the court. This subsection does not prohibit the immediate effectiveness of a personal protection order or its immediate enforcement under subsections (v) and (w) of this subsection.

(t) The authorized court official shall immediately notify tribal law enforcement if either of the following occurs:

[1] The court has received proof that the individual restrained or enjoined has been served.

[2] The personal protection order is rescinded, modified, or extended by court order.

(u) The law enforcement agency that receives information under subsection (t) shall enter the information or cause the information to be entered into the law enforcement information network.

(v) Subject to subsection (w), a personal protection order is immediately enforceable anywhere by any law enforcement agency that has received a true copy of the order, is shown a copy of it, or has verified its existence on the law enforcement information network as provided by the Michigan L.E.I.N. Policy Council Act of 1974, 1974 PA163, MCL 28.211 to 28.216, and by tribal and federal law.

(w) If the individual restrained or enjoined has not been served, the law enforcement agency or officer responding to a call alleging a violation of a personal protection order shall serve the individual restrained or enjoined with a true copy of the order or advise the individual restrained or enjoined about the existence of the personal protection order, the specific conduct enjoined, the penalties for violating the order, and where the individual restrained or enjoined may obtain a copy of the order. The law enforcement officer shall enforce the personal protection order and immediately enter or cause to be entered into the law enforcement information network that the individual restrained or enjoined has actual notice of the personal protection order. The law enforcement officer also shall file a proof of service or proof of oral notice with the court. If the individual restrained or enjoined has not received notice of the personal protection order, the individual restrained or enjoined shall be given an opportunity to comply with the personal protection order before the law enforcement officer makes a custodial arrest for violation of the personal protection order. The failure to immediately comply with the personal protection order shall be grounds for an immediate custodial arrest. This subsection does not preclude an arrest under other sections of the Hannahville Indian Community Civil or Criminal Codes.

(x) Violation of Domestic PPO; penalty. An individual who is 17 years of age or more and who refuses or fails to comply with a personal protection order under this section is subject to the criminal contempt powers of the court and, if found guilty, shall be incarcerated for not more than 1 year and may be fined not more than $5,000.00. The criminal penalty provided for under this section may be imposed in addition to any penalty that may be imposed for another criminal offense arising from the same conduct. An individual who is less than 17 years of age and who refuses or fails to comply with a personal protection order issued under this section is subject to the dispositional alternatives available to the court in regard to

juveniles. This subsection shall not be interpreted to prohibit a civil action brought by a victim for recovery of damages suffered under the civil law of the Community.

(y) An individual who knowingly and intentionally makes a false statement to the court in support of his or her petition for a personal protection order is subject to the contempt powers of the court.

(z) A personal protection order issued under this section is also enforceable under any other provision of the Hannahville Indian Community Civil and Criminal Codes.

(aa) A court shall not issue a personal protection order that restrains or enjoins conduct described in subsection (7)(b) of this section if either of the following applies:

[1] The respondent is the unemancipated minor child of the petitioner.

[2] The petitioner is the unemancipated minor child of the respondent.

(8) Preservation of Inherent Authority; Nondomestic Personal Protection Orders. The provisions of this chapter shall not be interpreted to limit the inherent jurisdiction of the court to issue restraining, injunctions, or personal protection orders in nondomestic situations. **Adopted for immediate effect on 07/16/01.Amended and given immediate effect on 11/19/01.**

1.2005 Stalking

This section may also be cited as the "Hannahville Indian Community Stalking Code," or the "Stalking Code." References to "this Code" within this section refer to the Hannahville Indian Community Legal Code.

(1) Definitions. As used in this chapter:

(a) Stalking: a willful course of conduct involving repeated or continuing harassment of another individual that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed, or molested and that actually causes the victim to feel terrorized, frightened, intimidated, threatened, harassed, or molested. If a weapon is involved, it shall not be a defense that the perpetrator has or had a permit to carry a concealed weapon.

(b) Aggravated Stalking: stalking which involves any of the circumstances enumerated below. If a weapon is involved, it shall not be a defense that the perpetrator has or had a permit to carry a concealed weapon.

[1] At least 1 of the actions constituting the offense is in violation of a personal protection or restraining order, and the individual has received notice of that personal protection or restraining order or at least 1 of the actions is in violation of an injunction or preliminary injunction. The protection order or injunction may have been issued by any jurisdiction within the United States.

[2] At least 1 of the actions constituting the offense is in violation of a condition of probation, a condition of parole, a condition of pretrial release, or a condition of release on bond pending appeal. The conditions may have been imposed under the law of any jurisdiction within the United States.

[3] The course of conduct includes the making of 1 or more credible threats against the victim, a member of the victim's family, or another individual living in the same household as the victim.

[4] The individual has previously entered a plea or has been convicted of a violation of any subsection of this section.

(c) Course of conduct: a pattern of conduct involving a series of 2 or more separate non-continuous acts evidencing a continuity of purpose.

(d) Credible threat: a threat to kill another individual or a threat to inflict physical injury upon another individual that is made in any manner or in any context that causes the individual hearing or receiving the threat to reasonably fear for his or her safety or the safety of another individual.

(e) Emotional distress: significant mental suffering or distress that may, but does not necessarily, require medical or other professional treatment or counseling.

(f) Harassment: conduct directed toward a victim that includes, but is not limited to, repeated or continuing unconsented contacts that would cause a reasonable individual to suffer emotional distress and that actually causes the victim to suffer emotional distress. Harassment does not include constitutionally protected activity or conduct that serves a legitimate purpose.

(g) Stalking Personal Protection Order: an injunctive order issued by a court of any jurisdiction enjoining conduct prohibited under this section or under the law of another jurisdiction substantially similar the conduct which is prohibited under this section.

(h) Unconsented Contact: any contact with another individual that is initiated or continued without that individual's consent or in disregard of that individual's expressed desire that the contact be avoided or discontinued. Unconsented contact includes, but is not limited to, any of the following:

[1] Following or appearing within the sight of that individual.

[2] Approaching or confronting that individual in a public place or on private property.

[3] Appearing at that individual's workplace or residence.

[4] Entering onto or remaining on property owned, leased, or occupied by that individual.

[5] Contacting that individual by telephone.

[6] Sending mail or electronic communications to that individual.

[7] Placing an object on, or delivering an object to, property owned, leased, or occupied by that individual.

(i) Victim: an individual who is the target of a willful course of conduct involving repeated or continuing harassment and/or credible threats.

(j) Weapon: 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, including automobiles and human body parts such as the head, hands, or feet. Where charges are brought under any subsection of this section or under any section of this Code involving a weapon, it shall not be a defense that the perpetrator has or had a permit to carry a concealed weapon.

(2) Stalking; violation; multiple and habitual offenses; penalties.

(a) An individual who engages in stalking is guilty of a crime, as follows:

[1] Stalking shall be punished by incarceration for not more than 90 days or by a fine of not more than $500.00, or both, plus costs.

[2] If the perpetrator is in possession of a weapon at the time of the conduct complained of, whether or not he or she has, or had a permit to carry a weapon, he or she shall be punished by incarceration for not less than 30 days, nor more than 90 days, and by a fine of not less than $250.00, nor more than $500.00, plus costs.

[3] Subject to the provisions of juvenile law, if the victim is less than 18 years of age at any time during the perpetrator's course of conduct and the perpetrator is 5 or more years older than the victim, stalking shall be punished by incarceration for not more than 1 year or by a fine of not more than $5,000.00, or both, plus costs. This subsection shall not be construed to prohibit the prosecution of a minor as an adult upon proper motion to the court.

[4] In addition to any other penalties which the court may impose, the court may place an individual convicted of violating this subsection on probation for a term of not more than 5 years. If a term of probation is ordered, the court may,

in addition to any other lawful condition of probation, and without limitation, order the defendant to do any of the following:

[a] Refrain from stalking any individual during the term of probation.

[b] Refrain from having any contact with the victim of the offense.

[c] Be evaluated to determine the need for psychiatric, psychological, or social counseling and, if determined appropriate by the court, to receive psychiatric, psychological, or social counseling at his or her own expense.

[d] Surrender any weapons to which he or she may have legal access and to refrain from the use or possession of any weapons for any period of time the court finds just.

[5] In a prosecution for a violation of this subsection, evidence that the perpetrator continued to engage in a course of conduct involving repeated unconsented contacts with the victim after having been requested by the victim to discontinue the same or a different form of unconsented contact, and to refrain from any further unconsented contact with the victim, gives rise to a rebuttable presumption that the continuation of the course of conduct caused the victim to feel terrorized, frightened, intimidated, threatened, harassed, or molested.

[6] A criminal penalty provided for under this subsection may be imposed in addition to any penalty that may be imposed for any other criminal offense arising within the course of behaviors which constitute stalking as well as for any contempt of court arising from this same conduct, including, without limitation, violation of a personal protection order issued by any jurisdiction.

(b) Enhancement; 1 or more previous pleas or convictions. A person who commits the crime of stalking and who has 1 or more previous pleas or convictions for stalking and/or aggravated stalking or other personal injury crime, including, without limitation, crimes of domestic violence, under any section of the Hannahville Legal Code or the statutes of another jurisdiction substantially corresponding to any section of the Hannahville Legal Code, shall be punished upon plea or conviction by incarceration for not less than 30 days, nor more than 180 days, and by a fine of not less than $500.00, but not more than $750.00, plus costs.

(c) Enhancement, 2 or more previous pleas or convictions. A person who commits the crime of stalking and who has 2 or more previous pleas or convictions for stalking and/or aggravated stalking or other personal injury crime, including, without limitation, crimes of domestic violence, under any section of the Hannahville Legal Code or the statute of another jurisdiction substantially corresponding to any section of the Hannahville Legal Code, shall be punished upon plea or conviction by incarceration for not less than 90 days, nor more than 270 days, and by a fine of not less than $750.00, but not more than $900.00, plus costs.

(3) Aggravated Stalking; penalties; probation; rebuttable presumption.

(a) An individual who engages in aggravated stalking is punishable as follows:

[1] Aggravated stalking is punishable by incarceration for not more than 1 year and by a fine of not more than $5,000.00, plus costs.

[2] Use of a weapon. In any instant case where possession or use of a weapon is involved, the minimum period of incarceration which would otherwise be imposed, shall be increased by 30 days and the minimum fine which would otherwise be imposed may be increased by $250.00, plus costs.

[3] Subject to juvenile law, if the victim is less than 18 years of age at any time during the perpetrator's course of conduct and the perpetrator is 5 or more years older than the victim, aggravated stalking is punishable by incarceration for not less than 30 days nor more than 1year, or by a fine of not less than $300.00, nor more than $5000.00, or both, plus costs. This section shall not be construed to prohibit the prosecution of a minor as an adult upon proper motion to the court.

[4] In addition to any other penalties which the court may impose, the court may place an individual convicted of violating this subsection on probation for a term of not more than 5 years. If a term of probation is ordered, the court may, in addition to any other lawful condition of probation, and without limitation, order the defendant to comply with any of the provisions of subsections (2)(a)[4][a-d] of this section.

[5] In a prosecution for a violation of this subsection, evidence that the defendant continued to engage in a course of conduct involving repeated unconsented contacts with the victim after having been requested by the victim to discontinue the same or a different form of unconsented contact, and to refrain from any further unconsented contact with the victim, gives rise to a rebuttable presumption that the continuation of the course of conduct caused the victim to feel terrorized, frightened, intimidated, threatened, harassed, or molested.

[6] A criminal penalty provided for under this subsection may be imposed in addition to any penalty that may be imposed for any other criminal offense arising within the course of behaviors which constitute stalking as well as for any contempt of court arising from this same conduct, including, without limitation, violation of a personal protection order issued by any jurisdiction.

(b) Enhancement, 1 or more previous pleas or convictions. A person who commits an aggravated stalking in violation of this subsection and who has 1 or more previous pleas or convictions for stalking and/or aggravated stalking or other personal injury crime, including, without limitation, crimes of domestic violence, under any section

of the Hannahville Legal Code or under the statutes of another jurisdiction substantially corresponding to any section of the Hannahville Legal Code, shall be punished upon plea or conviction by incarceration for not less than 60 days, nor more than 1 year, and by a fine of not more than $5,000.00, plus costs.

(4) Prior Convictions; basis for enhancement. For purposes of enhancement under subsections (2)(b) and (c) and under subsection (3)(b) of this section, a prior conviction under the following sections of the Hannahville Indian Community Legal Code may be considered: 1.2001 through 1.2005 (relating to abduction, assaults & batteries, aggravated assault & battery, domestic assaults & batteries, and stalking, including attempts to commit these enumerated crimes); 1.2030, (relating to indecent liberties with a child); 1.2044, (resisting lawful arrest); 1.2048, (relating to threats and intimidation of public officials); 1.2051, (relating to violence to law enforcement officers and court officials); 1.2080, (relating to molesting & disturbing persons in pursuit of occupation); and 1.2082 through 1.2087, (relating to murder, mayhem, rape and robbery); and including any attempts to violate these sections of this Code, and also including any amendments which may be made to these sections of this Code from time to time, if the court finds by a preponderance of the evidence that the prior conviction(s) exist.

(5) Intrastate/Tribal Stalking.

(a) Crossing Tribal/State Line. A person who travels across a tribal/state jurisdictional line or who enters or leaves Indian country with the intent to injure, harass, terrorize, frighten, threaten, molest or intimidate another person, and who, in the course of or as a result of such travel, places that other person in reasonable fear of bodily injury or the death of that other person or a member of that person's immediate family, whether or not injury occurs, may be punished upon plea or conviction as provided by subsection (c) of this subsection.

(b) Causing the crossing of Tribal/State Line. A person who causes a person to cross a tribal/state jurisdictional line or to enter or leave Indian country by force, fraud, coercion, or duress and, in the course of or as the result of that conduct, places that other person in reasonable fear of bodily injury or the death of that other person or a member of that person's immediate family, whether or not injury occurs, may be punished upon plea or conviction as provided by subsection (c) of this subsection.

(c) Penalties. A person who violates subsection (a) or (b) of this subsection may be incarcerated for up to 1 year, and may be fined by not more $5,000.00, plus costs.

(6) Personal Protection Orders; terms; reasonable cause; exceptions; application of section; weapons; entry into law enforcement information network.

(a) With the exception of the required domestic relationship under section 1.2004 of this Code, the procedures for petition, issuance, service and enforcement of a personal protection order as set forth in subsection 1.2004(7) shall be applied under

this subsection. Relief shall not be granted under this section unless the petition alleges facts that constitute stalking as defined in subsections 1.2005(1)(a) or (b). Relief may be sought and granted under this subsection whether or not the individual to be restrained or enjoined has been charged or convicted under this section for the alleged violation. A protection order issued under this subsection may be combined with a protection order issued under any other section of the Hannahville Indian Community Legal Codes.

(7) Preservation of Inherent Authority; Nondomestic Personal Protection Orders. The provisions of this section shall not be interpreted to limit the inherent jurisdiction of the court to issue restraining, injunctions, or personal protection orders in other situations.

(8) Violation of Stalking Personal Protection Order. An individual who is 17 years of age or more and who refuses or fails to comply with a personal protection order under this section is subject to the criminal contempt powers of the court and, if found guilty, shall be incarcerated for not more than 1 year and may be fined not more than $5,000.00. The criminal penalty provided for under this section may be imposed in addition to any penalty that may be imposed for another criminal offense arising from the same conduct. An individual who is less than 17 years of age and who refuses or fails to comply with a personal protection order issued under this section is subject to the dispositional alternatives available to the court in regard to juveniles. This subsection shall not be interpreted to prohibit a civil action brought by a victim for recovery of damages suffered under the civil law of the Community. **Adopted for immediate effect on 11/19/01.**

1.2006 Sex trafficking; title; definitions; penalty

This section may also be cited as the "Hannahville Indian Community Sex Trafficking Code," or the "Sex Trafficking Code." References to "this Code" within this section refer to the Hannahville Indian Community Legal Code.

(1) Definitions. For the purposes of this section, the following definitions apply:

(a) Coercion means:

[1] Threatening to use force; or

[2] Abusing a position of power or another individual's position of vulnerability;

[3] Abusing or threatening to abuse the law or legal process;

[4] Controlling or threatening to control an individual's access to an intoxicating beverage, or controlled substance, or narcotic as defined in §1.2036(2)(a).

[5] Destroying, taking or threatening to destroy or take an individual's property;

[6] Inducing an individual to provide commercial sexual activity in payment toward a real or purported debt; or

[7] Exploiting an individual's physical or mental impairment when the impairment has a substantial adverse effect on the individual's cognitive or volitional function.

(b) Commercial sexual activity: means sexual activity for which anything of value is given to, promised to, or received by an individual.

(c) Force: includes, but is not limited to abduction, physical restraint or confinement, sexual or physical violence, or serious harm.

(d) Fraud: means intentional misrepresentation of a material existing fact made with knowledge of its falsity, including, but not limited to written or verbal statements about employment, wages, working conditions or other opportunities.

(e) Sexual activity: means sexual act or sexual contact as those terms are defined in §1.2024(2)(o).

(f) Venture: means any group of two or more individuals associated in business, whether or not a legal entity.

(g) Victim of sex trafficking: means an individual who is called upon to provide commercial sexual activity under §§ (2) or (4) of this section.

(2) A person is guilty of sex trafficking if the person intentionally or knowingly:

(a) Entices, coerces, recruits, transports, harbors, isolates, provides, obtains, maintains, facilitates, directs, or arranges for an individual to provide commercial sexual activity;

(b) Offers or agrees to compensate an individual for sexual activity; or

(c) Benefits financially or by receiving anything of value from participation, other than as a victim of sex trafficking, in a venture, knowing that the venture has engaged or will engage in sex trafficking.

(3) Upon plea or conviction, sex trafficking shall be punishable by incarceration for not more than 270 days, or a fine of not more than $3,000, or both, plus costs.

(4) A person is guilty of sex trafficking a minor when they are knowingly involved in the recruitment, harboring, transportation, provision, or obtaining of a person for the purposes of a commercial sexual activity, in which the sexual activity is induced by force, fraud, or coercion, or in which the person induced to perform such an act has not attained 18 years of age. Upon plea or conviction, sex trafficking a minor shall be punishable by incarceration for not more than one year, or a fine of not more than

$5,000, or both, plus costs. **Enacted by the Hannahville Indian Community Tribal Council for immediate effect on 09/09/2019.**

1.2007 Bigamy

Any person who, being married to another, marries another person, is guilty of bigamy and upon conviction thereof, shall be sentenced to imprisonment of a period of not more than 90 days, or to a fine of not less than $100.00 or more than $500.00, or to both such fine and imprisonment, with costs.

1.2008 Bribery

Any person who shall give or offer to give any money, property or services, or anything else of value to another person with corrupt intent to influence another in the discharge of his public duties or conduct and any person who shall accept, solicit or attempt to solicit any bribe as above defined, shall be deemed guilty of an offense and upon conviction thereof, shall be sentenced to imprisonment for a period not to exceed 180 days, or to a fine not to exceed $500.00 dollars, or to both such imprisonment and fine, with costs, and any Tribal Office held by such person shall be forfeited.

1.2009 Reserved.

1.2010 Conspiracy or solicitation to commit offense or to defraud the Hannahville Indian Community

If two or more persons conspire, either to commit any offense, enumerated in this Code, against the Hannahville Indian Community or any of its members, or to defraud the Hannahville Indian Community or any branch thereof in any manner or for any purpose, and one or more of such persons do any act to effect the object of the conspiracy, each shall, upon conviction, be fined not more than $300.00, or sentenced to imprisonment for a period not to exceed 90 days, or both, with costs.

1.2011 Contributing to the delinquency of a juvenile

Any person who shall willfully contribute to the delinquency of any juvenile whether or not the juvenile comes under the jurisdiction of the juvenile court shall be deemed guilty of an offense and upon conviction thereof shall be sentenced to imprisonment for a period not to exceed 180 days or to a fine not to exceed $500.00, or to both such imprisonment and fine, with costs. Any person under the age of 18 years shall be deemed to be a juvenile.

1.2012 Communicable disease

The Hannahville Indian Community Court shall have authority to order and compel the medical examination and treatment of any person within its jurisdiction who, for good cause shown in open court, is suspected to be afflicted with any communicable disease.

1.2012a Knowledge of AIDS or HIV infection; or other sexually transmitted disease, sexual penetration; definition

(1) A person who knows that he or she has or has been diagnosed as having acquired immunodeficiency syndrome or acquired immunodeficiency syndrome related complex, or who knows that he or she is HIV infected, or other sexually transmitted disease, and who engages in sexual penetration with another person without having first informed the other person that he or she has acquired immunodeficiency syndrome or acquired immunodeficiency syndrome related complex or is HIV infected or other sexually transmitted disease, is guilty of an offense and shall be punished by not more than 1 year in jail nor less than 6 months and fines and costs not to exceed $5,000.00.

(2) As used in this section, "sexual penetration" means 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.

1.2013 Police Dog; definitions; violations; penalties

(1) Police Dog; definition: a dog used by a law enforcement agency that is trained for law enforcement and is subject to the control of a dog handler. As used in this code, “police dog” refers to all police dogs owned and/or utilized by the Hannahville Police department in any law enforcement action within the jurisdictional boundaries of the Hannahville Tribal Court, including any police dog owned by a local, state or federal law enforcement agency whenever such dog is utilized in the Hannahville Indian Community on loan, or in a joint or cooperative action with, the Hannahville Police Department. A police dog, while lawfully performing its duties, shall be deemed to be a law enforcement officer.

(2) Dog handler; definition: a law enforcement officer of any law enforcement agency, including the Hannahville Police Department and any local, state or federal law enforcement agency, who has successfully completed training in the handling of a police dog pursuant to a policy of the law enforcement agency that employs that law enforcement officer.

(3) Physical harm; definition: any injury to a police dog’s physical condition.

(4) Serious physical harm; definition: any injury to a police dog’s physical condition or welfare that is not necessarily permanent but that constitutes substantial body disfigurement or that seriously impairs the function of a body organ or limb.

(5) Harassment; threats; intimidation; interference; obstruction; violations. A person shall not (a) intentionally harass, threaten, intimidate, interfere with, or obstruct a police dog while lawfully performing its duties, or (b) intentionally harass, threaten, intimidate, interfere with, or obstruct a police dog to prevent the lawful performance of its duties in the future, or (c) intentionally cause another person to harass, threaten, intimidate,

interfere with, or obstruct a police dog while performing its duties, or (d) intentionally cause another person to harass, threaten, intimidate, interfere with, or obstruct a police dog to prevent the lawful performance of its duties in the future.

(6) Harassment; threats; intimidation; interference; obstruction; penalties. Any person who violates any provision of subsection (5) above shall be guilty of harassing, threatening, intimidating, interfering with, or obstructing a police dog and, upon conviction thereof, shall be sentenced to imprisonment for a period not to exceed 60 days, or to a fine not to exceed $150.00, or to both such imprisonment and fine, with costs.

(7) Intentional physical harm; violations. A person shall not (a) intentionally by his own action cause physical harm to a police dog or (b) intentionally cause another person to physically harm a police dog.

(8) Intentional physical harm; penalties. Any person who violates either provision of paragraph (7) shall be guilty of assault and battery on a police dog and, upon conviction thereof, shall be sentenced to imprisonment for a period not to exceed 90 days, or to a fine not to exceed $500.00, or to both such imprisonment and fine, with costs.

(9) Intentional serious physical harm; violations. A person shall not (a) intentionally by his own action cause serious physical harm to a police dog or (b) intentionally cause another to cause serious physical harm to police dog.

(10) Intentional serious physical harm; penalties. Any person who violates either provision of subsection (9) shall be guilty of aggravated assault and battery on a police dog and, upon conviction thereof, shall be sentenced to imprisonment for not less than 90 days and not more than 1 year, or to a fine not to exceed $750.00, or to both such imprisonment and fine, with costs.

(11) Intentional death; violation. A person shall not (a) intentionally by his own action cause the death of a police dog or (b) intentionally cause another person to cause the death of a police dog.

(12) Intentional death; penalties. Any person who violates any provision of subsection (11) above shall be guilty of intentionally causing the death of a police dog and, upon conviction thereof, shall be sentenced to imprisonment for not less than 180 days and not more than 1 year, or to a fine not to exceed $1,000.00, or to both such imprisonment and fine, with costs.

(13) Violations and penalties are not exclusive. This code section does not prohibit an individual from being charged with, convicted of, or punished for, any other violations of the Hannahville Legal Code committed by that individual while violating any provision of this section. **Enacted for immediate effect 07/16/01**

1.2014 Curfew

Any person under the jurisdiction of the Hannahville Indian Community Tribal Court, who has not yet reached his or her 14th birthday, shall be in his or her regular place of abode not later than 10:00 p.m. in the evening; and any person between the ages of 14 and 18 shall be in his or her regular place of abode not later than 10:00 p.m. each night preceding a regular school day and 12 midnight any other night unless such person is accompanied by his or her parent or legal guardian. Any such person who knowingly and willfully fails to comply with this section and is found in violation thereof, shall be subject to proceedings pursuant to the juvenile provisions of this Code. Any parent, parents, guardian or guardians who allow, or who fail to require minors to obey this section, and such minor is not 18 years of age shall be guilty of the offense of Contributing to the Delinquency of a Minor, and in addition thereto shall be liable for all damages resulting to property by reason of acts and vandalism committed by any such child. When children violate this section, they are guilty of a Status Offense.

1.2015 Cutting timber without permit

Any person who, without first securing a proper permit, cuts any standing timber from Tribal lands, except for the personal use of a member, shall be termed guilty of an offense and upon conviction thereof, shall be sentenced to imprisonment for a period not to exceed 30 days or to a fine not to exceed $500.00, or to both such imprisonment and fine, with costs.

1.2015a Cutting boughs without permission

Persons cutting balsam, cedar, birch, pine, spruce or other firs without permission of the Tribal Council is guilty of an offense and shall be sentenced to imprisonment for a period not to exceed 30 or to a file not to exceed $500.00 dollars, or to both such imprisonment and fine, with costs per offense.

1.2016 Disobedience to lawful order of court

Any person who shall willfully disobey any order, subpoena, warrant or command duly issued, made or given by the Hannahville Indian Community Court or any officer thereof, shall be deemed guilty of an offense and, upon conviction thereof, shall be sentenced to imprisonment for a period not to exceed 90 days or to a fine not to exceed $500.00, or to both such imprisonment and fine, with costs. **Amended 05/15/98.**

1.2017 Disposing of property of an estate

Any person who without proper authority, sells, trades or otherwise disposes of the property of an estate before the determination of the heirs thereof, shall be sentenced to imprisonment for a period not to exceed 60 days or to a fine not to exceed $150.00, or to both such imprisonment and fine, with costs.

1.2018 Disorderly Person

A person is disorderly if the person is any of the following:

(1) Engages in fighting in a public place or in public view.

(2) Prowler.

(3) Window Peeper.

(4) Common Prostitute.

(5) A person who engages in an illegal occupation or business.

(6) A person who is intoxicated in a public place and who is either endangering directly the safety of another person or of property or is acting in a manner that causes a public disturbance.

(7) A person who engages in indecent or obscene conduct in a public place.

(8) A vagrant.

(9) A person found begging in a public place.

(10) A person who loiters in or about a police station, health department, court building, public building, or a place of business open to the public.

(11) A person who knowingly loiters in or about a place where an illegal occupation or business is being conducted.

(12) A person who is found jostling or roughly crowding people unnecessarily in a public place.

A person, who is found to be a Disorderly Person, shall be guilty of an offense and upon conviction thereof, shall be fined a fine not to exceed $100.00, or sentenced to imprisonment not to exceed 60 days, or both, with costs.

1.2019 Drawing or uttering instrument on bank without funds or credit: defined, penalty

Any person who shall for a present consideration make or draw or utter or deliver any check, draft, or other such instrument for the payment of money upon any bank or other depository, knowing at the time of such making, drawing, uttering or delivery that the maker or drawer has not sufficient funds in or credit with such bank or other depository for the payment of such check, draft or order in full upon its presentation, shall be guilty of an offense, and upon conviction thereof shall be fined not more than $100.00, or sentenced to imprisonment for not more than 60 days, or both. The making, drawing, uttering or delivering of such check, draft, or order as aforesaid, shall be prima facie evidence as against the maker or drawer of knowledge of insufficient funds in or credit with such bank or other depository. The word "credit", as used herein, shall be construed to mean an arrangement or understanding with the bank or depository

for the payment of such check, draft or order.

1.2020 Embezzlement

Any person who shall, having lawful custody of property not his own, appropriate the same to his use with intent to deprive the owner thereof, shall be deemed guilty of embezzlement and upon conviction thereof, shall be sentenced to imprisonment for a period not to exceed 180 days, or to a fine not to exceed $500.00, or to both such imprisonment and fine, with costs. As used in this section, embezzlement shall include the spending of a minor's funds by parents or guardians for other than the purpose for which the funds were placed in the custody of the parents or guardians.

1.2021 Escape

Any person who being in lawful custody for any offense, shall escape or attempt to escape or who shall permit or assist another person to escape from lawful custody shall be deemed guilty of an offense and upon conviction thereof, shall be sentenced to imprisonment for a period not to exceed 180 days, or to a fine not to exceed $500.00, or to both such imprisonment and fine, with costs.

1.2022 Extortion

Any person who shall willfully, by making charges against another person or by any other means whatsoever, extort or attempt to extort any money, goods, property or anything else of any value, shall be deemed guilty of extortion and upon conviction thereof, shall be sentenced to imprisonment for a period not to exceed 90 days, or to a fine not to exceed $300.00, or to both such imprisonment and fine, with costs. It is no defense that the defendant believed he had a right to such property nor that the information which the defendant threatened to reveal is true.

1.2023 Failure to support dependent persons and abandonment

Any person who shall, for any reason, refuse or neglect to provide food, shelter or care for those dependent upon him or her, including children born out of wedlock, or who shall abandon those dependent upon him or her, or who shall fail or neglect to expend properly funds awarded for the care and support of persons dependent upon him or her, shall be deemed guilty of an offense and upon conviction thereof, shall be sentenced to imprisonment for a period not to exceed 60 days, or a fine not to exceed $100.00, or both such fine and imprisonment, and costs.

1.2024 Child abuse, neglect, educational neglect, endangerment, exploitation, and sexually abusive activity or material; title; definitions

(1) Title. Section 1.2024 and subsections 1.2024a, 1.2024b, 1.2024c, 1.2024d, 1.2024e, 1.2024f, 1.2024g, 1.2024h, and 1.2024i shall be known as the Hannahville Indian Community Child Abuse Criminal Code and may also be cited as the Child Abuse Code. References to this code within said section and its subsections refer to the Hannahville Indian Community Legal Code, which may be cited as “HLC”.

(2) Definitions. As used in the child abuse code, the following terms and definitions shall apply:

(a) Child: a person who is less than 18 years of age and is not emancipated by operation of any applicable law, including an unborn child.

(b) Person: a parent, legal guardian, or other physical custodian who had previously assumed responsibility to care for a child.

(c) Omission: willful failure to provide food, clothing, shelter, care, other material needs, or supervision by a person.

(d) Abuse: willful action or behavior which causes physical harm or mental harm to a child.

(e) Neglect: omission, or willful failure to provide physical, mental, emotional or spiritual care, which results in physical harm or mental harm to a child.

(f) Abandonment: act of a person leaving a child without any reasonable provision for food, clothing, shelter, care, other material needs, or supervision, such that there is no individual with the legal authority to exercise parental rights and obligations with respect to said child, including the failure to return for a child left in the temporary care of another at the expected time or date of return.

(g) Endangerment: action, behavior or omission which places a child at risk of physical harm or mental harm, but which does not result in actual physical harm or mental harm to the child, including abandonment and acts or omissions which would be abuse or neglect if the child suffered physical harm or mental harm.

(h) Physical harm: injury to a child's physical condition resulting from any form of abuse or neglect.

(i) Serious physical harm: physical harm requiring medical treatment or resulting in an observable impairment, though not necessarily permanent, to the child's health or physical well-being.

(j) Mental harm: injury to a child's mental, emotional or spiritual condition or welfare resulting from any form of abuse or neglect.

(k) Serious mental harm: mental harm requiring professional treatment by a qualified behavioral health counselor or treatment provider, or resulting in visibly demonstrable manifestations of a disorder of thought or mood which impairs judgment, behavior, the capacity to recognize reality, or the ability to cope with the ordinary demands of life.

(l) Willful: with a purpose or willingness to commit an act or to omit the performance of an act, irrespective of intent to violate the law; not by accident.

(m) Child sexually abusive activity: a child engaging in a listed sexual activity.

(n) Child sexually abusive material: any depiction, whether made or produced by electronic, mechanical, or other means, including a developed or undeveloped photograph, picture, film, slide, video, electronic video image, computer diskette, computer or computer-generated image, or picture, or sound recording, which is of a child or appears to include a child engaging in a listed sexual act; a book, magazine, computer, computer storage device, or other visual or print or printable medium containing such a photograph, picture, film, slide, video, electronic visual image, computer or computer-generated image, or picture, or sound recording; or any reproduction, copy, or print of such a photograph, picture, film, slide, video, electronic visual image, book, magazine, computer, or computer-generated image, or picture, other visual or print or printable medium, or sound recording.

(o) Listed sexual activity: sexual intercourse, erotic fondling, sadomasochistic abuse, masturbation, passive sexual involvement, sexual excitement, or erotic nudity.

(p) Sexual intercourse: intercourse, real or simulated, whether genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex or between a human and an animal, or with an artificial genital.

(q) Erotic fondling: touching a person's clothed or unclothed genitals, pubic area, buttocks, breasts or breast area (if female), whether developing or undeveloped, for the purpose of real or simulated overt sexual gratification or stimulation of one or more of the persons involved.

(r) Sadomasochistic abuse: either (i) flagellation or torture, real or simulated, for the purpose of real or simulated sexual gratification or stimulation, by or upon a person; or (ii) the condition, real or simulated, of being fettered, bound, or otherwise physically restrained for sexual gratification or stimulation of a person.

(s) Masturbation: the real or simulated touching, rubbing, or otherwise stimulating of a person's own clothed or unclothed genitals, pubic area, buttocks, breasts or breast area (if female), whether developing or undeveloped, either by manual manipulation or self-induced or with an artificial instrument, for the purpose of real or simulated overt sexual gratification or arousal of the person.

(t) Passive sexual involvement: an act, real or simulated, that exposes another person to or draws another person's attention to an act of sexual intercourse, erotic fondling, sadomasochistic abuse, masturbation, sexual excitement, or erotic nudity because of viewing any of these acts or because of the proximity of the act to that person, for the purpose of real or simulated overt sexual gratification or stimulation of one or more of the persons involved.

(u) Sexual excitement: the condition, real or simulated, of human male or female genitals in a state of real or simulated overt sexual stimulation or arousal.

(v) Erotic nudity: the lascivious exhibition of the genital, pubic, or rectal area of any person (as used herein "lascivious" means wanton, lewd, lustful, and tending to produce voluptuous or lewd emotions).

(3) Intent. Specific intent is not an element of any criminal offense under this child abuse code.

(4) Intoxication or influence of drug or substances not a defense. Intoxication or the influence of liquor, alcohol or any drug or substance, whether illegal, legal, lawfully prescribed, controlled or restricted, is not, in and of itself, a defense to any crime under this child abuse code.

(5) Parental discipline. This child abuse code does not prevent or criminalize a parent's reasonable child discipline, including non-abusive corporeal punishment, which is defined as spanking with the hand or grasping with the hand on a clothed part of a child's body without bruising or injuring the child.

(6) Other charges. A criminal charge or charges filed against a defendant under this child abuse code does not preclude or prevent the filing of any other criminal charges under the tribal code against the same defendant based on the same incident.

1.2024a Child abuse in the first degree; penalty

Abuse of a child by a person, which results in serious physical harm or serious mental harm to the child, is a criminal offense. Upon plea or conviction, child abuse in the first degree may be punished by incarceration for not more than 1 year, or by a fine of not more than $3,000.00, or by both, plus costs.

1.2024b Child abuse in the second degree; penalty

Abuse of a child by a person, which results in physical harm or mental harm to the child, is a criminal offense. Upon plea or conviction, child abuse in the second degree may be punished by incarceration for not more than 270 days, or by a fine of not more than $1,000.00, or by both, plus costs.

1.2024c Child neglect in the first degree; penalty

Neglect of a child by a person, which results in serious physical harm or serious mental harm to the child, is a criminal offense. Upon plea or conviction, child neglect in the first degree may be punished by incarceration for not more than 1 year, or by a fine of not more than $3,000.00, or by both, plus costs.

1.2024d Child neglect in the second degree; penalty

Neglect of a child by a person, which results in physical harm or mental harm to the child, is a criminal offense. Upon plea or conviction, child neglect in the second degree may be punished by incarceration for not more than 270 days, or by a fine of not more than $1,000.00, or by both, plus costs.

1.2024e Child endangerment; penalty

An act or omission by a person, which places a child at risk or in danger of physical harm or mental harm but which does not result in actual physical harm or mental harm, including abandonment and any act or omission which would be abuse or neglect if the child suffered physical harm or mental harm, is a criminal offense. Upon plea or conviction, child endangerment may be punished by incarceration for not more than 180 days, or by a fine of not more than $1,000.00, or by both, plus costs.

1.2024f Persuading, inducing, enticing, coercing, causing, or knowingly allowing a child to engage in a child sexually abusive activity; penalty

A person, or other individual, who persuades, induces, entices, coerces, causes, or knowingly allows a child to engage in a child sexually abusive activity for any purpose, is guilty of an offense and upon plea or conviction may be punished by incarceration for not more than 1 year, or by a fine of not more than $5,000.00, or by both, with costs.

1.2024g Distributing, promoting, displaying, providing, or financing or receiving for the purpose of distributing or promoting, any child sexually abusive material or activity; penalty

A person, or other individual, who distributes or promotes, or displays or provides to another, or finances the distribution or promotion of, or receives for the purpose of distributing or promoting, or conspires, attempts, or prepares to distribute, display, provide, receive, finance, or promote any child sexually abusive material or child sexually abusive activity, is guilty of an offense and upon plea or conviction may be punished by incarceration for not more than 1 year, or by a fine of not more than $5,000.00, or by both, with costs.

(1) If the child sexually abusive material or child sexually abusive activity is distributed, promoted, displayed or provided to a child, as defined in this code, then upon plea or conviction, the defendant may be punished by incarceration for not less than 180 days, but not more than 1 year, or by a fine of not less than $500.00, but not more than $5,000.00, or by both, with costs.

1.2024h Possession of child sexually abusive material; penalty

A person who knowingly possesses any child sexually abusive material is guilty of an offense and upon plea or conviction may be punished by incarceration for not more than 90 days, or by a fine of not more than $500.00, or by both, with costs.

(1) This section 1.2024h does not apply to a police officer, prosecutor, social worker, physician, registered nurse, psychologist, professional counselor, defense attorney, party or witness in a civil or criminal proceeding, other judicial officer or employee, or commercial film or photographic print processor, whenever such person is acting within the scope of his/her duties, and in the case of a commercial film or photographic print processor he/she acts in good faith and promptly reports the child sexually abusive material to a law enforcement department or agency.

1.2024i Educational neglect; penalty

A person's failure, without good cause, to register a child under his/her care to attend a legally recognized school, is a criminal offense of educational neglect. Each day that school is in session and a child is not registered may be charged as a separate offense. If a child under a person's care is registered at a legally recognized school, that person's failure, without good cause, to send the child to that school in accordance with the school's attendance policy and regulations, is a criminal offense of educational neglect. Each day that a child is not sent to school may be charged as a separate offense. Upon plea or conviction, each educational neglect offense may be punished by incarceration for not more than 15 days, or by a fine of not more than $100.00, or by both, plus costs. **Enacted by the Hannahville Indian Community Tribal Council for immediate effect on 02/06/06.**

1.2025 False arrest

Any person who shall willfully and knowingly make, or cause to be made, the unlawful arrest, detention or imprisonment of another person, shall be deemed guilty of an offense and, upon conviction thereof, shall be sentenced to imprisonment for a period not to exceed 180 days, or to a fine not to exceed $300.00, or to both such imprisonment and fine, with costs.

1.2026 Forcible entry or detainer of lands, buildings or other possessions

Every person subject to the jurisdiction of the Hannahville Indian Community Court, found guilty of using or procuring, encouraging, or assisting another to use any force or violence in entering upon or detaining any lands, buildings or other possessions owned by the Hannahville Indian Community or by any persons, corporation or organization, except in the cases and manner allowed by law, shall be deemed guilty of a Tribal offense and upon conviction thereof, shall be sentenced to imprisonment for a period not to exceed 60 days, or to a fine not to exceed $100.00, or to both such imprisonment and fine, with costs.

1.2027 Fraud

Any person who shall by willful misrepresentation or deceit, or by false interpreting, or by the use of false weights or measures, obtain any money or other property shall be deemed guilty of fraud and upon conviction thereof, shall be sentenced to imprisonment for a period not to exceed 180 days, or to a fine not to exceed $300.00 dollars, or both such imprisonment and fine, with costs.

1.2027a False I.D. unlawful use; misrepresentation of identification; altered; forged; stolen

(1) Any person who shall present information about himself or herself or about another, by any means, for the purpose of gaining any advantage, circumventing any rule, regulation, policy, ordinance or law of the Hannahville Indian Community, shall be guilty of an offense and upon conviction shall be sentenced to imprisonment for a period not more than 30 days, or to a fine not more than $250.00 or both, with costs.

(2) Any person who shall, with or without permission, display, use or represent as one's own, the personal identification of another for the purpose of gaining any advantage, circumventing any rule, regulation, policy, ordinance or law of the Hannahville Indian Community, shall be guilty of an offense and upon conviction shall be sentenced to imprisonment for a period of not more than 60 days, or to a fine of not more than $500.00, or both, with costs.

(3) Any person who shall lend or knowingly permit the use of personal identification, whether of the lender or the user, by one not entitled to its use, shall be guilty of an offense and upon conviction shall be sentenced to imprisonment for a period not more than 60 days, or to a fine of not more than $500.00, or to both, with costs. (4) This section shall not be used by the charging official to redress harm caused by actions such as slander or libel, which may be pursued by civil action. **Adopted 02/08/99.**

1.2027b Use or display of official document in commission of crime, forfeiture

Any official or legal document or paraphernalia used or displayed in the commission of a crime may be confiscated by the investigating and/or charging official, and upon conviction of the underlying offense, upon motion, shall be subject to forfeiture. Official documents issued by other jurisdictions may be returned to the issuing jurisdiction with explanation. **Adopted 02/08/99.**

1.2028 Forgery

Any person who shall, with intent to defraud, falsely sign, execute or alter any written instrument, shall be deemed guilty of forgery, and upon conviction thereof, shall be sentenced to imprisonment for a period not to exceed 90 days, or to a fine not to exceed $300.00, or to both such imprisonment and fine, with costs.

1.2029 Reserved.

1.2030 Indecent liberties with a child

Any person of the age of 16 years and upwards who performs or submits to any of the following acts with a child under the age of 16 commits indecent liberties with a child:

(1) Any act of sexual conduct; or

(2) Any fondling or touching of either the child or the person, done or submitted to, with the intent to arouse or satisfy the sexual desires of either the child or the person or both.

Any person convicted of indecent liberties with a child shall be sentenced to imprisonment for a period of not less than 30 days nor more than 1 year or to a fine of not less than $100.00 nor more than $1,000.00, or to both such fine and imprisonment, with costs. Prosecutorial discretion shall govern whether a 16 year old is charged and prosecuted as an adult.

1.2031 Injury to public property

Any person who shall without proper authority, and with intent, uses or injures any public, Government or Tribal property, shall be deemed guilty of an offense and, upon conviction thereof, shall be sentenced to imprisonment for a period not to exceed 30 days, or to a fine not to exceed $50.00, or to both such imprisonment and fine, with costs, and shall pay restitution for the value of the property destroyed at replacement value.

1.2032 Public intoxication

Any person who shall go about in a public place, or in public view, while so intoxicated that he cannot care for the safety of himself or others, or who, while intoxicated, endangers himself or threatens or endangers the safety of others, shall be guilty of an offense and, upon conviction shall be imprisoned for a period not to exceed 30 days or to a fine not to exceed $50.00, or both such imprisonment and fine, together with costs. Intoxication shall mean being under the influence of any alcoholic beverage, drug, mind-altering substance, whether legal or illegal, controlled or restricted. **Amended 10/24/94.**

1.2033 Littering public waters, parks and roadways prohibited; penalty

It shall be unlawful for any person to deposit garbage, refuse, ashes, junk, glass, bottles, tin cans or any other form of litter or debris in any public waters of the Hannahville Indian Community jurisdiction, on any beach or shoreline of any public park or public recreation area, or on any roadway, except in containers or public dump grounds which are provided and designated for such use.

1.2033a Illegal dumping

Any person who deposits or throws any paper or other litter or trash on any public roadway or sidewalk, or on any private or Tribal property without the permission of the owner or person in lawful possession thereof, is guilty of an offense and, upon conviction thereof, shall be fined not more than $100.00, or sentenced to imprisonment not to exceed 30 days, or both, with costs.

1.2034 Malicious destruction of property

Any person who shall willfully and maliciously destroy or injure any personal or real property of another, personal property of any police or fire department, any house, barn or building of another, any fences or gate openings, or any tree, shrub, grass, turf, plants, crops, or soil of

another, or timber, or machinery of another, or willfully and maliciously kill, maim, or disfigure any horse, cattle or other beasts of burden, shall be guilty of an offense and, upon conviction thereof, shall be fined a fine not to exceed $1,000.00, or sentenced to imprisonment for a period not to exceed 1 year, or both, with costs. Restitution shall also be ordered.

1.2035 Maintaining a public nuisance

Any person who shall act in such a manner, or permit his property to fall into such condition as to injure or endanger the safety, health, comfort, or property of his neighbors, shall be sentenced upon conviction to imprisonment for a period not to exceed 30 days, or to a fine not to exceed $100.00, or to both such imprisonment and fine, with costs.

1.2036 Controlled substances; title; definitions

(1) Title. Sections 1.2036, 1.2036a, 1.2036b, 1.2036c, 1.2036d, 1.2036e and 1.2036f shall be known as the "Hannahville Indian Community Controlled Substances Code" and may also be cited as the "controlled substances code". References to "this code" within the aforementioned sections refer to the Hannahville Indian Community Legal Code.

(2) Definitions. As used in the controlled substances code, the following terms and definitions shall apply:

(a) Controlled substance: a drug, substance, or immediate precursor included in schedules 1 through 5, inclusive, of the Michigan Controlled Substances Act [MCL 333.7212, 333.7214, 333.7215, 333.7218 and 333.7220], including all future amendments thereto.

(b) Immediate precursor: a substance which the Michigan Board of Pharmacy, or its designated or established authority, has found to be and by rule designates as being the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit manufacture.

(c) Marijuana: all parts of the plant cannabis sativa, whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, derivative or preparation of the plant or its seeds or resin.

(d) Use: the application, injection, inhalation or ingestion of a controlled substance by a human being.

(e) Possession: the actual or constructive possession of a controlled substance, a prescription form, or drug paraphernalia, which possession may be joint with one or more persons and does not require ownership.

(f) Manufacture: the production, preparation, propagation, compounding, conversion

or processing of a controlled substance, directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis.

(g) Production: the manufacture, planting, cultivation, growing or harvesting of a controlled substance.

(h) Deliver or delivery: the actual or constructive transfer from one person to another of a controlled substance, whether or not there is an agency relationship.

(i) Sale: the actual or constructive transfer from one person to another of a controlled substance in exchange for money or anything of value including labor or personal services.

(j) Physician: a doctor licensed to practice medicine.

(k) Authorized medical practitioner: a person or facility licensed, registered or otherwise lawfully permitted to prescribe or administer a controlled substance in the course of professional practice, including but not limited to a physician, physician's assistant, registered nurse, pharmacy and hospital.

(l) Prescription form: a printed form that is authorized and intended for use by a prescribing medical practitioner to prescribe controlled substances or other prescription drugs and that meets the requirements of rules promulgated by the Michigan Board of Pharmacy, or its designated or established authority.

(m) Drug paraphernalia: any equipment, product, material, or combination of equipment, products or materials, which is specifically designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance.

1.2036a Use of a controlled substance, excepting marijuana; penalty

A person shall not use a controlled substance, excepting marijuana, unless the controlled substance was obtained directly from, or pursuant to, a valid prescription or order of a physician or other authorized medical practitioner while acting in the course of the physician's or medical practitioner's professional practice. Use of a controlled substance, excepting marijuana, may be punished upon plea or conviction by incarceration for not more than 90 days, or by a fine of not more than $300.00, or by both, plus costs.

1.2036b Use of marijuana; penalty

A person shall not use marijuana. Use of marijuana may be punished upon plea or conviction by incarceration for not more than 30 days, or by a fine of not more than $100.00, or by both, plus

costs.

1.2036c Possession of a controlled substance, excepting marijuana; possession of a prescription form; penalty

A person shall not knowingly or intentionally possess a controlled substance (excepting marijuana) or a prescription form, unless the controlled substance or prescription form was obtained directly from, or pursuant to, a valid prescription or order of a physician or other authorized medical practitioner while acting in the course of the physician's or medical practitioner's professional practice. Possession of a controlled substance, excepting marijuana, or possession of a prescription form, may be punished upon plea or conviction by incarceration for not more than 180 days, or by a fine of not more than $500.00, or by both, plus costs.

1.2036d Possession of marijuana or drug paraphernalia; penalty

A person shall not knowingly or intentionally possess marijuana or drug paraphernalia, unless the drug paraphernalia was obtained directly from, or pursuant to, a valid prescription or order of a physician or other authorized medical practitioner while acting in the course of the physician's or medical practitioner's professional practice. Possession of marijuana or drug paraphernalia may be punished upon plea or conviction by incarceration for not more than 90 days, or by a fine of not more than $300.00, or by both, plus costs.

1.2036e Manufacture, delivery, sale, or possession with intent to manufacture, deliver or sell a controlled substance, excepting marijuana; penalty

A person shall not manufacture, deliver, sell or possess with intent to manufacture, deliver or sell a controlled substance, excepting marijuana, unless that person is otherwise authorized under state or federal law to manufacture, deliver, sell or possess with intent to manufacture, deliver or sell same. The manufacture, delivery, sale or possession with intent to manufacture, deliver or sell, a controlled substance, excepting marijuana, may be punished upon plea or conviction by incarceration for not more than 1 year, or by a fine of not more than $5,000.00, or by both, plus costs.

1.2036f Manufacture, delivery, sale, or possession with intent to manufacture, deliver or sell marijuana; penalty

A person shall not manufacture, deliver, sell or possess with intent to manufacture, deliver or sell marijuana. The manufacture, delivery, sale or possession with intent to manufacture, deliver or sell marijuana may be punished upon plea or conviction by incarceration for not more than 270 days, or by a fine of not more than $2,500.00, or by both, with costs. **Enacted by the Hannahville Indian Community Tribal Council for immediate effect on 12/02/02.**

1.2037 Operation of motor vehicle without consent of owner

No person shall drive, operate or use a motor vehicle without the permission of the owner or of his agent in charge or in control thereof. Any person so doing is guilty of an offense and shall be punished by a fine of not more than $200.00, or sentenced to imprisonment for not more than 90

days, or by both such imprisonment and fine, with costs.

1.2038 Perjury

Any person who shall willfully and deliberately, in any judicial proceeding in any court of the Hannahville Indian Community, falsely swear or interpret, or shall make a sworn statement or affidavit knowing the same to be untrue, or shall induce or procure another person to do so, shall be deemed guilty of perjury and, upon conviction thereof, shall be sentenced to imprisonment for a period not to exceed 180 days, or to a fine not to exceed $300.00, or to both such imprisonment and fine, with costs.

1.2039 Prostitution and solicitation

Any person who shall practice prostitution or who shall knowingly keep, maintain, rent, or lease any house, room or other place for the purpose of prostitution, or any person who shall patronize a place of prostitution, or any person who shall solicit prostitution, shall be deemed guilty of the offense and, upon conviction thereof, shall be sentenced to imprisonment for a period not to exceed 90 days, or a fine not to exceed $300.00, or to both such imprisonment and fine, with costs.

Provided, however, that this section shall not apply to Law Enforcement Officers while in the performance of his or her duties as a Law Enforcement Officer.

1.2040 Protective custody

Any person, who through physical or mental disability, or physical or mental incapacity due to excessive use of alcohol or controlled substances, is unable to care for himself may be taken into protective custody by a peace officer and held, without criminal charge and in a suitable facility, for such period not to exceed 48 hours as is necessary to deliver him to his family or to a suitable agency of the State, Tribal or Federal Government. This provision shall not authorize incarceration in a jail or prison.

1.2041 Receiving stolen property

Any person who shall receive or conceal or aid in concealing or receiving any property, knowing the same to be stolen, embezzled, or obtained by fraud or false pretense, robbery or burglary, shall be deemed guilty of an offense and, upon conviction thereof, shall be sentenced to imprisonment for a period not to exceed 90 days, or to a fine not to exceed $200.00, or to both such fine and imprisonment, with costs.

1.2042 Refusing to aid officer

Any person who shall neglect or refuse, when called upon by a police officer, to assist in the arrest of any person charged with or convicted of an offense or in securing such offender when apprehended or in conveying such offender to the nearest place of confinement, shall be deemed guilty of an offense and upon conviction thereof, shall be sentenced to imprisonment for a period

not to exceed 7 days or to a fine not to exceed $50.00, or to both such imprisonment and fine, with costs.

1.2043 Obstructing police officers in the performance of their duties

Any person who willfully resists, delays, or obstructs any police officer, in the discharge or attempt to discharge any duty of his/her office, this shall include any court officer, including protective services caseworker, shall be guilty of an offense and, upon conviction thereof, be fined a fine not to exceed $150.00, or imprisonment not to exceed 60 days, or both, with costs.

1.2044 Resisting lawful arrest

Any person who shall willfully and knowingly, by force or violence, resist or assist another person to resist a lawful arrest, shall be deemed guilty of an offense and upon conviction thereof, shall be sentenced to imprisonment for a period not to exceed 60 days, or to a fine not to exceed $150.00 dollars, or to both such imprisonment and fine, with costs.

1.2045 Shoplifting defined; penalty

Any person who shall willfully take possession of any goods, wares or merchandise offered for sale by any store or other mercantile establishment with the intention of converting the same to his or her use without paying the purchase price, and with intent to permanently deprive the business thereof, shall be guilty of the offense of shoplifting and shall be punished by a fine of not more than $100.00, or by imprisonment of not more than 30 days, or by both such fine and imprisonment, with costs.

1.2046 Harmful objects

A person shall not place, throw, leave, keep or maintain any object in such a manner or in such a place that any person, animal, structure or vehicle may be damaged thereby.

1.2047 Theft

Any person who shall take the property of another person with intent to steal shall be deemed guilty of theft and, upon conviction thereof, shall be sentenced to imprisonment for a period not to exceed 1 year, or to a fine not to exceed $1,000.00, or to both such fine and imprisonment, with costs, plus restitution.

1.2048 Threat and intimidation

Any person who, directly or indirectly utters or addresses any threat or intimidation to any judicial or ministerial officer, juror, referee, arbitrator, umpire, assessor, person authorized to hear or determine any controversy, witness, court interpreter, person appointed to assist the Court, or Tribal Council member or other officer of the Court, with intent to induce him either to do any act not authorized by law or to omit or delay the performance of any duty imposed upon him by law, is guilty of an offense and shall be punished by a fine of $100.00 and/or sentenced to

imprisonment for up to 45 days, or both, with costs.

1.2049 Trespass

Any person who shall go upon or pass over any cultivated or other lands of another person and shall refuse to leave immediately therefrom on the request of the owner or occupant thereof, or who shall return to said property after being told not to do so, shall be deemed guilty of an offense and, upon conviction thereof, shall be punished by a fine not to exceed $100.00, or sentenced to imprisonment for a period not to exceed 30 days, or to both such imprisonment and fine, with costs.

1.2050 Violation of an approved tribal ordinance

Any person who violates an ordinance designed to preserve the peace and welfare of the Tribe which was promulgated by the Community Council, shall be deemed guilty of an offense and upon conviction thereof, shall be sentenced as provided in the ordinance. Should no punishment be provided within said ordinance, such offense shall be punishable by a fine of no more than $100.00, and sentenced to imprisonment for not more than 30 days.

1.2051 Violence to policeman or judge

Any person who shall willfully or knowingly, by force or violence, render physical abuse to a tribal policeman, or judge of the Hannahville Indian Community, or to any officer of the court, shall be deemed guilty of an offense and, upon conviction, shall be sentenced to a period of imprisonment not to exceed 90 days (non-suspendable), or a fine of $200.00, or both such imprisonment and fine, with costs.

1.2052 Willful obstruction of emergency telephone calls; failure to relinquish line; penalty

Any person who shall willfully refuse to immediately relinquish a party line when informed that such line is needed for an emergency call, as defined in subsection (2) of section 1.2053 of this Code, to a fire department, or to any law enforcement officer or department, or for medical aid, or ambulance service, shall be guilty of an offense and, upon conviction thereof, shall be fined not more than $200.00, or sentenced to imprisonment for not more than 60 days, or both with costs.

1.2053 Willful obstruction of emergency telephone calls

For the purpose of this act the following terms shall have the following definitions:

(1) "Party line" means a subscribers' line telephone circuit, consisting of two or more main telephone stations connected therewith, each station with a distinctive right or telephone number.

(2) "Emergency" means a situation in which property or human life are in jeopardy, and the

prompt summoning of aid is essential.

1.2054 Securing line by falsely stating emergency; misdemeanor; penalty

Any person who shall secure the use of a party line by falsely stating that such line is needed for an emergency shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $200.00, or sentenced to imprisonment not to exceed 60 days, or both, with costs.

1.2054a Malicious use of service provided by communications common carrier

(1) Any person is guilty of an offense that maliciously uses any service provided by a communications common carrier with intent to terrorize, frighten, intimidate, threaten, harass, molest, or annoy any other person, or to disturb the peace and quiet of any other person by any of the following.

(a) Threatening physical harm or damage to any person or property in the course of a telephone conversation.

(b) Falsely and deliberately reporting by telephone or telegraph message that any person has been injured, has suddenly taken ill, has suffered death, or has been the victim of a crime, or of an accident.

(c) Deliberately refusing or failing to disengage a connection between a telephone and another telephone or between any other equipment provided for the transmission of messages by telephone, thereby interfering with any communications service.

(d) Using any vulgar, indecent, obscene, or offensive language or suggesting any lewd or lascivious act in the course of a telephone conversation.

(e) Repeatedly initiating a telephone call and, without speaking, deliberately hanging up or breaking the telephone connection as or after the telephone call is answered.

(f) Making an unsolicited commercial telephone call which is received between the hours of 9 p.m. and 9 a.m. For the purpose of this subdivision, "an unsolicited commercial telephone call" means a call made by a person or recorded device, on behalf of a person, corporation, or other entity, soliciting business or contributions.

(g) Deliberately calling a telephone of another person in a repetitive manner, which causes interruption in telephone service or prevents the person from utilizing his or her telephone service.

(2) Any person violating this section may be imprisoned for not more than 6 months, or fined not more than $500.00, or both. An offense is committed under this section if the communication originates in this jurisdiction. **Enacted 10/04/93.**

1.2055 Concealing or harboring a fugitive of justice

Any person who knowingly or willfully conceals or harbors for the purpose of concealment, any person wanted for a criminal violation or who has escaped from lawful custody, shall be guilty of an offense and, upon conviction thereof, shall be fined not more than $1000.00, or by imprisonment not to exceed 1 year, or both, with costs.

1.2056 Snowmobiles/ORV

Any person who shall operate a snowmobile or Off Road Vehicle (ORV), or similar type vehicle, near any residence, school, or place of public gathering between the hours of twelve midnight and 7:00 a.m., shall be deemed guilty of an offense and, upon conviction thereof, shall be sentenced to imprisonment for a period not to exceed 14 days, or a fine not to exceed $50.00, or both, with costs.

The snowmobile or ORV may be impounded for a period not to exceed 180 days and the registered owner of the snowmobile or ORV shall be responsible for the towing and storage of the snowmobile, ORV, or similar type vehicle.

1.2057 Throwing missiles

Any person who throws any snowball, mud, sand, rock or other missile, upon, along, or across any road or driveway or toward or in the vicinity of any vehicle or person, shall be guilty of an offense and, upon conviction thereof, shall be fined not more than $100.00, or sentenced to imprisonment not exceeding 30 days, or both, with costs.

1.2058 Dangerous boxes and chests

Any person who discards or abandons or leaves in any place accessible to children any chest or box having a capacity of one and one-half cubic feet or more, which is no longer in use, which chest or box has an attached lid or door which may be opened or fastened shut by means of an attached latch, which has not had such door removed or the hinges and such portion of the lock mechanism removed to prevent latching or locking the door, shall be guilty of an offense and, upon conviction thereof, shall be fined not more than $150.00, or sentenced to imprisonment not to exceed 30 days, or both, with costs.

1.2059 Real property unsightliness

Any person, firm, or corporation who owns or has charge or management of any real property within the territorial jurisdiction of the Hannahville Indian Community, who permits any part of such property to become so unsightly as to substantially detract from the appearance of the immediate neighborhood, or who fails or omits to clean up or correct such unsightly, untidy or unsafe conditions, shall be guilty of an offense and, upon conviction thereof, shall be fined not more than $100.00, or sentenced to imprisonment not to exceed 30 days, or both, with costs.

1.2060 Defrauding; hotel, motel, inn, cafe, restaurant, casino

(1) Any person who shall put up at any hotel, motel, inn, cafe, restaurant or casino within the jurisdiction of the Hannahville Indian Community, as a guest, and shall procure any food, entertainment or accommodation without paying therefor, except when credit is given therefor by express agreement, with the intent to defraud such keeper thereof out of the pay for the same, or who, with the intent to defraud such keeper out of the pay thereof, shall obtain credit at any hotel, motel, inn, cafe, restaurant or casino for such food, entertainment or accommodation, by means of any false show of baggage or effects brought thereto, or other false means, shall be guilty of an offense and, upon conviction thereof, shall be fined not more than $1,000.00, or sentenced to imprisonment not to exceed 1 year, or both, with costs.

(2) Prima facie evidence. Obtaining such food, lodging or entertainment or accommodation by false pretense, or by false or fictitious show of baggage or other property, or by other false means, or by refusal or neglect to pay therefor on demand, or by payment thereof with a check, draft or order upon a bank or other depository on which payment was refused, or by absconding without paying or offering to pay therefor, or by surreptitiously removing or attempting to remove baggage, shall be prima facie evidence of such intent to defraud.

1.2061 Indecent exposure

Any person who shall knowingly make any open or indecent exposure of his or her person or of the person of another, shall be guilty of an offense and, upon conviction thereof, shall be fined not more than $500.00, or sentenced to imprisonment not to exceed 180 days, or both, with costs.

1.2062 Gross indecency; between male persons

Any male person who, in public or in private, commits or is a party to the commission of, or procures or attempts to procure the commission by any male person of, any act of gross indecency with another male person, shall be guilty of an offense and upon conviction thereof, shall be fined not more than $1,000.00, or sentenced to imprisonment not to exceed 1 year, or both, with costs.

1.2063 Gross indecency; between female persons

Any female person who, in public or in private, commits or is a party to the commission of, or any person who procures or attempts to procure the commission by any female person of, any act of gross indecency with another female person, shall be guilty of an offense and, upon conviction thereof, shall be fined not more than $1,000.00, or sentenced to imprisonment not to exceed 1 year, or both, with costs.

1.2064 Gross indecency; between male and female persons

(1) Any male person who, in public or in private, commits or is a party to the commission of any act of gross indecency with a female person, shall be guilty of an offense and, upon conviction thereof, shall be fined not more than $1,000.00 or sentenced to

imprisonment not to exceed 1 year, or both, with costs.

(2) Any female person who, in public or in private, commits or is a party to the commission of any act of gross indecency with a male person, shall be guilty of an offense and, upon conviction thereof, shall be fined not more than $1,000.00, or sentenced to imprisonment not to exceed 1 year, or both, with costs.

(3) Any person who procures or attempts to procure the commission of any act of gross indecency by and between any male person and any female person, shall be guilty of an offense and, upon conviction thereof, shall be fined not more than $1,000.00, or sentenced to imprisonment not to exceed 1 year, or both, with costs.

1.2065 Theft; from motor vehicles or trailers; attached accessories; breaking and entering, damaging

Any person who shall commit the offense of theft by stealing or unlawfully removing or taking or damaging any part of any motor vehicle, house trailer, boat, trailer or semi-trailer, shall be guilty of an offense and, upon conviction thereof, shall be fined not more than $2,000.00, or sentenced to imprisonment not to exceed 1 year, or both, with costs.

1.2066 Breaking and entering

Any person who shall break and enter with intent to commit any felony, or any larceny therein, any tent, hotel, office, store, shop, warehouse, barn, granary, factory or other building, structure, boat or ship, railroad car or any private apartment in any of such buildings or any unoccupied dwelling house, shall be guilty of an offense punishable by imprisonment for not more than 180 days, or by a fine not to exceed $500.00, or both, with costs. Any person who breaks and enters any occupied dwelling house, with intent to commit any offenses of larceny therein, shall be guilty of an offense punishable by imprisonment for not more than 1 year, and a fine not to exceed $1,000.00.

1.2066a Entering without breaking

Any person who, without breaking, shall enter any dwelling, house, tent, hotel, office, store, shop, warehouse, barn, granary, factory or other building, boat, ship, railroad car or structure used or kept for public or private use, or any private apartment therein, with intent to commit an offense or any larceny therein shall be guilty of an offense punishable by imprisonment for not more than 180 days, or a fine not to exceed $250.00, or both.

1.2066b Breaking and entering without breaking; buildings, tents, boats, railroad cars; entering public buildings when expressly denied

Any person who shall break and enter, or shall enter without breaking, any dwelling, house, tent, hotel, office, store, shop, warehouse, barn, granary, factory or other building, boat, ship, railroad car or structure used or kept for public or private use, or any private apartment therein, or any cottage, clubhouse, boat house, hunting or fishing lodge, garage or the out-buildings belonging

thereto, or any other structure, whether occupied or unoccupied, without first obtaining permission to enter from the owner or occupant, agent, or person having immediate control thereof, shall be guilty of an offense punishable by imprisonment for not more than 90 days, or fined $100.00, or both.

1.2066c Breaking and entering coin operated device

Any person who breaks or enters into any coin operated telephone or coin device for the purpose of stealing or unlawfully removing there from any money, regardless of the value thereof, if in so doing such person breaks, tears, cuts or otherwise damages any part of the telephone or any coin operated device shall be guilty of an offense and, upon conviction thereof, shall be fined not more than $1,000.00, or sentenced to imprisonment not to exceed 180 days, or both, with costs.

1.2067 Taking or injuring trees, shrubs, vines, plants

Any person who shall wrongfully take and carry away from any place within the jurisdiction of the Hannahville Indian Community, any fruit tree, ornamental tree, shade tree, ornamental shrub, or any plant, vine, bush, or vegetable there growing, standing or being, without the permission of the lawful owner or Tribal Chairman of the Hannahville Indian Community, with the intent to deprive the owner or the Hannahville Indian Community thereof, or who shall without right and with wrongful intent, detach from the ground or injure any timber, fruit tree, ornamental tree, shade tree, ornamental shrub, or any plant, vine, bush, vegetable or produce shall be guilty of an offense and, upon conviction thereof, shall be fined not more than $100.00, or sentenced to imprisonment not to exceed 30 days, or both, with costs.

1.2068 Theft of motor vehicle fuel

Any person who steals motor vehicle fuel by pumping the fuel into a motor vehicle and absconding or attempting to abscond without paying for the motor vehicle fuel, shall be guilt of an offense and upon conviction thereof, shall be fined not more than $500.00, or sentenced to imprisonment not to exceed 30 days, or both, with costs.

1.2069 Falsely and maliciously accusing another

Any person who shall falsely and maliciously, by word, writing, sign, or otherwise accuse, attribute, or impute to another the commission of any crime, felony or misdemeanor, or any infamous or degrading act, or impute or attribute to any female a want of chastity, shall be guilty of an offense and, upon conviction thereof, shall be fined not more than $500.00, or sentenced to imprisonment not to exceed 90 days, or both, with costs.

1.2070 Wearing masks or face coverings in public

Any person who shall assemble, march or parade on any street, highway or public place within the jurisdiction of the Hannahville Indian Community, while wearing a mask or covering which conceals in whole or in part, the face of the wearer, shall be guilty of an offense, provided that, this section shall not apply to the pranks of children on Halloween, to those going to and from

masquerade parties, to those participating in any public parade of an educational, religious or historical character and those participating in the parades of minstrel troupes, circuses or other amusement or dramatic shows. Upon conviction, the offender shall be punished by imprisonment not to exceed 30 days or by a fine not to exceed $50.00, or both, with costs.

1.2071 Fictitious crimes; report to police officers

Any person who shall willfully and knowingly make to any member of the Hannahville Police Department, a fictitious report of the commission of any crime knowing the same to be false, shall be guilty of an offense and upon conviction thereof, shall be fined not more than $500.00, or by imprisonment for a period not to exceed 90 days, or both, with costs.

1.2072 False request for assistance of ambulance service

Any person who shall, with the intent not to use the assistance, knowingly causes or makes a request for the assistance of an ambulance service or an advanced mobile emergency care service is guilty of an offense and, upon conviction thereof, shall be fined not more than $500.00, or sentenced to imprisonment for a period not to exceed 180 days, or both, with costs.

1.2073 Inhalation or consumption of chemical agent prohibited

Any person who shall, for the purpose of causing a condition of intoxication, euphoria, excitement, exhilaration, stupefaction or dulling of the senses or nervous system, intentionally smell or inhale fumes of any chemical agent or intentionally drink, eat or otherwise introduce any chemical agent into his respiratory or circulatory system, shall be guilty of an offense. This shall not prohibit the inhalation of any anesthesia for medical or dental purposes.

1.2074 Parent taking Child

An adoptive or natural parent of a child or other person shall not take that child, or retain that child for more than 24 hours, with the intent to detain or conceal the child from any other parent or legal guardian of the child who has custody or visitation rights pursuant to a lawful court order at the time of the taking or retention, or from the person or persons who have adopted the child, or from any other person having lawful charge of the child at the time of the taking or retention.

(1) A person who violates this section shall be guilty of an offense and, upon conviction thereof, shall be fined not more than $2,500.00, or sentenced to imprisonment not to exceed 1 year, or both, with costs.

(2) A person who violates this section, upon conviction, in addition to any other punishment, may be ordered to make restitution to the other parent, legal guardian, the person or persons who have adopted the child, or any other person having lawful charge of the child for any financial expense incurred as a result of attempting to locate and have the child returned.

1.2075 Furnishing alcohol, drugs, intoxicating substances to minors

Every person who furnishes, gives, sells, causes to be given, sold, furnished or who in any way assists any minor under the age of 21 years, to possess, obtain, buy, or gain access to any alcoholic beverage, drug, inhalant, or other intoxicating or potentially mind altering substance, is guilty of an offense and, upon conviction, shall:

(1) If a first offense, shall be imprisoned for a period not to exceed 180 days, or fined not more than $500.00, or both.

(2) If a second offense, shall be imprisoned for a minimum of 30 days, and not more than 180 days, and shall be fined a minimum of $350.00, and not more than $500.00. There shall be no substitution of alternative sentencing for the mandatory minimum jail sentence.

(3) If a third offense, shall be imprisoned for a minimum of 60 days, but not more than 1 year, and shall be fined a minimum of $500.00, and not more than $700.00. There shall be no substitution of alternative sentencing for the mandatory minimum jail sentence.

(4) For a fourth and subsequent offenses the defendant, upon conviction, shall be imprisoned for a minimum of 180 days, but not more than 1 year, and shall be fined a minimum of $700.00, and no more than $1,000.00. **Amended 10/24/94.**

1.2076 Possession, consumption of alcohol by minors

(1) Any person under the age of 21 years and over the age of 16 years who consumes or possesses any alcoholic beverage within the jurisdiction of the Hannahville Indian Community, shall be guilty of an offense and, upon conviction, shall be punished by:

(a) If a first offense, shall be fined a minimum of not more than $300.00, together with costs.

(b) If a second offense, shall be imprisoned for a period not to exceed 120 days, and shall be fined a minimum of $100.00, but not more than $350.00, together with costs.

(c) If a third or subsequent offense, shall be imprisoned for a period of not less than 90 days, but not more than 1 year, and fined not less than $350.00, but not more than $500.00, together with costs. The court may depart from the minimum term of imprisonment if the court finds on the record that there are substantial and compelling reasons to do so.

(2) Minors under the age of 17 years who violate this section shall be fined at the rate of $50.00 for the first offense, $75.00 for the second offense, and $100.00 for the third and subsequent offenses, together with costs, and shall be otherwise dealt with as status offenders. **Amended 01/04/99.**

1.2077 Children in places where liquor is sold

A minor child under 18 years of age shall not be permitted to remain in a dance hall, saloon, barroom or any place where spirituous or intoxicating liquor, wine or beer, or any beverage, liquor or liquors containing spirituous or intoxicating liquor, beer or malt liquor is sold, given away or furnished for a beverage, unless the minor is accompanied by parent or guardian. A proprietor, keeper or manager or any such place who permits a minor child to remain in any such place, and a person who encourages or induces in any way the minor child to enter the place or to remain therein, shall be guilty of an offense and, upon conviction thereof, shall be fined not more than $500.00, or sentenced to imprisonment not to exceed 180 days, or both, with costs.

1.2078 Inciting, inducing or soliciting or aiding and abetting another to commit a crime

A person who incites, induces or solicits, aids or abets another person(s) to commit a crime shall be guilty of an offense and, upon conviction thereof, shall be fined not more than $500.00, or sentenced to imprisonment not to exceed 180 days, or both, with costs.

1.2079 False personation of public officer

Any person who falsely assumes or pretends to be a justice of the peace, Sheriff, Deputy Sheriff, Conservation Officer, Hannahville Police Officer, Coroner, Constable, Police Officer, or member of the Michigan State Police, and shall falsely take it upon himself to act as such, or to require any person to aid and assist him in any matter pertaining to the duty of a justice of the peace, Sheriff, Deputy Sheriff, Conservation Officer, Member of the Hannahville Police Department, coroner, constable, Police Officer, or member of the Michigan State Police, or shall falsely take it upon himself to act or officiate in any office or place of authority, shall be guilty of an offense and, upon conviction thereof, shall be fined not more than $1,000.00, or sentenced to imprisonment not to exceed 1 year, or both, with costs.

1.2080 Molesting and disturbing persons in pursuit of occupation, vocation or avocation

Any person or persons who shall, by threats, intimidations, or otherwise, and without authority of law, interfere with, or in any way molest, or attempt to interfere with, or in any way molest or disturb, without such authority, any person or persons, in the quiet and peaceable pursuit of his lawful occupation, vocation or avocation, or on the way to and from such occupation, vocation or avocation, or who shall aid or abet in any such unlawful acts, shall be guilty of an offense and, upon conviction thereof, shall be fined not more than $1,000.00, or sentenced to imprisonment not to exceed 180 days, or both, with costs.

Major Crimes (Tribal Offenses) Sections 1.2081-1.2087

1.2081 Grand theft automobile

Any person who shall, willfully and without authority, take possession of and drive or take away,

and any person who shall assist in or urge a party to such taking of possession, driving or taking away of, any motor vehicle belonging to another with the intent to permanently deprive the owner thereof, shall be guilty of an offense and, upon conviction thereof, shall be fined not more than $2,500.00 and not less than $1,000.00, or sentenced to imprisonment not to exceed 1 year, and not less than 6 months, or both, with costs.

1.2081a Welfare fraud

(1) Any person who by means of willful false statement or representation or by impersonation or other fraudulent device obtains or attempts to obtain, or aids or abets any person to obtain:

(a) Assistance or relief to which he is not entitled; or

(b) a larger amount of assistance or relief than that to which he is justly entitled; or any officer or employee of the Hannahville Indian Community, a county, city or district department of social welfare who authorizes or recommends relief to persons known to him to be ineligible or to have fraudulently created their eligibility; or any person who knowingly buys or aids or abets in buying or in disposal of the property of a person receiving assistance or relief without the consent of the director or supervisor of the department, shall, if the amount involved shall be of the value of $1,000.00 or less, be deemed guilty of a violation and shall, upon conviction, be punished by a fine of not less than $100.00, nor more than $500.00, or not more than 1 year imprisonment, or both such fine and imprisonment, together with costs and restitution.

(2) The amount involved as used in this section shall be defined as the difference between the lawful amount of assistance or aid and the amount of assistance or aid actually received. If anyone receives assistance or relief through means enumerated in this section, in which prosecution is deemed unnecessary, the department may take the necessary steps to recover from the recipient the amount involved, plus interest at 5% per annum. On conviction of the violation of the provisions of this section of any officer or employee of the Hannahville Indian Community, a county, city or district department of social welfare, such officer or employee shall be removed or dismissed from office.

(3) Information furnished by recipients; failure. There is imposed upon every person receiving relief under this act either upon his own application or by his inclusion, to his knowledge, in the application of another the continuing obligation to supply to the department issuing the relief:

(a) The complete circumstances in regard to his income from employment or from any other source or the existence of income, if know to him, of other persons receiving relief through the same application.

(b) Information regarding each and every offer of employment for himself or, if known to him, for the other persons receiving relief through the same application;

(c) Information concerning changes in his circumstances on those of other persons receiving relief through the same application, which would decrease the need for relief.

(d) The circumstances or whereabouts, known to him, of relatives legally responsible for his support or for the support of other persons receiving relief through the same application if changes in such circumstances or whereabouts could affect the amount of assistance available from such relatives or affect their legal liability to furnish support.

Any person who shall neglect or refuse to submit to the department issuing relief the information required by this section shall, if the amount of relief granted as a result of such neglect or refusal be $1,000.00 or less, be guilty of a violation and, upon conviction, shall be punished as provided by the preceding section.

1.2082 Murder

Murder which is perpetrated by means of poison, lying in wait, or other willful, deliberate, and premeditated killing, or which is committed in the perpetration of, or attempt to perpetrate, arson, rape, robbery, burglary (breaking and entering) of a dwelling, theft of any kind, extortion, or abduction, is Murder, and any person or persons who shall commit the act of Murder shall be sentenced to imprisonment for 1 year and fined not more than $5,000.00, but not less than $2,500.00.

1.2083 Mayhem

Any person who, with malicious intent to maim or disfigure, shall cut out or maim the tongue, put out or destroy an eye, cut or tear off an ear, cut or slit or mutilate the nose or lip, or cut off or disable a limb, organ or member, of any other person or shall cut or disfigure any other part of a human body, and every person privy to such intent, who shall be present, aiding in the commission of such offense, shall be guilty of an offense and shall be fined not more than $5,000.00, but not less than $2,500.00, or sentenced to imprisonment for a period not to exceed 1 year, and not less than 180 days, or both, with costs.

1.2084 Criminal sexual conduct; title; definitions; general provisions

(1) Title. Sections 1.2084, 1.2084a, 1.2084b, 1.2084c and 1.2084d shall be known as the "Hannahville Indian Community Criminal Sexual Conduct Code" and may also be cited as the "criminal sexual conduct code". References to "this code" within the aforementioned sections refer to the Hannahville Indian Community Legal Code.

(2) Definitions. As used in the criminal sexual conduct code, the following terms and definitions shall apply:

(a) Mentally disabled person: a person who has a mental illness, is mentally retarded,

or has a developmental disability, as herein defined.

(b) Mental illness: a substantial disorder of thought or mood, which significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life.

(c) Mentally retarded person: a person who has significantly sub-average general intellectual functioning, which originated during the developmental period and is associated with impairment in adaptive behavior.

(d) Developmental disability: an impairment of general intellectual functioning or adaptive behavior which meets the following criteria:

[1] it originated before the person became 18 years 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 similar to those required for a person who is mentally retarded.

(e) Temporarily incapacitated person: a person who is rendered temporarily incapable of appraising or controlling his or her 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, as that term is defined in subsection 1.2036(2)(d) of this code, or due to any other act committed upon that person with or without his or her consent.

(f) Physically helpless person: a person who is unconscious, asleep, or who for any other reason is physically unable to communicate unwillingness to an act.

(g) Perpetrator: a person accused of criminal sexual conduct.

(h) Personal injury: a bodily injury (however slight or impermanent), disfigurement, mental anguish, chronic pain, pregnancy, disease, or loss or impairment of a sexual or reproductive organ.

(i) Intimate parts: parts of the human body in the primary genital area, groin, inner thigh, buttock, and breast.

(j) Sexual contact: 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 perpetrator's intimate parts, if that intentional touching can reasonably be construed as being for the purpose of sexual arousal or gratification, or done for sexual purpose, or in a sexual manner, including such actions for revenge, to inflict humiliation or out of anger.

(k) Sexual penetration: 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.

(l) Victim: the person alleged to have been subjected to criminal sexual conduct.

(m) Weapon: 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.

(n) Force or coercion: 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, and the victim believes the perpetrator has the present ability to execute these threats;

[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.

(3) Consent not a defense. The actual or apparent consent of the victim shall not be a defense to charges of criminal sexual conduct in the first or second degrees and shall not otherwise be relevant if any of the circumstances listed herein exist. A person shall be guilty of the crime of criminal sexual conduct in the first degree if he or she engages in sexual penetration with another person and any of the following listed circumstances exist. A person shall be guilty of the crime of criminal sexual conduct in the second degree if he or she engages in sexual contact with another person and any of the

following circumstances exist. The circumstances referred to in this paragraph are as follows:

(a) The victim is under 13 years of age.

(b) The victim is at least 13 years of age, but less than 16 years of age, and either

[1] the perpetrator is a member of the same household as the victim, or

[2] the perpetrator is related to the victim by blood or affinity to the fourth degree, or

[3] the perpetrator is in a position of authority over the victim and used this authority to coerce the victim to submit, or

[4] the perpetrator is 5 or more years older than the victim.

(c) The perpetrator knows or has reason to know that the victim is mentally disabled, temporarily incapacitated or physically helpless.

(d) The perpetrator uses force or coercion to accomplish the sexual penetration or contact.

(e) The victim has knowledge that the perpetrator is armed with a weapon, as defined in subsection 1.2084(1)(m) of the criminal sexual conduct code, or the victim has knowledge that the perpetrator is armed with any article used or fashioned in a manner to lead the victim to reasonably believe it to be a weapon.

(f) The perpetrator engages in the medical treatment or examination of the victim in a manner or for purposes, which are medically recognized as unethical or unacceptable.

(4) Corroboration of victim's testimony. The testimony of a victim need not be corroborated in prosecutions under any section of the criminal sexual conduct code.

(5) Resistance. A victim need not resist the perpetrator in the perpetrator's commission of an offense under any section or subsection of the criminal sexual conduct code. Resistance by a victim is not an element of any offense under any section or subsection of the criminal sexual conduct code, and the absence of a victim's resistance is not a defense in a prosecution under any section or subsection of the criminal sexual conduct code.

(6) Admissibility of evidence; victim's prior sexual conduct.

(a) Evidence of specific instances of the victim's prior sexual conduct, opinion evidence of the victim's prior sexual conduct, and reputation evidence of the

victim's prior sexual conduct shall not be admitted as evidence in a prosecution under any section or subsection of the criminal sexual conduct code, unless and only to the extent that the judge finds that the proposed evidence is material to a fact at issue in the case, that its inflammatory or prejudicial nature does not outweigh its probative value, and that the proposed evidence is of the following nature: [1] evidence of the victim's past sexual conduct with the perpetrator; or [2] evidence of specific instances of sexual activity showing the source or origin of semen, pregnancy or disease.

(b) If the defendant proposes to offer evidence described in subsection (a) immediately above, the defendant shall file, no later than ten (10) days after the initial pretrial conference following arraignment, a written motion and offer of proof. The court may order an in camera hearing to determine whether the proposed evidence is admissible under subsection (a) above. If new information is discovered during the course of the trial that may make the evidence described in subsection (a) above admissible, the judge may order an in camera hearing to determine whether the proposed evidence is admissible under subsection (a) above.

(7) Suppression of names and details. Upon the request of the victim or the perpetrator in a prosecution under the criminal sexual conduct code, the magistrate before whom the perpetrator is brought on a charged offense under the criminal sexual conduct code shall order the names of the victim and the perpetrator and the details of the alleged offense to be suppressed until such time as the perpetrator is arraigned, the charge is dismissed, or the case is otherwise concluded, whichever occurs first.

(8) Married persons. A person may be charged and convicted under the criminal sexual conduct code even though the victim is his or her legal spouse. However, a person may not be charged or convicted solely because his or her legal spouse is under the age of 16 years, or is mentally disabled, or is mentally incapable, or is mentally incapacitated.

1.2084a Criminal sexual conduct in the first degree; penalty

A person is guilty of the crime of criminal sexual conduct in the first degree if he or she engages in sexual penetration with another person without the voluntary consent of that person. Criminal sexual conduct in the first degree may be punished upon plea or conviction by incarceration for not more than 1 year, or by a fine of not more than $5,000.00, or by both, plus costs.

(1) Upon plea or conviction of a second or subsequent offense under section 1.2084a, the sentence imposed for such second or subsequent offense shall require a mandatory minimum sentence of incarceration for not less than 1 year and a fine of not less than $5,000.00, plus costs.

(2) For purposes of subsection (1) immediately above, an offense shall be considered a second or subsequent offense if, prior to conviction of said second or subsequent offense, the perpetrator has at any time been convicted under section 1.2084a (criminal sexual conduct in the first degree), or under a predecessor statute of this jurisdiction

substantially corresponding to said section 1.2084a, or under any substantially similar statute of this or any other jurisdiction for a criminal sexual offense including rape, carnal knowledge, indecent liberties, gross indecency, or an attempt to commit any of such offenses.

1.2084b Criminal sexual conduct in the second degree; penalty

A person is guilty of the crime of criminal sexual conduct in the second degree if he or she engages in sexual contact with another person without the voluntary consent of that person. Criminal sexual conduct in the second degree may be punished upon plea or conviction by incarceration for not more than 270 days, or by a fine of not more than $3,500.00, or both, plus costs.

(1) Upon plea or conviction of a second or subsequent offense under section 1.2084b, the sentence imposed for such second or subsequent offense shall require a mandatory minimum sentence of incarceration for not less than 270 days and a fine of not less than $3,500.00, plus costs.

(2) For purposes of subsection (1) immediately above, an offense shall be considered a second or subsequent offense if, prior to conviction of said second or subsequent offense, the perpetrator has at any time been convicted under either section 1.2084a (criminal sexual conduct in the first degree) or section 1.2084b (criminal sexual conduct in the second degree), or under any predecessor statute of this jurisdiction substantially corresponding to either section 1.2084a or 1.2084b, or under any similar statutes of this or any other jurisdiction for a criminal sexual offense including rape, carnal knowledge, indecent liberties, gross indecency, or an attempt to commit any of such offenses.

1.2084c Assault with intent to commit criminal sexual conduct in the first degree; penalty

A person is guilty of the crime of assault with intent to commit criminal sexual conduct in the first degree if he or she commits an assault or a battery against another person, as those terms are defined in sections 1.2004(1)(a) and (b) of this code, with the intent to engage in sexual penetration with that other person without the voluntary consent of that person. Assault with intent to commit criminal sexual conduct in the first degree may be punished upon plea or conviction by incarceration for not more than 180 days, or by a fine of not more than $1,000.00, or both, plus costs.

1.2084d Assault with intent to commit criminal sexual conduct in the second degree

A person is guilty of the crime of assault with intent to commit criminal sexual conduct in the second degree if he or she commits an assault or a battery against another person, as those terms are defined in subsections 1.2004(1)(a) and (b) of this code, with the intent to engage in sexual contact with that other person without the voluntary consent of that person. Assault with intent to commit criminal sexual conduct in the second degree may be punished upon plea or conviction by incarceration for not more than 120 days, or by a fine of not more than $500.00, or both, plus

costs. **Enacted by the Hannahville Indian Community Tribal Council for immediate effect on 12/02/02.**

1.2085 Armed robbery; aggravated assault

Any person who shall assault another, and shall feloniously rob, steal and take from his person, or in his presence, any money or other property, which may be the subject of theft, such robber being armed with a dangerous weapon, or any article used or fashioned in a manner to lead the person so assaulted to reasonably believe it to be a dangerous weapon, shall be guilty of an offense and, upon conviction thereof, shall be sentenced to imprisonment for a period not to exceed 1 year, but not less than 180 days, or be fined not more than $5,000.00, but not less than $3,000.00, or both, with costs.

1.2086 Unarmed robbery

Any person who shall, by force and/or violence, or by assault or putting in fear, feloniously rob, steal and take from the person of another, or in his presence, any money or other property which may be the subject of theft, such robber not being armed with a dangerous weapon, shall be guilty of an offense and upon conviction thereof, shall be fined not more than $3,000.00, but not less than $1,000.00, or sentenced to imprisonment for a period not to exceed 1 year, but not less than 180 days, or both, with costs.

1.2087 Bank, safe and vault robbery

Any person who, with intent to commit the crime of theft, or any offense, shall confine, maim, injure or wound, or attempt, or threaten to confine, kill, maim, injure or wound, or shall put in fear any person for the purpose of stealing from any building, bank, safe or other depository of money, bond or other valuables, or shall by intimidation, fear or threats compel, or attempt to compel, any person to disclose or surrender the means of opening any building, bank, safe, vault or other depository of money, bonds, or other valuables, or shall attempt to break, burn, blow up or otherwise injure or destroy any safe, vault or other depository of money, bonds or other valuables in any building or place, whether he succeeds or fails in the perpetration of such theft or offense, shall be guilty of an offense and, upon conviction thereof, shall be sentenced to imprisonment for a period not to exceed 1 year, but not less than 180 days, or fined not more than $5,000.00, but not less than $3,000.00, or both, with costs.

1.2090 Sex offender registration and notification code

(1) Title. This Code shall be known as the Hannahville Indian Community Sex Offender Registration and Notification Code or the Tribal Sex Offender Registration and Notification Code or TSORNC.

(2) Purpose. The intent of this code is to implement the federal Sex Offender Registration and Notification Act ("SORNA" or the "Act"), (Title I of P.L. 109-248, 42 USC §

16901 *et seq.*). This Code shall be interpreted liberally to comply with the terms and conditions of that Act as presently written or hereafter amended.

(3) Need. The conduct and presence of convicted sex offenders in Indian country threatens the political integrity, economic security, health and welfare of tribal nations. In order to give protection from sex crimes, and to assure the best quality of life to the citizens and employees of the Hannahville Indian Community and its neighbors, the Tribal Council of the Hannahville Indian Community enacts this Code to provide for the continued registration of sex offenders who may be present on tribal lands within the jurisdiction of the Hannahville Indian Community.

(4) Definitions.

(a) Adjudicated Delinquent Sex Offender. A juvenile who is required to register as a sex offender pursuant to SORNA who is at least 14 years of age at the time of the offense and who is adjudicated delinquent for committing or attempting or conspiring to commit offenses under laws that involve**:** engaging in a sexual act with another by force or the threat of serious violence; or engaging in a sexual act with another by rendering unconscious or involuntarily drugging the victim.

(b) Convicted. An adult sex offender is "convicted" for the purposes of this code if convicted pursuant to the criminal law of any jurisdiction, whether or not the sex offender has been subject to penal consequences based on the conviction, however the conviction may be styled, including cases where the offender pled guilty or *nolo contendere* to, admitted responsibility for, or where a plea was taken under consideration of a delayed sentence. A juvenile offender is "convicted" for purposes of this code when prosecuted as an adult or is an Adjudicated Delinquent Sex Offender and the offense adjudicated was comparable to or more severe than aggravated sexual abuse as described in 18 USC § 2241, (a) or (b) or was convicted of an attempt or conspiracy to commit such an offense.

(c) Employee. "Employee" as used in this code includes, but is not limited to, an individual who is self-employed or works for any other entity, regardless of compensation, or who serves as an elected or appointed official on any regularly constituted board or committee, including, but not limited to, volunteers.

(d) Foreign Offenses. Any conviction for a sex offense involving any conduct listed in subsection (5) of this section, (Covered Offenses), which was obtained under the laws of Canada, the United Kingdom, Australia, New Zealand, and other foreign jurisdictions.

(e) Immediate. "Immediate" and "immediately" means within 3 business days.

(f) Imprisonment. "Imprisonment" refers to incarceration pursuant to a conviction, regardless of the nature of the institution in which the offender serves the sentence. The term is to be interpreted broadly to include, but is not limited to, confinement

in a state, military, federal and foreign "prison," or BIA facility, as well as in a local or tribal "jail". The term shall also include confinement in any facilities (contract/private), including house arrest.

(g) Jurisdiction. "Jurisdiction," as used in this code, refers to the 50 states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, the United States Virgin Islands, and any Indian tribe that elects to function as a registration jurisdiction, including the Hannahville Indian Community.

(h) Minor. An individual who has not attained the age of 18 years, and including the words "child" or "children," as used in this code.

(i) Reside(s). With respect to an individual, the location of the individual's home or other place where the individual habitually lives, visits, or sleeps, including, but not limited to, vacation homes, trailers or motorhomes, tents, hunting camps, or the home, vacation home, vacation homes, trailer or motorhome, tent, or hunting or other camp of another. The individual will be understood to reside if he or she is present at a location for 3 days in any 30 day period.

(j) Recapture. The process for registration of sex offenders whose convictions or periods of incarceration for sex offenses pre-date enactment of this code.

(k) Sex Offense. "Sex offense" as used in this code includes those offenses contained in section 111(5) of SORNA and those offenses enumerated in subsection (5) of this code or any other covered offense under tribal law.

(l) Sex Offender. A person convicted of a sex offense or an attempt or conspiracy to commit a sex offense.

(m) Sexual Act. The term "sexual act" means:

[1] Contact between the penis and the vulva or the penis and the anus, and for purposes of this definition contact involving the penis occurs upon penetration, however slight.

[2] Contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus.

[3] The penetration, however slight, of the anal or genital opening of another by a hand or finger or by any object, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.

[4] The intentional touching, not through the clothing, of the genitalia of another person that has not attained the age of 18 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.

(n) Sexual Contact/Touching. The intentional contact or touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with the intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.

(o) Student. A person who enrolls in or attends either a private or public education institution, including a secondary school, trade or professional school, or an institution of higher education, including, but not limited to a person who enrolls in a single class, whether for credit or for audit purposes. The definition of student shall also include interns, externs and apprentices.

(p) SORNA. Title I of the Adam Walsh Sex Offender Registration and Notification Act, 42 USC § 16901 *et seq*.

(5) Covered Offenses. Sex Offenders who reside, are employed, or who attend school, within the exterior boundaries of the reservation or on property owned by the tribe in fee or trust regardless of location, that have been convicted of the following offenses are subject to the requirements of this code:

(a) Attempts and Conspiracies. Any attempt or conspiracy to commit any sex offense.

(b) Tribal Offenses. Unless otherwise excluded or exempted, tribal offenses include sex offenses of other tribes and the following offenses under the Hannahville Indian Community Legal Code, as presently or hereafter enacted or amended when committed by an adult or committed by an Adjudicated Delinquent Sex Offender or a juvenile charged and convicted as an adult. However, a tribal offense involving consensual sexual conduct is not a sex offense for the purposes of this code if the victim was an adult, unless the adult was under the custodial authority of the offender at the time of the offense, or if the victim was at least thirteen (13) years old and the offender was not more than four (4) years older than the victim.

[1] 1.2012a (knowledge of AIDS or HIV infection).

[2] 1.2024a - 1.2024e (child abuse or endangerment when underlying factual basis includes child sexual molestation or sexual basis).

[3] 1.2024f (persuading, enticing a child to engage in sexual activity).

[4] 1.2024g (promoting or distributing child sexually abusive material).

[5] 1.2024h (possession of child sexually explicit material).

[6] 1.2030 (indecent liberties with a child).

[7] 1.2039 (prostitution and solicitation).

[8] 1.2061 (indecent exposure).

[9] 1.2062 (gross indecency between male persons).

[10] 1.2063 (gross indecency between female persons).

[11] 1.2064 (gross indecency between male and female persons).

[12] 1.2084 (criminal sexual conduct; title, definitions, general provisions).

[13] 1.2084a (criminal sexual conduct in the first degree).

[14] 1.2084b (criminal sexual conduct in the second degree).

[15] 1.2084c (assault with intent to commit criminal sexual conduct in the first degree).

[16] 1.2084d (assault with intent to commit criminal sexual conduct in the second degree).

(c) State Offenses. Any sex offense as specified by the laws of any state.

(d) Federal Offenses. A conviction for any of the following, and any other offense hereafter included within SORNA.

[1] 18 U.S.C. § 1152 (General Crimes Act a/k/a Federal Enclaves Act a/k/a Indian Country Crimes Act).

[2] 18 U.S.C. § 1153 (Major Crimes Act).

[3] 18 U.S.C. § 1591 (sex trafficking of children).

[4] 18 U.S.C. § 1801 (video voyeurism of a minor).

[5] 18 U.S.C. § 2241 (aggravated sexual abuse).

[6] 18 U.S.C. § 2242 (sexual abuse).

[7] 18 U.S.C. § 2243 (sexual abuse of a minor or ward).

[8] 18 U.S.C. § 2244 (abusive sexual contact).

[9] 18 U.S.C. § 2245 (offenses resulting in death in connection with an attempt, a conspiracy to commit, or the commission of a sex crime, whether or not the sex crime was committed before or after the death).

[10] 18 U.S.C. § 2251 (sexual exploitation of children).

[11] 18 U.S.C. § 2251A (selling or buying of children).

[12] 18 U.S.C. § 2252 (material involving the sexual exploitation of a minor).

[13] 18 U.S.C. § 2252A (material containing child pornography).

[14] 18 U.S.C. § 2252B (misleading domain names on the internet).

[15] 18 U.S.C. § 2252C (misleading words or digital images on the internet).

[16] 18 U.S.C. § 2260 (production of sexually explicit depictions of a minor for import into the United States).

[17] 18 U.S.C. § 2421 (transportation of a minor for illegal sexual activity).

[18] 18 U.S.C. § 2422 (coercion and enticement of a minor for illegal sexual activity).

[19] 18 U.S.C. § 2423 (Mann Act-transportation of minors for illegal sexual activity, travel with the intent to engage in illicit sexual contact with a minor, engaging in illicit sexual conduct in foreign places).

[20] 18 U.S.C. § 2424 (failure to file factual statement about an alien individual being kept in a place for prostitution or for immoral purposes).

[21] 18U.S.C. § 2425 (transmitting information about a minor to further criminal sexual conduct).

(e) Foreign Offenses. Any conviction for a sex offense involving any conduct listed in subsection (h) of this section, which was obtained under the laws of Canada, the United Kingdom, Australia, New Zealand, and any other foreign jurisdiction.

(f) Military Offenses. Any military offense specified by the Secretary of Defense under section 115(a)(8)(C)(i) of PL 105-119 (codified at 10 U.S.C. § 951).

(g) Juvenile Offenses or Adjudications. Any sex offense, or attempt or conspiracy to commit a sex offense, that is comparable to or more severe than the federal crime of aggravated sexual abuse (as codified in 18 U.S.C. § 2241) and committed by a minor who is 14 years of age or older. Also, any covered offense committed by a juvenile who is charged as an adult.

(h) Jurisdiction Offenses. Any sex offense committed in any jurisdiction, including this Tribe, that involves:

[1] Any type or degree of genital, oral, or anal penetration.

[2] Any sexual touching of or contact with a person's body, either directly or through the clothing.

[3] Kidnapping of a minor.

[4] False imprisonment of a minor.

[5] Solicitation to engage a minor in sexual conduct understood broadly to include any direction, request, enticement, persuasion, or encouragement of a minor to engage in sexual conduct.

[6] Use of a minor in a sexual performance.

[7] Solicitation of a minor to practice prostitution.

[8] Possession, production, or distribution of child pornography.

[9] Criminal sexual conduct that involves physical contact with a minor or the use of the internet to facilitate or attempt such conduct. This includes offenses whose elements involve the use of other persons in prostitution, such as pandering, procuring, or pimping in cases where the victim was a minor at the time of the offense.

[10] Any conduct that by its nature is a sex offense against a minor; and

[11] Any offense similar to those outlined in:

[a] 18 U.S.C. § 1591 (sex trafficking by force, fraud, or coercion).

[b] 18 U.S.C. § 1801 (video voyeurism of a minor).

[c] 18 U.S.C. § 2241 (aggravated sexual abuse).

[d] 18 U.S.C. § 2242 (sexual abuse).

[e] 18 U.S.C. § 2244 (abusive sexual contact).

[f] 18 U.S.C. § 2422(b) (coercing a minor to engage in prostitution).

[g] 18 U.S.C. § 2423(a) (transporting a minor to engage in illicit conduct).

(6) Tiered Offenses.

(a) "Tier 1" Offenses.

[1] Tribal Offenses. Except as further provided in this code, and providing that there are no other convictions for a covered offense as designated in this code, under the law of any jurisdiction, the first conviction for a covered offense pursuant to tribal law shall be a "Tier 1" offense.

[2] Sex Offenses. A "Tier 1" offense includes any sex offense or an attempt or conspiracy to commit such an offense, for which a person has been convicted that involves any sexual act, touching, or sexual contact with another person that is not a "Tier 2" or "Tier 3" offense pursuant to the laws of any jurisdiction.

[3] Offenses Involving Minors. A "Tier 1" offense also includes any offense for which a person has been convicted by a jurisdiction, local government, or qualifying foreign country pursuant to subsection (5)(e) of this section, that involves the false imprisonment of a minor, video voyeurism of a minor, or possession or receipt of child pornography.

[4] Certain Federal Offenses. Conviction for any of the following federal offenses shall be considered "Tier 1" offenses:

[a] 18 U.S.C. § 1801 (video voyeurism of a minor).

[b] 18 U.S.C. § 2252 (receipt or possession of child pornography).

[c] 18 U.S.C. § 2252A (receipt or possession of child pornography).

[d] 18 U.S.C. § 2252B (misleading domain names on the internet).

[e] 18 U.S.C. § 2252C (misleading words or digital images on the internet).

[f] 18 U.S.C. § 2422(a) (coercion to engage in prostitution).

[g] 18 U.S.C. § 2423(b) (travel with the intent to engage in illicit conduct).

[h] 18 U.S.C. § 2423(c) (engaging in illicit conduct in foreign places).
[i] 18 U.S.C. § 2423(d) (transportation of person (adult) ancillary offenses.)

[j] 18 U.S.C. § 2424 (failure to file factual statement about an alien individual); and

[k] 18 U.S.C. § 2425 (transmitting information about a minor to further criminal sexual conduct).

[5] Certain Military Offenses. Any military offense specified by the Secretary of Defense under section 115(a)(8)(C)(i) of PL 105-119 (codified at 10 U.S.C. §

951) that is similar to those offenses outlined in subsection (6)(a)[1]-[4] of this section ("Tier 1 Offenses"), shall be considered "Tier 1" offenses.

(b) "Tier 2" Offenses.

[1] Tribal Offenses. A "Tier 2" sex offense pursuant to tribal law includes a second conviction for any covered tribal offense and any first conviction under tribal law where the victim is a minor and the age difference between the offender and the victim is 5 or more years, or where the victim is a mentally impaired person.

[2] Recidivism and Felonies. Unless otherwise covered by subsection (6)(c) of this section, ("Tier 3" Offenses), any sex offense, that is not the first sex offense for which a person has been convicted and that is punishable by more than one year in jail is considered a "Tier 2" offense.

[3] Offenses Involving Minors. A "Tier 2" offense includes any sex offense, or an attempt or conspiracy to commit such an offense, for which a person has been convicted, that involves:

[a] The use of minors in prostitution, including solicitations.

[b] Enticing a minor to engage in criminal sexual activity.

[c] Sexual contact with a minor 13 years of age or older, whether direct or through the clothing, that involves the intimate parts of the body.

[d] A non-forcible sexual act with a minor under the age of 18 years.

[e] The use of a minor in a sexual performance; or

[f] The production or distribution of child pornography.

[4] Certain Federal Offenses. Conviction for any of the following federal offenses shall be considered "Tier 2" offenses:

[a] 18 U.S.C. § 1591 (sex trafficking by force, fraud, or coercion).

[b] 18 U.S.C. § 2423(d) (transportation of person (minor) ancillary offenses).

[c] 18 U.S.C. § 2244 (abusive sexual contact, where the victim is 13 years of age or older.).

[d] 18 U.S.C. § 2251 (sexual exploitation of children).

[e] 18 U.S.C. §2251A (selling or buying of children).

[f] 18 U.S.C. § 2252 (material involving the sexual exploitation of a minor).

[g] 18 U.S.C. § 2252A (production or distribution of material containing child pornography).

[h] 18 U.S.C. § 2260 (production of sexually explicit depictions of a minor for import into the United States).

[i] 18 U.S.C. § 2421 (transportation of a minor for illegal sexual activity).

[j] 18 U.S.C. § 2422(b) (coercing a minor to engage in prostitution).

[k] 18 U.S.C. § 2423(a) (transporting a minor to engage in illicit conduct).

[5] Certain Military Offenses. Any military offense specified by the Secretary of Defense under section 115(a)(8)(C)(i) of PL 105-119 (codified at 10 U.S.C. §951) that is similar to those offenses outlined in this subsection (6)(b)[2]-[4] of this section shall be considered "Tier 2" offenses.

(c) "Tier 3" Offenses.

[1] Tribal Offenses. A "Tier 3" sex offense pursuant to tribal law includes a third conviction under the laws of any jurisdiction, including the Hannahville Indian Community, for any covered offenses pursuant to this code.

[2] Recidivism and Felonies. Any sex offense that is punishable by more than 1 year in jail where the offender has at least one prior conviction for a "Tier 2" sex offense, or has previously become a "Tier 2" sex offender, is a "Tier 3" offense.

[3] General Offenses. A "Tier 3" offense includes any sex offense or an attempt or conspiracy to commit such an offense, for which a person has been convicted that involves:

[a] Non-parental kidnapping of a minor.

[b] A sexual act with another by force or threat.

[c] A sexual act with another who has been rendered unconscious or involuntarily drugged, or who is otherwise incapable of appraising the nature of the conduct or declining to participate; or

[d] Sexual touching or contact with a minor 12 years of age or younger, including offenses that involve sexual touching of or contact with the intimate parts of the body, either directly or through the clothing.

[4] Certain Federal Offenses. Conviction for any of the following federal offenses shall be considered "Tier 3" offenses:

[a] 18 U.S.C. § 2241 (aggravated sexual abuse).

[b] 18 U.S.C. § 2242 (sexual abuse); or

[c] 18 U.S.C. § 2243 (sexual abuse of minor or ward);

[d] 18 U.S.C. § 2244 (abusive sexual contact), where the victim is 13 years of age or younger.

[5] Certain Military Offenses. Any military offense specified by the Secretary of Defense under section 115(a)(8)(C)(i) of PL 105-119 (codified at 10 U.S.C. § 951) that is similar to those offenses outlined in this subsection (6)(c)[2]-[4], of this section shall be considered "Tier 3" offenses.

(7) Required Information.

(a) General Requirements.

[1] Duties. A sex offender covered by this code who is required to register with the Tribe shall provide all of the information detailed in this subsection to the Hannahville Indian Community Tribal Police Department, and the Tribal Police Department shall obtain all of the information detailed in this chapter from covered sex offenders who are required to register with the Tribe in accordance with this code and shall implement policies and procedures to provide for registration.

[2] Digitization. All information obtained under this code shall be, at a minimum, maintained by the Tribal Police Department in digitized format.

[3] Electronic Database. A sex offender registry shall be maintained in an electronic database by the Tribal Police Department and shall be in a form capable of electronic transmission.

(b) Criminal History. The tribal police or designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's sex offense criminal history:

[1] The date of all arrests.

[2] The date of all convictions.

[3] The sex offender's status of parole, probation, or supervised release.

[4] The sex offender's registration status; and

[5] Any outstanding arrest warrants.

(c) Date of Birth. The tribal police or designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's date of birth:

[1] The sex offender's actual date of birth; and

[2] Any other date of birth used by the sex offender.

(d) DNA. If the sex offender's DNA is not already contained in the Combined DNA Index System (CODIS), the sex offender shall provide the tribal police or designee a sample of his DNA.

(e) CODIS. Any DNA sample obtained from a sex offender shall be submitted to an appropriate lab for analysis and entry of the resulting DNA profile into the Combined DNA Index System ("CODIS").

(f) Driver's License. The tribal police or designee shall obtain, and a covered sex offender shall provide, a photocopy of all of the sex offender's valid driver's licenses issued by any jurisdiction.

(g) Identification Cards. The tribal police or designee shall obtain, and a covered sex offender shall provide, a photocopy of any identification card including the sex offender's tribal enrollment card issued by any jurisdiction.

(h) Passports. The tribal police or designee shall obtain, and a covered sex offender shall provide, a photocopy of any passports used by the sex offender.

(i) Immigration Documents. The tribal police or designee shall obtain, and a covered sex offender shall provide, a photocopy of any and all immigration documents.

(j) Employment. The tribal police or designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's employment, to include any and all places where the sex offender is employed in any means including volunteer and unpaid positions:

[1] The name of the sex offender's employer.

[2] The address of the sex offender's employer; and

[3] Similar information related to any transient or day labor employment.

(k) Finger and Palm Prints. The tribal police or designee shall obtain, and a covered sex offender shall provide, both fingerprints and palm prints of the sex offender in a

digitized format and shall submit them to the Integrated Automated fingerprint Identification System ("IAFIS").

(l) Internet Names and Web-Site Addresses. The tribal police or designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's internet-related activity:

[1] Any and all email addresses used by the sex offender.

[2] Any and all Instant Message addresses and identifiers.

[3] Any and all other designations or monikers used for self-identification in internet communications or postings; and

[4] Any and all designations used by the sex offender for the purpose of routing or self-identification in internet communications or postings.

[5] Any and all passwords.

(m) Name. The tribal police or designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's name:

[1] The sex offender's full primary given name.

[2] Any and all nicknames, aliases, and pseudonyms regardless of the context in which it is used; and

[3] Any and all ethnic or tribal names by which the sex offender is commonly known. This does not include any religious or sacred names not otherwise commonly known or used.

(n) Phone Numbers. The tribal police or designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's telephone numbers:

[1] Any and all land line telephone numbers that the sex offender has or uses; and

[2] Any and all cellular telephone numbers that the sex offender has or uses.

[3] Any and all Voice over IP (VOIP) telephone numbers.

(o) Photograph. The tribal police or designee shall obtain, and a covered sex offender shall provide, a current photograph of the sex offender.

[1] Update Requirements. Unless the appearance of a sex offender has not changed significantly, a digitized photograph shall be collected:

[a] Every 90 days for "Tier 3" sex offenders.

[b] Every 180 days for "Tier 2" sex offenders; and

[c] Every year for "Tier 1" sex offenders.

(p) Physical Description. The tribal police or designee shall obtain, and a covered sex offender shall provide, an accurate description of the sex offender as follows:

[1] A physical description.

[2] A general description of the sex offender's physical appearance or characteristics; and

[3] Any identifying marks, such as, but not limited to, scars, moles, birthmarks, or tattoos.

(q) Professional Licenses, Registrations, Certifications. The tribal police or designee shall obtain, and a covered sex offender shall provide, all licensing, registration, and certifications of the sex offender that authorizes the sex offender to engage in an occupation or carry out a trade or business.

(r) Address. The tribal police or designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's residence:

[1] The address of each residence at which the sex offender resides or will reside; and

[2] Any location or description that identifies where the sex offender habitually resides regardless of whether it pertains to a permanent residence or location otherwise identifiable by a street or address.

(s) School Location. The tribal police or designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's school:

[1] The address of each school where the sex offender is or will be a student; and

[2] The name of each school at which the sex offender is or will be a student.

(t) Social Security. The tribal police or designee shall obtain, and a covered sex offender shall provide, the following information:

[1] A valid social security number for the sex offender; and

[2] Any social security number the sex offender has used in the past, valid or otherwise.

(u) Temporary Lodging Information. Ten (10) days before any scheduled travel, the tribal police or designee shall obtain, and a covered sex offender shall provide, the following information when the sex offender will be absent from his residence for 7 days or more:

[1] Identifying information of the temporary lodging locations including addresses and names; and

[2] The dates the sex offender will be staying at each temporary lodging location.

(v) Travel Abroad. A sex offender who is required to register shall report to his or her residence jurisdiction his or her intention to engage in international travel 21 days in advance of any such travel. The tribal police or designee shall attempt to provide this information to INTERPOL, and shall immediately notify the U.S. Marshall's Service and any other jurisdiction where the sex offender is either registered, or is required to register, of that updated information. Update must be made to NCIC/NSOR.

(w) Vehicle; Detailed Information. The tribal police or designee shall obtain, and a covered sex offender shall provide, the following information related to all vehicles owned or operated by the sex offender for work or personal use including land vehicles, aircraft, and watercraft:

[1] License plate numbers.

[2] Registration numbers or identifiers.

[3] General description of the vehicle to include color, make, model, and year; and

[4] Any permanent or frequent location where any covered vehicle is kept.

(x) Offense Information. The tribal police or designee shall obtain the text of each provision of law defining the criminal offense(s) for which the sex offender is registered.

[1] Statute/Code/Ordinance Database. The text of each provision of law mentioned in this subsection (x) shall be cross-linked to the SORNA database containing the text of relevant sex related laws for all jurisdictions.

(y) Registration Fee. At initial registration, and annually, during the first registration month of the year, a sex offender shall pay a registration fee in the amount of $50, or such other amount, as adjusted from time to time, without further amendment to this Code. Failure to pay shall be a violation of this Code.

(8) Registration.

(a) Where Registration Is Required.

[1] Jurisdiction of Conviction. If convicted by the tribal court of the Hannahville Indian Community, a sex offender must initially register in this Tribe's jurisdiction for a covered sex offense regardless of the sex offender's actual or intended residency.

[2] Jurisdiction of Incarceration. A sex offender must register in each jurisdiction in which the sex offender is incarcerated while completing any sentence for a covered sex offense, regardless of whether it is the same jurisdiction as the jurisdiction of conviction or residence.

[3] Jurisdiction of Residence. A sex offender must register with this jurisdiction if he/she resides within the exterior boundaries of the reservation or on property owned by the tribe in fee or trust regardless of location.

[4] Jurisdiction of Employment. A sex offender, who is an employee or volunteer in any capacity, shall register with the tribal police department if employed by the Tribe within the exterior boundaries of the reservation or on property owned by the tribe in fee or trust regardless of location.

[5] Jurisdiction of School Attendance. A sex offender shall register with the tribal police department if he or she is registered or attends school in any capacity within the exterior boundaries of the reservation or on property owned by the tribe in fee or trust regardless of location.

(b) Initial Registration.

[1] Timing. A sex offender required to register with the Tribe under this code shall do so in the following timeframes:

[a] If incarcerated, before release from imprisonment for the registration offense.

[b] If not incarcerated, within 3 business days of sentencing for the registration offense; and

[c] For foreign, federal, and military convictions, a sex offender must appear in person at the tribal police department within 3 business days of establishing a residence, registering to attend school, attending school, acceptance of employment or volunteering, within the exterior boundaries of the reservation or on property owned by the tribe in fee or trust

regardless of location, after either release from incarceration or, if not incarcerated, sentencing, for purposes of complying with this code.

[2] Duties of Tribal Police Department. The tribal police department shall have policies and procedures in place to ensure the following:

[a] Any sex offender incarcerated or sentenced by the Tribe for a covered sex offense completes their initial registration with the tribe.

[b] Any sex offender initially registering with the Tribe is informed of their duties under SORNA and this code, and that such duties under SORNA and this code are explained to them.

[c] The sex offender reads, or has read to them, and signs a form stating that the duty to register has been explained to them and that the sex offender understands the registration requirement.

[i] The form shall be signed and dated by the witnessing registering official and shall be immediately uploaded into the sex offender registry.

[d] That the sex offender is registered; and

[e] That upon entry of the sex offender's information in to the registry, that information is immediately forwarded to all other jurisdictions in which the sex offender is required to register due to the sex offender's residency, employment, or student status.

(c) Retroactive Registration.

[1] Timing of Recapture. The tribal police department shall ensure recapture of the sex offenders listed in (8)(c)[2], below, within the following timeframe to be calculated from the date of passage of this code:

[a] For "Tier 1" sex offenders, 1 year.

[b] For "Tier 2" sex offenders, 180 days; and

[c] For "Tier 3" sex offenders, 90 days.

[2] Recapture Duties of Tribal Police Department. The tribal police department shall have in place policies and procedures to ensure the following three categories of sex offenders are recaptured:

[a] Sex offenders incarcerated or under supervision of the Tribe, whether for a covered sex offense or other crime.

[b] Sex offenders already registered or subject to a pre-existing sex offender registration requirement under the Tribes' laws; and

[c] Any sex offender previously convicted of a registerable offense shall be recaptured when known to tribal law enforcement.

[d] If not already recaptured, sex offenders reentering the justice system due to arrest or conviction for any crime.

(d) Updating Registration Information.

[1] Jurisdiction of Residency. All sex offenders required to register in this jurisdiction shall immediately appear in person to update any changes in their name, residence (including termination of residency), employment, school attendance, vehicle information, temporary lodging, email addresses, telephone numbers, Instant Messaging addresses, and any other designation used in internet communications, postings, or telephone communications. In the event of a change in temporary lodging, the sex offender and tribal police shall immediately notify the jurisdiction in which the sex offender will be temporarily staying. All sex offenders must notify the tribal police department of their intent to change their residence a minimum of 10 days before they actually change their residence, and again at the time of the change, and shall give notice of the physical address(es) to which they intend to, and do, move. A sex offender required to register shall notify his or her jurisdiction of residence 21 days before any intended or actual international travel occurs.

[2] Jurisdiction of Employment. All sex offenders who are employed by the tribe in any capacity or are otherwise employed within the exterior boundaries of the reservation or on property owned by the tribe in fee or trust regardless of location that change their employment, or otherwise terminate their employment shall immediately appear in person at the tribal police department to update that information. The tribal police shall ensure that each jurisdiction in which the sex offender is required to register, or was required to register prior to the updated information being given, are immediately notified of the change. All sex offenders must notify the tribal police department of their intent to change their employment a minimum of 10 days before they actually change their employment, and again at the time of the change, and shall give notice of the name of the employer and the physical address(es) at which they intend to be, and are subsequently employed.

[3] Jurisdiction of School Attendance. Any sex offender who is a student in any capacity within the exterior boundaries of the reservation or on property owned by the tribe in fee or trust regardless of location that change their school, or otherwise terminate their schooling, shall immediately appear in person at the tribal police department to update that information. All sex offenders must

notify the tribal police department of their intent to change or to terminate their education a minimum of 10 days before they actually change their education and again at the time of the change, and shall give notice of the name of the school and the physical address(es) at which they intend to be, and are subsequently attending school. The tribal police shall ensure that each jurisdiction in which the sex offender is required to register, or was required to register prior to the updated information being given, are immediately notified of the change.

[4] Duties of Tribal Police. With regard to changes in a sex offender's registration information, the tribal police or designee shall immediately notify:

[a] All jurisdictions where a sex offender intends to reside, work, or attend school,

[b] Any jurisdiction where the sex offender is either registered or required to register; and

[c] Specifically with respect to information relating to a sex offender's intent to commence residence, school, or employment outside of the United States, any jurisdiction where the sex offender is either registered or required to register, and the U.S. Marshals Service, and if appropriate, attempt to notify INTERPOL as required by subsection (7)(v) of this section. The tribal police shall also ensure this information is immediately updated on NCIC/NSOR.

(e) Failure To Appear For Registration And Absconding.

[1] Failure to Appear. In the event a sex offender fails to register with the tribe as required by this code, the tribal police or designee shall immediately inform the jurisdiction that provided notification that the sex offender was to commence residency, employment, or school attendance with the tribe that the sex offender failed to appear for registration.

[2] Absconded Sex Offenders. If the tribal police or designee receives information that a sex offender has absconded the tribal police shall make an effort to determine if the sex offender has actually absconded.

[a] In the event no determination can be made, the tribal police or designee shall ensure the tribal police and any other appropriate law enforcement agency is notified.

[b] If the information indicating the possible absconding came through notice from another jurisdiction or federal authorities, they shall be informed that the sex offender has failed to appear and register.

[c] If an absconded sex offender cannot be located then the tribal police shall take the following steps:

[i] Update the registry to reflect the sex offender has absconded or is otherwise not capable of being located.

[ii] Seek a warrant for the sex offender's arrest, and in the case of a non-Indian, the U.S. Marshals Service or FBI shall be contacted in an attempt to obtain a federal warrant for the sex offender's arrest.

[iii] Notify the U.S. Marshals Service regardless of whether the sex offender is Indian or non-Indian.

[iv] Update the NCIC/NSOR to reflect the sex offender's status as an absconder, or is otherwise not capable of being located; and

[v] Enter the sex offender into the National Crime Information Center Wanted Person File.

[3] Failure to Register. In the event a sex offender who is required to register fails to do so or otherwise violates a registration requirement of this code, the tribal police or designee shall take all appropriate follow-up measures including those outlined in subsection (8)(e)[2][c], above. The tribal police or designee shall first make an effort to determine if the sex offender is actually residing, employed or attending school within the exterior boundaries of the reservation or on property owned by the tribe in fee or trust regardless of location.

(f) Verification and Appearance Requirements.

[1] Frequency of Registration. A sex offender who is or should be registered with the tribe shall, at a minimum, appear in person at the tribal police department for purposes of keeping registration current in accordance with the following time frames:

[a] For "Tier 1" offenders, once every year for 15 years from the time of release from custody for a sex offender who is incarcerated for the registration offense, or from the date of sentencing for a sex offender who is not incarcerated for the registration offense. Also, sex offenders shall appear once every year during the month of their birth to verify their address and other required information.

[b] For "Tier 2" offenders, once every 180 days for 25 years from the time of release from custody for a sex offender who is incarcerated for the registration offense, or from the date of sentencing for a sex offender who is not incarcerated for the registration offense. Also, sex offenders shall appear twice each year according to the following schedule to verify their address and other required information:

Birth Month	Reporting Month
January	January and July
February	February and August
March	March and September
April	April and October
May	May and November
June	June and December
July	January and July
August	February and August
September	March and September
October	April and October
November	May and November
December	June and December

[c] For "Tier 3" offenders, once every 90 days for the rest of their lives from the time of release from custody for a sex offender who is incarcerated for the registration offense, or from the date of sentencing for a sex offender who is not incarcerated for the registration offense. Also, sex offenders shall appear once every 90 days according to the following schedule to verify their address and other required information:

Birth Month	Reporting Months
January	January, April, July and October
February	February, May, August and November
March	March, June, September and December
April	January, April, July and October
May	February, May, August and November
June	March, June, September and December
July	January, April, July and October
August	February, May, August and November
September	March, June, September and December
October	January, April, July and October
November	February, May, August and November
December	March, June, September and December

[2] Reduction of Registration Periods. A sex offender may have their period of registration reduced as follows:

[a] A "Tier 1" offender may have their period of registration and verification terminated if they have maintained a clean record for 10 consecutive years.

[b] A "Tier 3" offender may have their period of registration and verification reduced to 25 years if they were adjudicated delinquent for an offense as a

juvenile which required "Tier 3" registration and they have maintained a clean record for 25 consecutive years.

[3] Clean Record. For purposes of subsection (8)(f)[2][a] and [b], (Reduction of Registration Periods), a person has a clean record if all of the following are true:

[a] He or she has not been convicted of any offense for which imprisonment for more than 1 year may be imposed.

[b] He or she has not been convicted of any subsequent sex offense.

[c] He or she has successfully completed, without revocation, any period of supervised release, probation, or parole; and

[d] They have successfully completed an appropriate sex offender treatment program certified by the Tribe, another jurisdiction, or by the United States Attorney General.

[4] Requirements For In Person Appearances.

[a] Photographs. At each in person verification, the sex offender shall permit the tribal police to take a photograph of the offender.

[b] Review of Information. At each in person verification the sex offender shall review existing information for accuracy.

[c] Notification. If any new information or change in information is obtained at an in person verification, the tribal police shall immediately notify all other registration jurisdictions of the information or change in information.

[d] Update. If any new information or change in information is obtained at an in person verification, the tribal police shall immediately update the public website, if applicable, and update information in NCIC/NSOR.

(9) Public Sex Offender Registry Website.

(a) Public Website. The tribal police department shall use and maintain a public sex offender registry website. Any tribal specific national website provided or approved by the SMART office shall qualify as a public sex offender registry website under this code. Juveniles Adjudicated as Delinquent Sex Offenders, while required to register as sex offenders, shall not be included on the Sex Offender Public Registry Web-Site.

[1] Links. The registry website shall include links to sex offender safety and education resources.

[2] Instructions. The registry website shall include instructions on how a person can seek correction of information that the individual contends is erroneous.

[3] Warnings. The registry website shall include a warning that the information contained on the website should not be used to unlawfully injure, harass, or commit a crime against any individual named in the registry or residing or working at any reported addresses and that any such action could result in civil or criminal penalties.

[4] Search Capabilities. The registry website shall have the capability of conducting searches by name, county, city, zip code, and geographic radius.

[5] Dru Sjodin National Sex Offender Public Website. The Tribe shall include in its design of its website all field search capabilities needed for full participation in the Dru Sjodin National Sex Offender Public Website and shall participate in that website as provided by the Attorney General of the United States.

(b) Required Public Information. The following information shall be made available to the public on the sex offender registry website:

[1] Notice that an offender is in violation of their registration requirements or cannot be located if the sex offender has absconded.

[2] All sex offenses for which the sex offender has been convicted.

[3] The sex offense(s) for which the offender is currently registered.

[4] The address of the sex offender's employer(s).

[5] The name of the sex offender including all aliases.

[6] A current photograph of the sex offender.

[7] A physical description of the sex offender.

[8] The residential address and, if relevant, a description of a habitual residence of the sex offender.

[9] All addresses of schools attended by the sex offender; and

[10] The sex offender's vehicle license plate number along with a description of the vehicle or the license plate number and vehicle description of any vehicle used by the sex offender.

(c) Prohibited Public Web-Site Information. The following information shall not be available to the public on the sex offender registry website:

[1] Any arrest that did not result in conviction.

[2] The sex offender's social security number.

[3] Any travel and immigration documents; and

[4] The identity of the victim.

[5] Internet identifiers (as defined in 42 USC § 16911), including email addresses.

(d) Witness Protection. For sex offenders who are under a witness protection program, the tribal police may honor the request of the United States Marshal Service or other agency responsible for witness protection by not including the original identity of the offender on the publicly accessible sex offender registry website.

(10) Community Notification.

(a) Notification of Law Enforcement Community. Whenever a sex offender registers or updates their information with the tribe, the tribal police or designee shall:

[1] Immediately notify the FBI and ensure the information is updated on NCIC/NSOR.

[2] Immediately notify any agency, department, or program within the tribe that is responsible for criminal investigation, prosecution, or sex offender supervision functions, including but not limited to, police, whether BIA, tribal, or FBI, tribal prosecutors, and tribal probation.

[3] Immediately notify any and all other registration jurisdictions due to the sex offender's residency, school attendance, or employment; and

[4] Immediately notify National Child Protection Act agencies, which includes any agency responsible for conducting employment-related background checks under section 3 of the National Child Protection Act of 1993 (42 U.S.C. § 5119a).

(b) Notification of General Public. The tribal police or designee shall ensure there is an automated community notification process in place that ensures the following:

[1] Upon a sex offender's registration or update of information with the tribe, the public registry website is immediately updated.

[2] Email notice is available to the general public to notify them when a sex offender commences residence, employment, or school attendance with the tribe, within a specified zip code, or within a certain geographic radius. This email notice shall include the sex offender's identity.

[3] A form letter or other notice, written or verbal, shall be given to the victim by means calculated to give actual notice.

[4] Community notification may also be given by timely posting in the Community Newsletter or other public buildings.

(11) Crimes and Civil Sanctions; Arrests and Bonds.

(a) Indians.

[1] Crime. Any violation of a provision of this code by a sex offender who is an Indian shall be considered a crime and be subject to a penalty of one year and/or $5,000.

(b) Non-Indians.

[1] Civil Penalty. Any violation of a provision of this code by a sex offender who is not an Indian shall be considered a tribal 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.

[2] Crime. Imposition of a civil penalty for a violation of this code may be in addition to penalties and remedies that are available and enforceable pursuant to federal law and the imposition of such civil enforcement shall not be construed to prohibit federal enforcement of SORNA.

(c) Arrests and Bonds.

[1] Indians. An Indian who is arrested by tribal law enforcement upon probable cause to suspect a violation of any provision of this Code shall be held without bond until brought before the Tribal Court Judge for arraignment on the offense.

[2] Non-Indians. A non-Indian who is suspected upon probable cause by tribal law enforcement to be in violation of any provision of this Code shall be taken to the boundary of tribal jurisdiction and either released under an order of banishment, or delivered into the custody of a law enforcement officer in a registering jurisdiction.

(12) Immunity. Nothing under this Code shall be construed as a waiver of the sovereign immunity of the Hannahville Indian Community, its departments, agencies, employees,

or agents. Any person acting in good faith under this Code shall be immune from any civil liability arising out of their actions.

(13) Notices To and By Employers of Sex Offenders; Requirement to Register. All employers' subcontractors who perform work on tribal trust or tribally owned lands, wherever located, must give notice to all of their employees who may or will perform work on those tribal lands, of the requirement that sex offenders who have been convicted in any jurisdiction must immediately register with the Hannahville Police Department. Notice to employers of the need of sex offenders to register and to comply with this provision shall be included in all bid documents, contracts, policies, MOUs and other formal relationships between said employers and the Tribe. The registering officer or his designee will contact employers before any work is performed to verify that the notice has been given and Form 7 will be posted in various locations calculated to provide additional notice on or near the job-site(s).

(14) Sex Offenders Subject to Banishment; Duties of Banishing Authority and Tribal Police. Any person or entity authorized by the Tribe to exercise the power to banish shall notify the tribal police department of the intent to banish. The tribal police department shall obtain and the proposed banishee and any other person shall provide sufficient information to the tribal police for the police to conduct an inquiry to determine whether the proposed banishee is a sex offender who is registered or required to register as a sex offender. If registered or required to register as a sex offender, the proposed banishee shall provide all information required to be provided pursuant to initial, updated, and travel registrations. As required by this Code and SORNA, the registering official shall immediately notify all jurisdictions to which the sex offender has proposed to travel and update MICJIN, NCIC/NSOR, and if appropriate, the US Marshalls Service and TTSORS, of the impending travel.

Enacted for immediate effect on 5 October 2009 by a vote of 9 yes, 0 against, and 0 abstaining.

Amended for immediate effect on March 1, 2010 by a vote of 9 yes, 0 against, 0 abstaining.

Further amended for immediate effect on March 7, 2011 by a vote of 10 yes, 0 against, and 0 abstaining.

Amended for immediate effect and made applicable to all pending cases on July 11, 2011 by a vote of 11 yes, 0 against, and 0 abstaining.

Amended for immediate effect on October 10, 2011, by the Tribal Council in regular session, by a vote of 11 for, 0 against, and 0 abstaining.

Further amended for immediate effect on January 9, 2012, by the Tribal Council in regular session, by a vote of 9 for, 0 against, and 0 abstaining.

Finally amended for immediate effect on November 5, 2012, by the Tribal Council in regular session, by a vote of 9 for, 0 against, and 0 abstaining.

Amended for immediate effect on May 5, 2014, by the Tribal Council in regular session, by a vote of 8 for, 0 against, and 1 abstaining.

1.2090a Student Safety Zone

(1) Short Title. This statute may be cited as the Hannahville Indian Community Student Safety Zone Code or Student Safety Zone Code.

(2) Student Safety Zone. There is established a Student Safety Zone consisting of the area that is 1000 or less feet from school premises including, without limitation, buildings, structures, facilities, playgrounds, service facilities, game or sports fields, and any real property owned or controlled by a school, including a child care facility, kindergarten or pre-school facility.

(3) Registered Sex Offenders; Prohibitions. Except as otherwise provided in this Code, a person who is registered or is required to register as a sex offender under the law of any jurisdiction shall not do any of the following:

(a) School or Event Attendance. Attend school or any school or tribally sponsored youth activity, event, function, or program, offered for the benefit of minors.

(b) Residence and Presence. Reside or be present within a student safety zone.

(c) Work or Volunteer. Work or volunteer within a student safety zone.

(d) First Violation. For the first violation of this subsection a person may be incarcerated for a period of up to 6 months and may be assessed fines in the amount of $500.00, plus costs.

(e) Subsequent Violations. A person who violates this subsection and who has 1 or more prior convictions under this subsection may be incarcerated for not more than 1 year and may be assessed fines in the amount of $5000.00, plus costs.

(f) Nothing in this Code is intended to prohibit charges or convictions or any other recourse, under other applicable provisions of the Hannahville Indian Community Legal Codes, traditions or customs, including without limitation, banishment from tribal lands wherever situated, whether owned in fee or in trust.

(4) Exceptions.

(a) Residence Grandfathered. A person who was residing within a student safety zone on March 7, 2011, may continue to reside within that student safety zone unless the person subsequently becomes required to register as a sex offender, in which case the person must move within 90 days of the conviction that gave rise to the obligation to register. If that person initiates or maintains contact with a minor, other than his or her own children if legally permitted to do so, within the student safety zone within that 90 day period, he or she must move immediately.

(b) Student Living With Parent or Guardian. A person who is required to register and who is not more than 19 years of age who attends secondary or postsecondary

school, and who resides with his or her parent or guardian is not required to move unless he or she initiates or maintains contact with a minor who is not a person with whom he or she attends classes in conjunction with school attendance, or is convicted of a subsequent sex offence under the law of any jurisdiction.

(c) Special Education Student Living With Parent, Guardian or in Group Home. A person who is required to register and who is not more than 26 years of age who attends a special education program, and who resides with his or her parent or guardian or resides in a group home or assisted living facility is not required to move unless he or she initiates or maintains contact with a minor who is not a person with whom he or she attends classes in conjunction with school attendance or is convicted of a subsequent sex offence under the law of any jurisdiction.

(d) Health Clinic. A person who is required to register may be present within the premises of the Health Clinic facility for the purpose of his or her own services or medical treatment or may accompany his or her own children, if legally permitted to do so, for the purpose of their services or medical treatment.

(5) Exemption. A juvenile under the age of 14 years shall not be subject to the prohibitions of this section unless he or she has been charged and convicted as an adult with a covered offense under the law of any jurisdiction. **Adopted for immediate effect by the Tribal Council of the Hannahville Indian Community in regular session on March 7, 2011, by a vote of 10 yes, 0 no, and 0 abstaining.**

Amended on May 16, 2011, by the Tribal Council in regular session by a vote of 9 yes, 0 against, and 0 abstaining.

Chapter 1.21 Weapons

1.2101 Pistol defined

"Pistol" as used in Chapter 1.21 of this Code means any firearm having a barrel less than 12 inches long.

1.2102 Safety inspection of firearms

Any person within the jurisdiction of the Hannahville Indian Community owning a firearm, shall bring such firearm(s) into the Hannahville Police Department and have such firearm safety inspected by a member of the Hannahville Police Department and shall, when in possession of such firearm(s) within the Jurisdiction of Hannahville Indian Community, carry in his or her possession a safety inspection card issued by the Hannahville Police Department, for such firearm(s).

(1) Any person who shall intentionally make a false statement in any application for a license or safety inspection form shall be guilty of an offense.

(2) Any person convicted on any provisions of this section shall be subject to the penalties

prescribed in section 1.2111 of this code.

1.2103 Who not to possess pistols

The following persons shall not own a pistol or have one in their possession or under their control:

(1) A person who has been convicted of committing or attempting to commit a felony, in violation of any law of the United States or any state involving the use of threats, force, or violence or perpetrated in whole or in part by the use of firearm.

(2) A person who has been convicted of committing a violation of Section 1.2102 of this Code.

1.2104 License to carry pistol; to whom issued

A license to carry a pistol within the Hannahville Indian Community Jurisdiction may be issued to the following persons providing that they are not prohibited from possessing a pistol under the provisions of section 1.2103 of this Code, and if it appears that the applicant therefore has proper purpose for the carrying of such pistol and that the applicant is a proper person to be so licensed:

(1) Any person who is 18 years of age or older, having a bona fide residence or place of business within the jurisdiction of the Hannahville Indian Community Court.

(2) Any person having a bona fide residence or place of business within the United States of America and a license to carry a pistol issued by a competent authority of any State or subdivision of the United States of America.

1.2105 License to carry pistol; who may issue

A license to carry a pistol within the Hannahville Indian Community jurisdiction may be issued to qualified persons by the Chief of Police of the Hannahville Indian Community or any person authorized by him only after an investigation is conducted to determine the eligibility of the applicant to acquire such license. Such license shall not be valid until countersigned by a judge of the Hannahville Indian Community Court and the Chairperson of the Hannahville Indian Community.

1.2106 Carrying pistols prohibited; exceptions

Except as otherwise provided in this subsection, no person without a license shall carry a pistol, either openly or concealed, in any vehicle or on or about his person, within the Hannahville Indian Community jurisdiction, except on his own land, in his own abode, or on a target range. This prohibition, however, shall not apply to the following persons.

(1) Marshals, Sheriffs, prison or jail wardens or their regularly employed deputies, policemen, or other law-enforcement officers of any state or political division thereof.

(2) Members of the armed forces of the United States when on duty or when going to and from duty.

(3) Members of the National Guard, organized reserves, or state guard organizations, when on duty or going to or from duty.

(4) Officers or employees of the United States duly authorized to carry a pistol.

(5) Any person engaged in manufacturing, repairing, or dealing in pistols or the agent or representative of such person possessing, using, or carrying a pistol in the usual or ordinary course of such business.

(6) Any common carrier; or

(7) Any person permitted by law to possess a pistol while carrying such pistol unloaded in a secure wrapper from the place of purchase to his home or place of business.

(8) Any person lawfully engaged in hunting or fishing and, by the terms and conditions of the Hannahville Indian Community Fish and Game Regulations is authorized to use a pistol therefor.

1.2107 Juvenile carrying firearms or gun

Any person under the age of 18 years, who shall go about anywhere within the Hannahville Indian Reservation, armed with a shotgun, rifle, pistol, air gun or other firearm, unless his parent or guardian shall have obtained a permit therefor, under the provisions of section 1.2104 of this Code, shall be deemed guilty of an offense and shall be subject to proceedings under the Hannahville Indian Community Juvenile Code. Every parent or guardian applying for a permit shall agree to pay all damages to person or property resulting from the use of firearms in the hands of the person for whom the permit has been issued. Any gun seized for violation of the foregoing Section may be confiscated. In order for a permit to be issued the juvenile must pass a gun safety class.

1.2108 Confiscated weapons; disposition

Any weapon confiscated shall be sold at public auction at least once a year at a time and place set by the Chief Judge. It shall be the duty of the Judge presiding in the case to determine if the weapon should be returned to the owner or sold at public auction. Proceeds from the sale of confiscated weapons shall be deposited in the Hannahville Indian Community Court Fund in the same manner as other cash receipts.

1.2109 Producing license on demand; penalty

Every person while carrying a pistol, for the possession of which a license is required, shall have on his person the license issued to him and shall exhibit it for inspection upon demand to any

duly qualified peace officer. The failure of any person so to exhibit his license shall justify his arrest for illegally carrying a pistol and, upon conviction thereof, shall be sentenced to imprisonment for a period not to exceed 90 days, or to a fine not to exceed $200.00, or to both such imprisonment and fine, with costs.

1.2110 False information in application prohibited

No person shall give false information or offer false evidence of his identity when applying for a license to carry a pistol within the Hannahville Indian Community jurisdiction.

1.2111 Penalties

Any person who shall violate any provision of Chapter 1.21 of this Code, for which another penalty is not specifically provided, shall be deemed guilty of an offense and upon conviction thereof, shall be sentenced to imprisonment for a period of not less than 7 days, but not more than 60 days, or by a fine of not less than $50.00, but not more than $200.00, or by both such imprisonment, and fine, with costs, and the pistol so carried may be confiscated.

1.2112 Portable device or weapon directing electrical current, impulse, wave or beam; sale or possession prohibited

(1) A person shall not sell, offer for sale, or possess within the jurisdiction of the Hannahville Indian Community, a portable device or weapon from which an electrical current, impulse, wave or beam may be directed, which current, impulse, wave or beam is designed to incapacitate temporarily, injure or kill.

(2) The section shall not apply to members of the Hannahville Police Department when such device is used in the performance of Law Enforcement duties and such device has been approved by the Chief of Police of the Hannahville Indian Community and such member has passed an approved training course for such device as determined by the Chief of Police.

(3) A person who violates this section shall be guilty of an offense and upon conviction thereof, shall be fined not more than $500.00, or sentenced to imprisonment for a period not to exceed 90 days, or both, with costs.

1.2113 Short- barreled shotgun, short-barreled rifle

The term "short barreled shotgun" means a shotgun having one or more barrels less than eighteen inches in length and any weapon made from a shotgun (whether by alteration, modification, or otherwise) if such weapon as modified has an overall length of twenty-six inches or less.

(1) A person shall not manufacture, sell, offer for sale, or possess a short-barreled shotgun or a short-barreled rifle.

(2) A person who violates this section shall be guilty of an offense and upon conviction

thereof, shall be fined not more than $500.00, or sentenced to imprisonment for a period not to exceed 90 days, or both, with costs.

1.2114 CS device; definition, use, sale and prohibition

A person shall not possess or use a CS Device pursuant to Chapter 750 of the Michigan Compiled Laws of 1970, section 750.224d.

(1) A person who violates this section shall be guilty of an offense and upon conviction thereof, shall be sentenced to imprisonment or fined as provided in section 1.2111 of this code.

Provided, however, that this section shall not apply to Hannahville Police Officers using such device in the performance of their duties.

1.2115 Firearm or dangerous weapon; carrying with unlawful intent

Any person who, with intent to use the same unlawfully against the person of another, goes armed with a pistol or other firearm or dagger, dirk, razor, stiletto, or knife having a blade over three (3) inches in length, or any other dangerous or deadly weapon or instrument, shall be guilty of an offense and upon conviction thereof, shall be fined not more than $1,000.00, but not less than $500.00, or sentenced to imprisoned for a period not to exceed 180 days, but not less than 90 days, or both, with costs.

1.2116 Pocket knife opened by mechanical device; unlawful sale or possession; persons exempted

Any person who shall sell or offer to sell, or any person who shall have in his possession any knife having the appearance of a pocket knife, the blade or blades of which can be opened by the flick of a button, pressure on a handle or other mechanical contrivance, shall be guilty of an offense and, upon conviction thereof, shall be fined not more than $1,000.00, or sentenced to imprisonment for a period not to exceed 6 months, or both, with costs.

The provisions of this section shall not apply to any one-armed person carrying a knife on his person in connection with his living requirements.

1.2117 Concealed weapons; carrying

(1) A person shall not carry on or about his person, a dagger, dirk, stiletto, a double-edged non-folding stabbing instrument of any length, or any other dangerous weapon, except a hunting knife adapted and carried as such, concealed or otherwise, in any vehicle operated or occupied by the person, except in his or her dwelling house, place of business or on other land possessed by the person.

(2) A person shall not carry a pistol concealed on or about his or her person, or, whether concealed or otherwise, in a vehicle operated or occupied by the person, except in his or

her dwelling house, place of business, or on other land possessed by the person, without a license to carry the pistol as provided by law and if licensed, shall not carry the pistol in a place or manner inconsistent with any restriction upon any such license.

(3) A person who violates this section shall be guilty of an offense and, upon conviction thereof, shall be fined a fine not to exceed $1,000.00, but not less than $500.00, or sentenced to imprisonment for a period not to exceed 180 days, but not less than 90 days, or both, with costs.

1.2118 Pistols, unlawful possession by licensee

Any person licensed in accordance with this chapter 1.21 and the State of Michigan Penal code, to carry a pistol because he is engaged in the business of protecting the person or property of another, except peace officers of the United States, Hannahville Indian Community, State of Michigan, or those in the military service of the United States, who shall have a pistol in his possession while not actually engaged in the business of protecting the person or property of another, except in his or her dwelling house or on other land possessed by him or her, shall be guilty of an offense and, upon conviction thereof, shall be fined not more than $1,000.00, but not less than $250.00, or sentenced to imprisoned for a period not to exceed 180 days, but not less than 90 days, or both, with costs.

This section shall not be construed to prohibit such person from carrying an unloaded pistol to or from his place of employment by the most direct route.

1.2119 Carrying or possessing firearm at the time of committing or attempting to commit a crime

(1) A person who carries or has in his possession a firearm at the time he commits or attempts to commit a crime, except in violation of sections 1.2117 and 1.2118, shall be guilty of an offense and, upon conviction thereof, shall be imprisoned for a period not to exceed 180 days, but not less than 90 days.

(2) The term of imprisonment prescribed by this section shall be in addition to the sentence imposed for the conviction of a crime or the attempt to commit a crime, and shall be served consecutively with and preceding any term of imprisonment imposed for the conviction of a crime or attempt to commit a crime.

(3) The term of imprisonment imposed under this section shall not be suspended. The person subject to the sentence mandated by this section shall not be eligible for parole or probation during the mandatory term imposed pursuant to subsection (1).

1.2120 Possessing or transporting firearm in or upon vehicles, boats or aircraft

Except as otherwise permitted by law, a person who transports or possesses in or upon a sailboat or a motor vehicle, aircraft, motorboat, or any other vehicle propelled by mechanical means, a firearm, other than a pistol, which is loaded, shall be guilty of an offense and, upon conviction

thereof, shall be fined not more than $1,000.00, but not less than $250.00, or sentenced to imprisonment for a period not to exceed 180 days, but not less than 90 days, or both, with costs.

(1) Except as otherwise permitted by law, a person shall not transport or possess in or upon a motor vehicle or any self-propelled vehicle designed for land travel, a firearm, other than a pistol, unless the firearm is unloaded and is one (1) or more of the following:

(a) Taken down.

(b) Enclosed in a case.

(c) Carried in the trunk of the vehicle.

(d) Inaccessible from the interior of the vehicle.

1.2121 Firearm; intentionally aiming without malice

Any person who shall intentionally, without malice, point any firearm at or toward any other person shall be guilty of an offense and, upon conviction thereof, shall be subject to the penalties prescribed in section 1.2111 of this code.

1.2122 Firearm discharged; intentionally aimed without malice

Any person who shall discharge, without injury to any other person, any firearm, while intentionally, without malice, aimed at or toward any person, shall be guilty of an offense and, upon conviction thereof, shall be fined not more than $1,000.00, but not less than $500.00, or sentenced to imprisonment for a period not to exceed 180, days but not less than 90 days, or both, with costs.

1.2123 Spring gun, trap or device; setting

Any person who shall set any spring or other gun, or any trap or device operating by the firing or explosion of gunpowder or any other explosive, and shall leave or permit the same to be left, except in the immediate presence of some competent person, shall be guilty of an offense and, upon conviction thereof, shall be fined not more than $1,000.00, but not less than $250.00, or sentenced to imprisonment for a period not to exceed 180, days but not less than 90 days, or both, with costs.

1.2124 Possession or use of firearm by person under influence of liquor or drug

Any person under the influence of intoxicating liquor or any exhilarating or stupefying drug who shall carry, or have in his or her possession or under control, and use in any manner or discharge any firearm within the Jurisdiction of the Hannahville Indian Community shall be guilty of an offense and, upon conviction thereof, shall be fined not more than $1,000.00, but not less than $250.00, or sentenced to imprisonment for a period not to exceed 180 days, but not less than 90 days, or both, with costs.

1.2125 Firearms; altering, removing, or obliterating marks of identity; presumption

A person who shall willfully alter, remove, or obliterate the name of the maker, model, manufacturer's number, or other mark of identity on a pistol or other firearm, shall be guilty of an offense and, upon conviction thereof, shall be fined not more than $1,000.00, but not less than $500.00, or sentenced to imprisonment for a period not to exceed 180 days, but not less than 90 days, or both, with costs.

1.2126 Firearms; discharging; injuries; duty to report

Any person who discharges a firearm and thereby injures or fatally wounds another person, or has reason to believe he has injured or fatally wounded another person, shall immediately stop at the scene and shall give his name and address to the injured person, or any member of his party, and shall render to the person so injured immediate assistance and reasonable assistance in securing medical and hospital care and transportation for such injured person.

Every person who shall have caused or been involved in an accident in which a human being was killed or injured by means of a firearm, shall, in addition to complying with the above paragraph, immediately thereafter report such injury or death to the Hannahville Police Department or County Sheriff's Department where the incident occurred.

1.2127 Careless, reckless or negligent use of firearms

Any person who, because of carelessness, recklessness or negligence, but not willfully or wantonly, shall cause or allow any firearm under his or her immediate control, to be discharged so as to kill or injure another person shall be guilty of an offense and, upon conviction thereof, shall be fined not more than $2,000.00, but not less than $500.00, or sentenced to imprisonment for a period not to exceed 1 year, but not less than 90 days, or both, with costs.

1.2128 Careless, reckless or negligent use of firearm; injury of property

Any person who, because of carelessness, recklessness or negligence, but not willfully or wantonly, shall allow any firearm under his or her control to be discharged so as to destroy or injure the property of another, real or personal, shall be guilty of an offense and, upon conviction thereof, shall be fined not more than $500.00, but not less than $250.00, or sentenced to imprisonment for a period not to exceed 180 days, but not less than 90 days, or both, with costs.

1.2129 Reckless, wanton use or negligent discharge of firearm

Any person who shall recklessly or heedlessly or willfully or wantonly use, carry, handle or discharge any firearm without due caution and circumspection for the rights, safety or property of others shall be guilty of an offense and, upon conviction thereof, shall be fined not more than $1,000.00, but not less than $500.00, or sentenced to imprisonment for a period not to exceed 1 year, but not less than 90 days, or both, with costs.

1.2130 Discharging a firearm from a motor vehicle

Any person who shall discharge a firearm from any motor vehicle shall be guilty of an offense and, upon conviction thereof, shall be fined not more than $500.00, but not less than $50.00, or sentenced to imprisonment for a period not to exceed 90 days, but not less than 15 days, or by both, with costs.

Chapter 1.22 Fires, Regulations and Penalties

1.2201 Burning dwelling house

Any person who willfully or maliciously burns any dwelling house, either occupied or unoccupied, or the contents thereof, whether owned by himself or another, any building within the curtilage of such dwelling house, or the contents thereof, shall be guilty of an offense and, upon conviction thereof, shall be sentenced to imprisonment for a period not to exceed 1 year, but not less than 180 days, or fined not more than $5,000.00, but not less than $2,500.00, or both, with costs.

1.2202 Testifying falsely at investigation of fire

Any witness at an investigation conducted by the State Fire Marshall or Deputy Fire Marshall, Bureau of Indian Affairs, or Tribal Officials under the provisions of this chapter, who gives false testimony at such hearing is guilty of perjury and shall be punished therefore.

1.2203 Penalty if campfire burns wood, marsh, prairie, hayland, buildings, or improvements

If any person who makes a campfire or other fire or causes the same to be made, leaves such fire without having thoroughly extinguished the same and the fire spreads and burns any wood, marsh, or prairie such person is guilty of an offense and, upon conviction thereof, shall be punished by a fine not to exceed $100.00, or sentenced to imprisonment for a period not to exceed 30 days, or to both such fine and imprisonment.

1.2204 Misconduct at fires; penalty

Every person who, at any burning, interferes with the lawful efforts of any fireman or company of firemen to extinguish the fire, or conducts himself in a manner calculated to prevent the fire from being extinguished, or forbids, prevents or dissuades others from assisting to extinguish the fire, is guilty of an offense and, upon conviction thereof, shall be sentenced to imprisonment for a period not to exceed 30 days, or to a fine not to exceed $100.00, or to both such fine and imprisonment.

1.2205 False alarms

Any person or persons turning in a false alarm shall be deemed guilty of an offense and, upon conviction thereof, shall be sentenced to imprisonment for a period not to exceed 30 days, or to a

fine not to exceed $100.00, or to both such fine and imprisonment, and any costs.

1.2206 Firefighters

Any person who is physically fit between the age of 18 and 55 without a good and sufficient reason, who refuses to fight forest fires in the Hannahville Indian Community for the established firefighters wages, when requested to do so by the Chairman of the Tribal Council, Tribal Police, or forest officers shall be deemed guilty of an offense and, upon conviction thereof, shall be sentenced to imprisonment for a period not to exceed 7 days.

1.2207 Burning of other real property

Any person who willfully or maliciously burns any building, other real property, or the contents thereof, other than those specified in the preceding sections of this chapter, whether the property of himself or another, shall be guilty of an offense and upon conviction thereof, shall be fined not more than $2,500.00, or less than $500.00, or sentenced to imprisoned for a period not to exceed 1 year, or less than 180 days, or both, with costs.

1.2208 Burning of personal property

Any person who willfully and maliciously burns any personal property, other than specified in the preceding sections, owned by himself or another, shall be guilty of an offense and, upon conviction thereof, shall be fined not more than $2,500.00, but not less than $250.00, or sentenced to imprisonment for a period not to exceed 180 days, but not less than 90 days, or both, with costs.

1.2209 Burning of insured property

Any person who shall willfully burn any building or personal property which shall be at the time insured against loss or damage by fire with the intent to and defraud the insurer, whether such person be the owner of the property or not, shall be guilty of an offense and, upon conviction thereof, shall be fined not more than $3,000.00, but not less than $500.00, or sentenced to imprisonment for a period not to exceed 1 year, but not less than 180 days, or both, with costs.

1.2210 Applicability of preceding sections

The preceding sections of this chapter shall apply to a married woman who may commit any of the offenses herein described although the property burnt may belong partly or wholly to her husband; and said preceding sections shall also apply to a married man although the property burnt may belong partly or wholly to his wife; and although said property may be occupied by such married man or woman, or by such married man and wife as a residence.

1.2211 Willfully and maliciously setting fire

Any person who shall in any manner use, arrange, place, devise or distribute any inflammable, combustible or explosive material, liquid or substance, or any device in or about any building or

property mentioned in the foregoing sections of this chapter, with the intent to willfully and maliciously set fire to or burn the same, or who aids, counsels, induces, persuades or procures another to do such act or acts, shall be guilty of an offense and, upon conviction thereof, shall be sentenced to imprisonment for a period not to exceed 1 year, but not less than 180 days, or fined not more than $3,000.00, but not less than $500.00, or both, with costs.

Chapter 1.23 Traffic Offenses and Penalties

1.2300 Infant and child restraint systems

(1) Applicability. This section applies to passenger cars, multipurpose passenger vehicles and trucks, and to child restraint systems for use in motor vehicles.

(a) Exceptions. This section does not apply to a child or infant being transported in any of the following:

[1] A school bus, except in relation to infants and children to age 5.

[2] A moped, motorcycle, four wheeler, ATV, snowmobile or other similar recreational vehicle without an enclosed cab.

[3] A dump truck or similar large transport vehicle.

(2) Children and Infants.

(a) Infants less than 1 year. Except as provided in subsection (d) of this subsection, any child less than 1 year of age shall be secured in a properly adjusted and secured child restraint system which meets the standards prescribed in 49 C.F.R. § 571.213, as amended from time to time. A child being nursed in a stopped motor vehicle shall not be held to come within this subsection.

(b) Children 1 year of age or more, but less than 4 years. Except as provided in subsection (d) of this subsection, any child 1 year of age or more but less than 4 years of age, when in a front or rear seat, shall be secured in a properly adjusted and secured child restraint system which meets the standards prescribed in 49 C.F.R. § 571.213, as amended from time to time.

(c) Children 4 years of age or more, but less than 18 years. Except as provided in subsection (d) of this subsection, any child 4 years of age or more but less than 18 years of age, shall be secured in a properly adjusted and secured safety belt. If the motor vehicle is transporting more children than there are safety belts available for use, all safety belts available shall be utilized in compliance with their specified use. Any child seated in the front seat of a motor vehicle shall be secured with a properly adjusted and secured safety belt.

(d) Exemptions. An operator may be exempted from the requirements of this section if

the operator or another licensed operator who is present in the motor vehicle has received an exemption in respect to the use of a child restraint system from the State in which he/she is licensed. Provided, however, that the operator shall be in compliance with any alternately prescribed means of protection in respect to those children to whom the exemption applies.

(3) Enforcement. Violations of this section may be enforced as primary offenses upon the operator of the motor vehicle. Provided, however, that only one violation shall be issued per motor vehicle.

(4) Violations; penalties. The penalty for any violation of this section shall be a fine of not more than $50.00, plus costs. **Adopted for immediate effect on April 8, 2002, by a vote of 10 for, 0 against, and 0 abstaining.**

1.2300a Safety Belt Requirement; applicability; violations; penalties

(1) Applicability. Except as otherwise provided, each operator of, and each passenger in a motor vehicle who is 18 or more years of age shall wear a properly adjusted and fastened safety belt or other approved restraint system at all times when in a moving motor vehicle. This section applies to passenger cars, multipurpose passenger vehicles and trucks.

(a) Exceptions. This section does not apply to an operator or passenger in any of the following:

[1] A passenger in a school bus.

[2] A moped, motorcycle, four wheeler, ATV, snowmobile, or other similar recreational vehicle without an enclosed cab.

[3] A motor vehicle if the operator or passenger possesses a written verification from a physician that the operator or passenger is unable to wear a safety belt for physical or medical reasons.

[4] A motor vehicle that is not required to be equipped with safety belts under the law of the licensing jurisdiction, or other applicable law, or a motor vehicle manufactured before January 1, 1965.

(2) Enforcement. Violations of this section may be enforced as primary offenses. Each adult shall be individually responsible for his/her own violation.

(3) Violations; penalties. The penalty for any violation of this section shall be a fine of not more than $50.00, plus costs. **Adopted for immediate effect on April 8, 2002, by a vote of 8 for, 2 against, and 0 abstaining.**

1.2301 Arresting person for violating traffic regulations; duty of arresting officer

Whenever any person is arrested for the violation of any of the provisions of Chapter 1.23 of this Code, the officer arresting such person, except as otherwise provided in section 1.2310 of this Code, shall;

(1) Take the name and address of such person.

(2) Take the license number of his motor vehicle.

(3) Issue a summons or otherwise notify him in writing to appear at a time and place to be specified in such summons or notice.

1.2302 Reserved

1.2303 Failure to appear; hearing upon arrest; time of promise of defendant to appear

The time to be specified in the summons or notice provided for in section 1.2302 shall be at least 3 days after such arrest. Such hearing shall be before a Tribal Judge or Magistrate of the Hannahville Indian Community Court. Upon receipt from the arrested person of a written promise to appear at the time and place mentioned in the summons or notice, such officer may release him from custody. Any person refusing to give such written promise to appear, shall be taken immediately by the arresting officer before the nearest, or most accessible, Tribal Judge or Magistrate. Any person willfully violating his/her written promise to appear shall be subject to the penalty prescribed by section 1.2347 regardless of the disposition of the charge upon which he originally was arrested.

1.2304 Display of number plates

Except as otherwise specifically provided, no person shall operate or drive a motor vehicle on the public highways within the jurisdiction of the Hannahville Indian Community Court, unless such vehicle shall have a current distinctive number assigned to it by a motor vehicle registration department, and a plate bearing such number conspicuously displayed, horizontally and in an upright position, securely fastened on the rear of such vehicle. Numbered plates assigned to a motorcycle or house trailers shall be attached to the rear thereof. As far as is reasonably possible, such plate shall at all times be kept free and clear of mud, ice, and snow so as to be clearly visible. All number plates, markers, or evidence of registration or licensing except for the current year shall be removed from such vehicle. Such license plates and their display shall in all respects comport to the laws of the State of Michigan or to the laws of such other government as may have authorized their issuance, and compliance therewith shall be a bar to prosecution under this section of the Code.

1.2305 Driving without a license

(1) No person shall drive a motor vehicle on the public highways within the jurisdiction of the Hannahville Indian Community Court without a valid driver's or chauffeur’s license.

(2) Any person convicted of violation of this section shall be sentenced to imprisonment for a period not to exceed 60 days, or to a fine not to exceed $150.00, or to both such imprisonment and fine.

1.2306 Permitting an unauthorized person to drive

(1) No person shall permit another person to drive or operate a motor vehicle on the public highways unless such person is licensed to drive or is participating in an authorized driver's training program.

(2) Any person convicted of violating this section shall be sentenced to imprisonment for a period not to exceed 30 days, or to a fine not to exceed $100.00, or to both such imprisonment and fine, with costs.

1.2307 Driving without required registration or with vehicle in unsafe condition

(1) No person shall operate a motor vehicle on the roadways within the jurisdiction of the Hannahville Indian Community Court unless such vehicle is in safe condition and complies with registration laws of the State of Michigan or the Governmental unit, which has licensed the said vehicle.

(2) Any person convicted of violating this section shall be sentenced to imprisonment for a period not to exceed 30 days, or to a fine not to exceed $100.00, or to both such imprisonment and fine, with costs.

1.2308 Starting, turning and stopping without regard to safety

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

(2) No person shall turn a vehicle at an intersection unless the vehicle is in a position on the highway that such movement can be made with reasonable safety, and a signal of intention to turn right or left, when required, has been given continuously during not less than the last 100 feet traveled by the vehicle before turning.

(3) No person shall stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal to the driver of any vehicle immediately to the rear when there is opportunity to give such signal.

(4) The signals herein required shall be given either by means of standard hand and arm signals or by a mechanical or electrical signal device.

(5) Every driver of a vehicle approaching an intersection with a stop sign, or a flashing red light, shall stop on the near side of the intersection, or railroad grade crossing at the point where he has a view of approaching traffic and shall not proceed until the intersection is clear.

1.2309 Speeding

(1) Every person operating or driving a vehicle of any character on a highway within the jurisdiction of the Hannahville Indian Community Court shall drive in a careful and prudent manner and at a rate of speed no greater nor no less than is reasonable and proper under the conditions existing at the point of operation, taking into account the amount and character of traffic, condition of brakes, condition of surface, freedom from obstruction to view ahead and the rights of ways of other persons entitled to use of the street or highway.

(2) Where no special hazard exists that requires lower speed for compliance with subsection (3) below, any speed not in excess of the limits specified in this section shall be lawful, but it is illegal for any person to drive at any speed in excess of the limits specified in this section.

(a) 25 miles per hour in any residential district unless a different speed is posted.

(b) 20 miles per hour when passing a school during recess or when children are coming to or going from school during opening and closing hours.

(c) 20 miles per hour when approaching within 50 feet of a railroad grade crossing or when the driver's view is obstructed within a distance of 100 feet.

(d) 55 miles per hour under other conditions unless a greater maximum daytime speed of 65 miles per hour is permitted on special areas of the State or Federal highways.

(e) All posted speed limits of the State of Michigan or its political subdivisions are hereby incorporated by reference as the speed limits of the Hannahville Indian Community.

(3) The speed limits set forth above shall not apply to vehicles when operated with due regard for safety under direction of the police in the chase or apprehension of violators of the law or of persons charged with or suspects of any such violation, or to fire departments when traveling in response to a fire alarm, nor to public or private ambulances when traveling in emergencies, this exception shall not however, protect the driver of any such vehicle from the consequences of reckless disregard of the safety of others.

(4) Any person who drives in excess of the maximum speed as provided in this section or at a speed greater than is reasonable and proper under the conditions thereof, shall be sentenced to a fine not to exceed $25.00 with cost, for the first offense, and not to exceed $50.00 with costs, for the second offense committed within two years of the first offense, and not to exceed 3 days of imprisonment, or a fine of $100.00, or to both such imprisonment and fine with costs, for every further offense committed within two years of such first offense.

1.2310 Offenses under which person arrested may not be entitled to release upon promise to appear

The provisions of section 1.2301 of this Code shall not apply to a person when:

(1) The arresting officer shall have reasonable cause to believe such person is guilty of any offense which constitutes a felony under state or federal law or which falls under the Major Crimes section of this code or when such person is arrested and charged with either of the following offenses:

(a) Causing or contributing to an accident resulting in injury or death of any person.

(b) Driving while under the influence or impairment of intoxicating liquor or a drugs or potentially mind altering substances of any kind.

(2) The arresting officer, acting within his discretion, deems it inadvisable to release such person upon his promise to appear when arrested and has charged either of the following offenses:

(a) Reckless Driving

(b) Driving in excess of speed limitations established by the Hannahville Indian Community Tribal Code. The arresting officer forthwith shall take any person not released upon his promise to appear before the nearest Hannahville Indian Community Court Judge or Magistrate. **Amended 10/24/94**

1.2311 Garages to report

The person in charge of any garage or repair shop or place to which is brought any motor vehicle which shows evidence of having been involved in a reportable accident or of being struck by any bullet, shall report or cause a report to be made to a police officer of the Hannahville Indian Community, within 24 hours after such motor vehicle is received, and before any repairs are made to such vehicle, giving the registration number, the name and address of the owner, operator, or person in control of such vehicle with a description of the location and type of damage to the vehicle or any missing parts. **Amended 10/24/94.**

1.2312 Reckless driving; penalty

Any person who operates a vehicle upon a highway or a frozen public lake, stream or pond, or other place open to the general public, including any area designated for the parking of vehicles, within this community, in willful or wanton disregard for the safety of persons or property, is guilty of reckless driving. A person guilty of reckless driving may be punished upon plea or conviction by incarceration for not more than 90 days, or by a fine of not more than $100.00, or by both, plus costs, and may be deprived of the right to operate a motor vehicle within this community for a period not to exceed 1 year.

1.2312a Careless driving; penalty

Any person who operates a vehicle upon a highway or a frozen public lake, stream or pond, or other place open to the general public, including any area designated for the parking of vehicles, within this community, in a careless or negligent manner likely to endanger any person or property, but without wantonness or recklessness, is guilty of careless driving. A person guilty of careless driving may be punished upon plea or conviction by incarceration for not more than 30 days, or by a fine of not more than $100.00, or by both, plus costs, and may be deprived of the right to operate a motor vehicle within this community for a period not to exceed 90 days.
Enacted by the Hannahville Indian Community Tribal Council for immediate effect on 12/02/02.

1.2313a Operating while under the influence of intoxicating liquors, drugs or substances

(1) It is unlawful and punishable for any person whether licensed or not, who is under the influence of intoxicating liquor or who is under the influence of any drug or substance, whether legal, illegal, controlled or restricted, to a degree which renders him incapable of safely driving a motor vehicle of any kind, to operate, or be in actual physical control of such vehicle upon a road, highway, or in places generally accessible to motor vehicles of that kind, including areas designated for parking of motor vehicles. For the purposes of this Code, the substantive provisions of Michigan Law as set forth in **MCL 257.625**, MSA 9.2325; **MCL 257.625a**; MSA 9.2325(1); **MCL 257.625c;** MSA 9.2325(3) are hereby adopted in their entirety as part of this section unless plainly conflicting with the substantive provisions of this section and any references therein to the State of Michigan shall be deemed to apply as well to the Hannahville Indian Community and its jurisdiction. All future amendments to the aforementioned Michigan statutes are hereby prospectively incorporated herein except penalties.

(a) Every person who is convicted of a violation of this section shall be punished by imprisonment for not more than 90 days, or by fine of not more than $100.00, or by both such fine and imprisonment, with costs, and shall be deprived of the right to operate a motor vehicle for a period of 90 days**.**

(b) Every person who is convicted of a second violation of this section within 5 years of a conviction for a first offense under this section shall be punished by imprisonment of not less than 14 days, nor more than 1 year, and shall be fined no less than $350.00, and no more than $700.00, plus costs, and shall be deprived of the right to operate any motor vehicle for a period of 120 days. Neither community service nor treatment for substance abuse or mental health nor any alternative sentence shall be substituted for the mandatory minimum period of imprisonment. The probationary period shall be a mandatory 2 years.

(c) Every person who is convicted of a third or subsequent offense of this section within 7 years of two or more prior convictions under this section shall be punished by imprisonment of not less than 30 days nor more than 1 year and shall be fined no less than $500.00 nor more than $1,000.00 plus costs, and shall be deprived of

the right to operate any motor vehicle for a period of 1 year. Neither community service nor treatment for a substance abuse or mental health nor any alternative sentence shall be substituted for the mandatory minimum period of imprisonment. The probationary period shall be a mandatory 3 years.

(2) The owner of a motor vehicle of any kind or the person in charge or in control of such vehicle shall not authorize or knowingly permit the vehicle to be operated upon a road or highway or in places generally accessible to motor vehicles of that kind, including areas designated for the parking of motor vehicles by a person, licensed or not, who is incapable of safely driving, operating, or being in control of such motor vehicle because that person is intoxicated. It shall not be a defense that the person charged was himself intoxicated when he gave the authorization or permission. Charges and penalties under this section shall be identical to those cited under subsections (1) (a-c) of this section.

(3) A BAC of .10% or greater shall raise a rebuttable presumption that a person(s) charged under subsection (1) was intoxicated and was incapable of safely driving.

(4) A person's refusal to submit to a PBT, breathalyzer, blood, or other chemical test is admissible in a prosecution under subsection (1) of this section and in prosecutions under section 1.2313b of this Code, shall raise a rebuttable presumption that the defendant was intoxicated and was incapable of safely driving. It shall be a defense to this section that the defendant was not advised of the effect of such. It shall not be a defense that the defendant was so intoxicated that he could not understand. In addition, such refusal shall itself be unlawful, and, upon conviction shall result in:

(a) A fine of $50 and revocation of the defendant's privilege of driving for a period of 60 days for a first offense. No restricted license shall be granted.

(b) In the case of a second refusal within 5 years, a conviction shall result in a fine of $100.00 and revocation of the defendant's privilege of driving for a period of 120 days. No restricted license shall be granted.

(c) In the case of a third or subsequent refusal within 7 years of two or more prior convictions under this section, upon conviction, the defendant shall pay a fine of $200.00 and his privilege of driving shall be revoked for a period of 1 year. No restricted license shall be granted. In the discretion of the Court, the defendant's vehicle or any vehicle of which the defendant was in charge or control, may be impounded for a like period which may run either concurrently or consecutively upon a showing that the defendant is unlikely to abide by the revocation imposed on conviction. This section does not prevent a police officer from temporarily impounding a vehicle, if needed, for evidentiary or safety reasons. **Effective date: 10/24/94**

1.2313b Operating impaired while under the influence of intoxicating liquors, drugs, or substances

(1) It is unlawful and punishable for any person, whether licensed or not, to operate or be in

actual physical control of a motor vehicle of any kind upon a road or highway or in places generally accessible to motor vehicles of that kind including areas designated for the parking of motor vehicles, while under the influence of any drug or substance, whether legal, illegal, controlled or restricted, where he has a (visibly) impaired ability to operate or control the vehicle. A BAC of 0.07% but less than 0.10% shall raise a rebuttable presumption that the defendant's ability to operate a vehicle is impaired.

(a) Every person who is convicted of a violation of this section shall be punished by imprisonment for not more than 60 days, or by a fine of not more than $75.00, or by both such fine and imprisonment, with costs. A restriction of the defendant's right to drive may be imposed where an accident occurs or an accident resulting in property damage or personal injury in connection with this violation.

(b) Every person who is convicted of a second violation of this section within 5 years of a conviction for a first offense under this section shall be punished by imprisonment of not less than 6 days, nor more than 90 days, and shall be fined no less than $100.00, and no more than $350.00, plus costs, and shall be deprived of the right to operate any motor vehicle for a period of 90 days. Neither community service nor treatment for substance abuse or mental health nor any alternative sentence shall be substituted for the mandatory minimum period of imprisonment. The probationary period shall be a mandatory 1 year.

(c) Every person who is convicted of a third or subsequent offense of this section within 7 years of two or more prior convictions under this section shall be punished by imprisonment of not less than 14 days, nor more than 120 days, and be fined no less than $350.00, nor more than $500.00, plus costs, and shall also be deprived of the right to operate any motor vehicle for a period of 120 days. Neither community service, nor treatment for substance abuse or mental health, nor any alternative sentence shall be substituted for the mandatory minimum period of imprisonment. The probationary period shall be a mandatory 2 years.

(2) The owner of a motor vehicle of any kind or a person in charge or in control of such vehicle shall not authorize or knowingly permit the vehicle to be operated upon a highway or road or in places generally accessible to motor vehicles of that kind, including areas designated for the parking of motor vehicles, by a person, licensed or not, who is under the influence of any drug or substance, whether legal, illegal, controlled or restricted, to a degree which renders him visibly impaired or legally impaired while driving, operating or being in control of such motor vehicle. It shall not be a defense that the person charged was himself intoxicated when he gave the authorization or permission. Charges and penalties under this section shall be identical to those cited under subsection (1) (a-c) of this section.

(3) A BAC of 0.07% but less than 0.10% shall raise a rebuttable presumption that a person charged under subsection (1) was intoxicated to the extent that he was visibly impaired. Refusal: PBT, Breathalyzer, chemical test, see 1.2313a (4). **Effective date: 10/24/94**

1.2313c Habitual offender under 1.2313a and 1.2313b

In addition to the penalties stated under sections 1.2313a and 1.2313b of this Code, on a fourth or subsequent offense under either of these statutes or any combination of both, the defendant may be charged under this section of the Code and, upon a conviction of the underlying requisite offense(s) shall be additionally imprisoned for a minimum of 60 days, and a maximum of 180 days, and shall pay a fine of no less than $250.00, and no more than $1,000.00, plus costs. Neither community service nor treatment for substance abuse or mental health nor any alternative service shall be substituted for the mandatory minimum period of imprisonment. A consecutively running probationary period shall exist until all fines, costs, and restitution shall have been satisfied. **Effective date: 10/24/94**

1.2314 Failure to drive on right side of roadway

(1) Upon all highways of sufficient width, the driver of a vehicle shall drive upon the right half of the highway, except:

(a) When overtaking and passing another vehicle proceeding in the same direction.

(b) When the right half of the roadway is closed to traffic while under construction or repair and a sign posted for one-way traffic or other conditions.

(2) No person shall at any time drive a vehicle to the left side of the roadway,

(a) When approaching the crest of a grade or upon a curve in the distance as to create a hazard in the event another vehicle might approach from the opposite direction.

(b) When approaching within 100 feet of or traversing any intersection or railroad grade crossing, or,

(c) When the view is obstructed upon approaching within 100 feet of any bridge, viaduct, or tunnel.

1.2315 Following too closely

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

1.2316 Overtaking a vehicle without regard for safety

(1) The driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass it at a safe distance to the left, and shall again drive to the right side of the roadway upon safely clearing the overtaken vehicle.

(2) The driver of a vehicle, which is being overtaken, shall not increase the speed of his

vehicle until completely passed by the overtaking vehicle.

(3) No person shall drive a vehicle to the left side of the centerline of a highway in overtaking another vehicle unless such left side is clearly visible and is free from oncoming traffic for a sufficient distance ahead to permit such overtaking to be made in safety. No driver shall overtake another vehicle in a no passing zone.

1.2317 Failure to stop for school bus flashing lights

(1) Every driver shall stop before reaching a school bus receiving or discharging school children or when flashing lights are in operation and shall not proceed until the school bus resumes motion, or until signaled by the driver to proceed.

(2) Any driver failing to stop and wait at such signal commits an offense and upon conviction thereof, shall be sentenced to imprisonment for a period not to exceed 60 days, or to a fine not to exceed $150.00, or to both such fine and imprisonment, and costs.

1.2318 Failure to give right of way

(1) The driver of a vehicle about to enter or cross a highway from a private drive or road shall yield the right of way to all vehicles approaching on the highway.

(2) When two vehicles from different highways enter an intersection at approximately the same time, the driver of the vehicle on the left shall yield the right of way to all vehicles approaching on the highway.

(3) The driver of a vehicle within an intersection intending to turn left shall yield the right of way to any vehicle approaching from the opposite direction, which is so close as to constitute an immediate hazard.

(4) The driver of a vehicle approaching, but not having entered an intersection, shall yield the right of way to a vehicle already within such intersection and making a left turn, providing the driver of the vehicle turning left has given a plainly visible signal of intention to turn.

(5) Upon the immediate approach of an authorized emergency vehicle making use of audible or flashing light signals, the driver of every other vehicle shall yield the right of way and shall immediately drive to a position as close as possible to the right hand edge of the road and stop until the emergency vehicle has passed. This provision shall not operate to relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highways.

(6) The driver of any vehicle upon a highway within a business or residence district shall yield the right of way to a pedestrian crossing at any marked or unmarked crosswalk at an intersection.

1.2319 Stopping, standing or parking on a highway

(1) No person shall park or leave standing any vehicle, whether attended or unattended, upon the paved or unpaved or main traveled portion of any highway outside of a business or residence district within the jurisdiction of the Hannahville Indian Community Court, when it is practicable to park or leave such vehicle standing off the paved or unpaved or main traveled portion of such highway; but in every event an obstructed width of highway opposite the standing vehicle shall be left free for the passage of other vehicles and the standing vehicle must be clearly visible for a distance of 500 feet to the driver of vehicles approaching from either direction.

(2) When a duly authorized law officer finds a vehicle standing upon a highway within the jurisdiction of the Hannahville Indian Community Court in violation of this provision, he is hereby authorized to move such vehicle or require the driver or person in charge of such vehicle to move such vehicle to the nearest place of safety.

(3) No person driving or in charge of a motor vehicle shall permit it to stand unattended without first stopping the engine, effectively setting the brake, and, when standing upon any grade, turning the front wheels to the curb or side of the highway.

1.2320 Coasting

No driver of a motor vehicle when traveling upon a downgrade shall coast with the gears of the vehicle in neutral or with the clutch manually disengaged.

1.2321 Obstruction to driver's view or driving mechanism

(1) No person shall drive a vehicle when it is so loaded, or where there are in the front seat such number of persons, exceeding 3, as to obstruct the view of the driver to the front or sides of the vehicle so as to interfere with the driver's control of the driving mechanism of the vehicle.

(2) No passenger in a vehicle shall ride in such position as to interfere with the driver's view ahead or to the sides, or to interfere with his control over the driver's mechanism of the vehicle.

1.2322 Riding on fenders, bumpers or running boards

No driver shall permit passengers to ride on the fenders, bumpers, or running boards nor shall any passenger ride on fenders, bumpers, or running board of a vehicle.

1.2323 Pedestrians on roadways without regard for safety

(1) Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield right of way to all

vehicles upon the roadway.

(2) Where sidewalks are provided, it is unlawful for any pedestrian to walk along or upon an adjacent roadway. Where sidewalks are not provided, pedestrians walking along a highway shall, when practical, walk only on the left side of the roadway or its shoulder facing traffic which may approach from the opposite direction.

(3) No person shall walk upon or along the highway while under the influence of intoxicating liquor.

1.2324 Garbage, glass, etc.

(1) No person shall throw or deposit upon the highway any glass bottle, glass, nails, tacks, wire, cans, rubbish or any other thing likely to injure any person, animal or vehicle.

(2) Any person who drops or permits to be dropped or thrown, upon any highway, any destructive or injurious material shall immediately remove the same or cause it to be removed.

(3) Any person removing a wrecked or damaged vehicle from the highway shall remove any glass or injurious substance dropped upon the highway from such vehicle.

1.2325 Open container in or on vehicle; possession; consumption

(1) No person shall consume or possess alcoholic beverages in or on a motor vehicle of any kind upon a road or highway or in any place generally open to the public or generally accessible to motor vehicles of that kind, including an area designated or used for parking.

(2) No person shall have in his possession, in the passenger compartment or on a motor vehicle occupied by him, any container containing alcoholic beverages or which has contained alcoholic beverages which has been opened, is uncapped, or the seal broken, or the contents of which have been (partially) removed, upon a road or highway, or in any place generally open to the public or generally accessible to motor vehicles of that kind, including an area designated or used for parking.

(3) It shall be unlawful for the owner of any motor vehicle to knowingly permit any person to keep, transport, or possess any container of alcoholic beverages or any container which has contained alcoholic beverages which has been opened, uncapped, or the seal broken, or the contents of which have been (partially) removed, upon a road, highway, or in any place generally open to the public or generally accessible to motor vehicles of that kind, including an area designated or used for parking.

(4) EXCEPTION: A person may transport or possess alcoholic liquor in a container that is open or uncapped or upon which the seal is broken within the passenger compartment of a vehicle upon a road or highway or other places stated in subsections (2) and (3), if the

vehicle does not have a trunk or compartment separate from the passenger compartment, the container is enclosed or encased, and the container is not readily accessible to the occupants of the vehicle.

(5) Penalties. Any person who shall be convicted or otherwise found guilty of a violation of subsections (1), (2) or (3) of this section shall be punished as follows:

(a) For a first offense, sentenced to imprisonment for a period not to exceed 30 days, or by a fine of not less than $25.00, but not more than $75.00, or by both such fine and imprisonment, together with costs.

(b) For a second offense, sentenced to imprisonment for a period of not less than 5 days, but not more than 60 days, or by a fine of not less than $50, but not more than $100.00, or by both such fine and imprisonment, together with costs.

(c) For a third offense, sentenced to imprisonment for a period of not less than 10 days, but not more than 90 days, or by a fine of not less than $75.00, but not more than $150.00, or by both such fine and imprisonment, together with costs.

(d) For a fourth or subsequent offense, sentenced to imprisonment for a period of not less than 15 days, but not more than 180 days, or by a fine of not less than $150.00, but not more than $500.00, or by both such fine and imprisonment, together with costs. **Effective Date: 10/24/94.**

1.2326 Driving in violation of an order of court

Any person whose right to operate a motor vehicle has been suspended, restricted or revoked, by the Court and who, within the period fixed by the Court's order, drives or attempts to drive a motor vehicle upon a road or highway or in any place generally open to the public or generally accessible to motor vehicles of that kind, including an area designated for parking of motor vehicles, is guilty of an offense. Every person who is convicted of driving a motor vehicle in violation of an order of the Court shall be sentenced to imprisonment for a period not to exceed 180 days, or to a fine not to exceed $300.00, or to both such imprisonment and fine, with costs, and within the discretion of the Court may be further deprived of the right to operate a motor vehicle for an additional period of 1 year. **Amended 10/24/94.**

1.2327 Duties in the event of an accident

(1) The driver of any vehicle involved in an accident resulting in injury to or death of any person or damage to any vehicle which is driven or attended by any person shall immediately stop such vehicle at the scene of such accident or as close thereto as possible and shall give his name, address, and the registration number of the vehicle he is driving and shall upon request, and if available, exhibit his driver's or chauffeur's license to the person struck, or the driver or occupant of, or person attending, any vehicle collided with and shall render to any person injured in such accident reasonable assistance, including hospital or medical attention.

(2) The driver of a vehicle which collides with any vehicle which is unattended shall immediately stop and shall then and there locate and notify either the operator or owner of such vehicle of the vehicle doing the striking and a statement of the circumstances thereof.

(3) The driver of a vehicle involved in an accident resulting only in damage to fixtures or other property legally upon or adjacent to a highway shall take reasonable steps to locate and notify the owner or person in charge of such property of the accident of the vehicle he is driving and shall upon request, and if available, exhibit his operators or chauffeurs license.

(4) The driver of a vehicle involved in an accident resulting in injury to, or death of any person, or property damage to another, or others, to an apparent extent of $100.00, or more, shall as soon as practicable thereafter, give notice of such accident to a police officer of the Hannahville Indian Community.

(5) Violation of any of the requirements of this section shall be an offense.

1.2328 Law officers to report accidents

Every Hannahville Indian Community law enforcement officer, who, in the regular course of duty, investigates a motor vehicle accident either at the time of and at the scene of the accident or thereafter by interviewing the participants or witnesses shall, within 24 hours after completing such investigation, forward a written report of the accident to the Chief of Police of the Hannahville Indian Community.

1.2329 Crash helmets required for operators of and passengers on motorcycles, mopeds, or other ORV (Off-Road Vehicle)

Every operator and passenger on a motorcycle shall at all times when such motorcycle is in motion be required to wear a crash helmet of a type and meeting the standards approved and established by the Michigan motor vehicle code, provided, however, such helmets shall not be required to be worn when such motorcycle is driven in a parade or ceremonial conducted or permitted under local ordinance.

1.2330 Number of riders on motorcycles limited

No motorcycle, designed to travel with fewer than 3 wheels in contact with the ground, shall be operated with more than 1 person thereon except that a motorcycle may be operated with not more than 2 persons riding thereon if such motorcycle is designed specifically for the purpose of carrying more than one 1 person, in which event a passenger may ride upon the permanent and regular seat if designed for 2 persons, or upon another seat attached firmly behind the operator.

1.2331 When lighted lamps are required

Every vehicle upon a highway within the jurisdiction of the Hannahville Indian Community Court at any time from one half hour after sunset to a half hour before sunrise and at any other time when, due to insufficient light or unfavorable atmospheric conditions, persons and vehicles on the highway are not clearly discernible at a distance of five 500 feet ahead, shall display lighted lamps, and illuminating devices.

1.2332 Visibility distance and mounted height of lamps

(1) Whenever a requirement is hereinafter declared as to distance from which certain lamps and devices shall render an object visible, or within which such lamps or devices shall illuminate an object, such devices shall be stated in section 1.2331, in respect to a vehicle without load when upon a straight, level, unlighted highway under normal atmospheric conditions unless a different time or condition is expressly stated.

(2) Whenever a requirement is hereinafter declared as to the mounted height of lamps or devices it shall mean from the center of lamp or device to the level ground upon which the vehicle stands when such vehicle is without a load.

1.2333 Head lamps on motor vehicles

Every motor vehicle other than a motorcycle or motor driven cycle shall be equipped with headlamps, which comport with the laws of the State of Michigan.

1.2334 Tail lamps and reflectors

Every motor vehicle, trailer, semi-trailer, pole trailer, and any other vehicle which is being drawn at the end of a train of vehicles, shall be equipped with tail lamps which comport with the laws of the State of Michigan.

1.2335 Lamp or flag on projecting load

Whenever the load upon any vehicle extends to the rear four 4 feet or more beyond the bed or body of such vehicle there shall be displayed at the extreme rear end of the load at the time specified in section 1.2334, a red light or lantern plainly visible from a distance of at least 600 feet to the sides and rear. The red light or lantern required under this section shall be in addition to the red rear light required upon every vehicle. Any other time there shall be displayed at the extreme rear end of such load a red flag or cloth not less than 12 inches square and so hung that the entire area is visible to the driver of a vehicle approaching from the rear.

1.2336 Brake equipment required

(1) Every motor vehicle, other than a motorcycle or motor driven cycle, when operated upon a highway within the jurisdiction of the Hannahville Indian Community Court shall be equipped with brakes adequate to control the movement of and to stop and hold such vehicle, including 2 separate means of applying the brakes, each of which means shall be effective to apply the brakes to at least 2 wheels. If these 2 separate means of applying

the brakes are connected in any way, they shall be so constructed that failure of any one part of the operating mechanism shall not leave the motor vehicle without brakes on at least 2 wheels.

(2) Every farm tractor, motorcycle and motor driven cycle, when operated upon a highway within the jurisdiction of the Hannahville Indian Community Court shall be equipped with at least on 1 brake, which may be operated by hand or by foot.

(3) Every trailer or semi-trailer when operated upon a highway within the jurisdiction of the Hannahville Indian Community Court at a speed in excess of 15 miles per hour shall be equipped with safety chains or brakes adequate to control the movement of and to stop and to hold such vehicle and so designed as to be applied by the driver of the towing motor vehicle from its cab, and said brakes shall be so designed and connected that in case of an accidental break away of the towed vehicle the brakes shall be automatically applied.

1.2337 Horns and warning devices

(1) Every motor vehicle when operating on a highway within the jurisdiction of the Hannahville Indian Community Court shall be equipped with a horn in good working order and capable of emitting sound audible under normal conditions from a distance of not less than 200 feet, but no horn or other warning devices shall emit an unreasonably loud or harsh sound or a whistle. The driver of a motor vehicle shall when reasonably necessary to insure safe operation give audible warning with his horn but shall not otherwise use such horn when upon a highway.

(2) No vehicle shall be equipped with nor shall any person use upon a highway within the jurisdiction of the Hannahville Indian Community Court upon a vehicle any siren, whistle, or bell except as otherwise permitted in this section.

(3) Any vehicle may be equipped with a theft alarm signal device, which is so arranged, that it cannot be used by the driver as an ordinary warning signal.

(4) Any whistle or bell, capable of emitting sound audible under normal conditions from a distance of not less than 500 feet and a type approved by the department of motor vehicles, State of Michigan, but such siren shall not be used except when such vehicle is operated in response to an emergency call or in the immediate pursuit of an actual or suspected violator of the law, in which said latter events the driver of such vehicle shall sound said siren when reasonably necessary to warn pedestrians and other drivers of the approach thereof and to attract attention of the pursued car thereby giving the driver of the pursued car an order to pull over to the side of the road and to stop.

1.2338 Mufflers, prevention of noise

Every motor vehicle shall at all times be equipment with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke, and no person

shall use a muffler cut out, by pass, or similar device upon a motor vehicle.

1.2339 Mirrors

Every motor vehicle shall be equipped with a mirror, which comports with the requirements of the laws of the State of Michigan.

1.2340 Windshield must be unobstructed and equipped with wipers

(1) No person shall drive any motor vehicle with any sign, poster or other non-transparent material upon the front windshield, side wings, or side or rear windows of such vehicle, which obstructs the driver's clear view of the highway or any intersecting highway.

(2) The windshield on every motor vehicle shall be equipped with a device for cleaning rain, snow, or other moisture from the windshield which device shall be so constructed as to be controlled by the driver of the vehicle.

(3) Every windshield wiper upon a motor vehicle shall be maintained in good working order.

1.2341 Restrictions on tire equipment

(1) Every solid rubber tire on a vehicle shall have rubber on its entire traction surface at least 1 inch thick above the edge of the flange of the entire periphery.

(2) No person shall operate or move on any highway within the jurisdiction of the Hannahville Indian Community Court any motor vehicle, trailer or semi-trailer having any metal tire in contact with the roadway.

(3) No tire on a vehicle moved on a highway shall have on its periphery any block, stud, flange, cleat, or spike or any other protuberance of any material other than rubber which projects beyond the tread of the traction surface of the tire, except that it shall be permissible to use farm machinery with tires having protuberances which will not injure the highway. Metal studs, as allowed by the laws of the State of Michigan, shall be allowable within the jurisdiction of the Hannahville Indian Community Court.

1.2342 Vehicle to be constructed to prevent shifting or leaking loads

(1) No vehicle shall be driven or moved on any highway unless it is so constructed or loaded as to prevent its contents from dropping, sifting, leaking or otherwise escaping therefrom, except that sand may be dropped for the purpose of securing traction, or water or other substance may be sprinkled on a roadway in cleaning or maintaining the roadway.

(2) No person shall operate on any highway any vehicle with any load unless the load and any covering thereon is securely fastened so as to prevent said covering or load from

becoming loose, detached or in any manner a hazard to other users of the highway.

1.2343 Registration card to be carried in driver's compartment; inspection of card

The provision of the laws of the State of Michigan with respect to the registration of motor vehicles are hereby incorporated by reference, except with respect to penalties for the violation thereof which are specifically provided for herein. Registration card shall be subject to inspection by police officers commissioned to enforce the laws within the jurisdiction of the Hannahville Indian Community Court. Any person violating any of the provisions of this section is guilty of a misdemeanor and shall be punished by a fine of not more than $50.00, or by imprisonment for not more than 30 days, or by both such fine and imprisonment.

1.2344 Transfer of title of vehicle

The provisions of the laws of the State of Michigan with respect to the transfer of title to motor vehicles are hereby incorporated by reference and are made part of this section.

1.2345 Special lighting and warning equipment on school buses

It shall be unlawful to operate any flashing warning signal light on any school bus except when said school bus is stopped on a highway for the purpose of permitting school children to board or alight from said school bus.

1.2346 Duty of drivers upon approach of police or fire department vehicle

Upon the approach of any police or fire department vehicle giving an audible signal by bell, siren or whistle or visual signal by light, hand or other means calculated to give actual notice, the driver of every other vehicle immediately shall drive to the same position as near as possible and parallel to the right hand edge or curb of the highway, clear of any intersection of highways, and shall stop and remain in such position unless otherwise directed by a police or traffic officer until the police or fire department vehicle shall have passed. Any person found in violation of the above shall be sentenced to imprisonment for a period not to exceed 30 days, or to a fine not to exceed $100.00, or to both such fine and imprisonment, with costs. **Amended 12/20/94.**

1.2347 Penalties not otherwise prescribed

Any person who is convicted of an offense enumerated in this chapter for which the penalty is not otherwise prescribed shall be sentenced under this section to a fine of not more than $100.00, or sentenced to imprisonment for a period not to exceed 30 days, and the Court shall take into consideration any circumstances urged for the imposition of a lesser amount.

1.2348 Statute of limitations

No prosecution shall be maintained under this chapter unless the action shall have been commenced within 12 months after the commission of the offense.

1.2349 Incorporation of State laws by reference; prospective incorporation of amendments

(1) Whenever any section of this chapter shall indicate that the laws of the State of Michigan have been incorporated by reference, such laws or portions thereof as are specified shall be of equal force and effect within the jurisdiction of the Hannahville Indian Community as if they had been promulgated by the Tribal Council of the Hannahville Indian Community and set forth herein in the entirety; provided, however, that the penalties for violation thereof shall not be incorporated herein but shall be as provided in this Code; and provided further that in the event of any conflict or inconsistency between such incorporated State laws and this Code, the provisions of this Code shall govern.

(2) Wherever such State laws are incorporated herein by reference, amendments thereto shall also be deemed to be incorporated upon their effective date in the State of Michigan without further action by the Hannahville Indian Community Tribal Council, provided, however, that in the event of any conflict between such amendments and the existing provisions of this Code (excepting the State law being amended), the provisions of this Code shall govern.

1.2350 Automobile liability insurance

No person shall operate or assist in the operation of a motor vehicle within the jurisdiction of the Hannahville Indian Community Court, nor shall any owner of a motor vehicle allow or consent to the vehicle's operation within this jurisdiction, until and unless the operator of said vehicle shall have in full force and effect at the time of said operation a policy of liability insurance comporting in all respects with the requirements and regulations of the State of Michigan then in force with respect to such insurance throughout the State of Michigan. Violation of the provisions of this section is an offense punishable by imprisonment for no more than 30 days, and by a fine of not less than $50.00, nor more than $100.00, with costs. **Amended 2019**

1.2351 Traffic safety school

Any person convicted of an offense under this chapter may, in lieu or in addition to any penalty set forth herein, be required to attend a recognized traffic safety school administered by the State of Michigan, the Hannahville Indian Community, the Federal government, or any other municipality. Any person who shall fail to attend the traffic safety school when ordered may have his driving privileges suspended, in the discretion of the court for a period not to exceed 6 months.

Chapter 1.24 Fireworks and Explosives Regulation and Control

1.2400 Title

This section of the Hannahville Indian Community Legal Code may be cited as the “Fireworks and Explosives Code,” the “Fireworks Code,” or the “Explosives Code.”

1.2401 General enforcement

Fireworks or explosives stored, handled, sold, possessed or used by a person or entity in violation of this chapter may be seized and held as evidence of the violation.

1.2402 Definitions

(1) Fireworks - a device made from explosive or flammable compositions of ingredients used primarily for the purpose of producing a visible display or audible effect, or both, by conflagration, deflagration, or detonation; anything manufactured, processed or packaged for exploding, emitting sparks or combustion which does not have another common use.

(a) Class B fireworks - toy torpedoes; firecrackers or salutes that do not qualify as class C fireworks; exhibition display pieces; aeroplane flares; illuminating projectiles, incendiary projectiles, incendiary grenades, smoke projectiles or bombs containing expelling charges but without bursting charges; flash powders in inner units not exceeding 2 ounces each; flash sheets in interior packages, flash powder or spreader cartridges containing not more than 72 grains of flash powder each; and other similar devices.

(b) Class C fireworks - toy smoke devices; toy caps containing not more than .25 grains of explosive mixture if the cap is used or possessed or sold for use in a device which prevents direct bodily contact with a cap when it is in place for explosion; toy propellant devices; cigarette loads; trick matches; trick noise makers; smoke candles; smoke pots; smoke grenades; smoke signals; hand signal devices; Very signal cartridges; sparklers on a wood or wire stick not exceeding 36 inches in length that are designed to produce audible and/or visible effects; explosive auto alarms; bottle rockets that do not qualify as Class B fireworks, and other similar devices.

(c) Exclusions - Fireworks do not include the following:

[1] Explosives; fuel or a lubricant; a firearm cartridge or shotgun shell; a flare possessed or sold for use as a signal in an emergency or in the operation of a railway, aircraft, watercraft or motor vehicle; a match, cigarette lighter, stove, furnace, candle, lantern or space heater; a model rocket engine; tobacco and tobacco products; a device designed to spray out paper confetti or streamers and which contains less than .25 grain of explosive mixture; a fuseless device that is designed to produce audible and/ or visible effects, and that contains less than .25 grain of explosive mixture; toy snakes not containing mercury, if packed in cardboard boxes with not more than 12 pieces per box for retail sale and if the manufacturer’s name and the quantity contained in each box are printed on the box.

(2) Explosives - includes blasting powder; M-80s; nitroglycerine; dynamite, whether ¼ or core sticks; TNT and any other form of high explosive; blasting material; fused devices other than an electric circuit breaker; detonators and other detonating agents; a chemical compound or mechanical mixture containing oxidizing or combustible units or other ingredients in such proportions, quantities or packing that ignition by fire, friction, concussion or other means of detonation of the compound or mixture or any part thereof may result in the sudden generation and release of highly heated gases or gaseous pressures capable of producing effects damaging or detrimental to or destructive of life, limb or property. An explosive does not include gasoline, kerosene, naphtha, turpentine, butane, propane, wet nitrocellulose or wet nitrostarch containing moisture in excess of 20%, or wet picric acid containing moisture in excess of 10%; or manufactured articles such as fixed ammunition for small arms, fire crackers, safety flares or matches containing an explosive in such limited quantity that the collective and simultaneous detonation thereof is incapable of resulting in the sudden generation and release of highly heated gases or gaseous pressures capable of producing effects damaging or detrimental to or destructive of life, limb or property.

(3) Improvised explosive device - a destructive explosive device capable of causing bodily harm, great bodily harm, death or property damage with some type of explosive material and a means of detonating the explosive material, directly, remotely, or with a timer either present or readily capable of being inserted or attached, which may include a pipe or similar casing, with the ends of the pipe or casing capped, plugged or crimped, and a fuse or similar object sticking out of the pipe or casing, and made by a person not engaged in the legitimate manufacture or legitimate use of explosives, or otherwise authorized by law to do so. "Improvised explosive device" does not include ammunition for any rifle, pistol or shotgun.

(4) Pyrotechnical displays of fireworks - the setting off of Class B fireworks shall constitute a pyrotechnical display.

(5) Retail - a sale of less than 25 pounds of fireworks to the public for personal use.

(6) Wholesale - a sale of fireworks in quantities of 25 pounds or greater, for resale to a retailer.

1.2403 Fireworks; permits; necessity for; when required; penalty

Except as otherwise authorized in this chapter, a person, firm, partnership, corporation, association, or other entity shall not store, handle, offer for sale, expose for sale, sell at wholesale or retail, keep, store, handle or possess with intent to sell at wholesale or retail, Class C fireworks without a permit. A person or entity that violates this section may, upon conviction, be fined in an amount up to $5,000.00, plus costs, and may be incarcerated for a period of not more than 1 year, or both, and may be prohibited from further consideration as a recipient of a permit. Each sale of each product may constitute a separate violation. Class B fireworks are prohibited except for use in pyrotechnical displays as further provided in this chapter.

1.2404 Fireworks; permits; number authorized; time; fees; insurance; application and issuance; qualifications; content; refusal; revocation; appeal

A maximum of 3 permits for the sale of Class C fireworks may be granted by the Hannahville Indian Community Tribal Council to individuals or entities other than the Hannahville Indian Community as owner. When a permit is available, the Tribal Council will cause an advertisement of the Availability of Permit to Sell Fireworks to be placed in the tribal newspaper. In the event that there are more qualified applicants than permits available, selection of applicants shall be by lottery. Permits may be granted for periods up to a maximum of 1 year, but may be given for shorter periods, in the discretion of the Tribal Council. An applicant shall pay an annual fee and shall present evidence of insurance liability coverage in amounts to be determined by the Council before receiving the permit, which will be signed by the Tribal Chairperson, or in his absence, the Vice-Chairperson, after authorization by the Tribal Council. Annual renewals will be automatic for prior permittees so long as they pay the annual fee, are in good standing at the expiration of the permit year, and are current in regard to all insurance requirements. A person or entity holding a valid permit may not assign or transfer it to any other person or entity. A permit shall not be issued to a nonresident, nor to a person under the age of 18 years. When an applicant or co-applicant is not a tribal member, he/she shall be a person with a legal relationship to an adult tribal member and the adult tribal member shall not be less than an ½ owner in the business. Eligibility to receive a permit will be subject to such site inspections, character and/or criminal records checks and other requirements as the Council may direct.

(1) Contents. A permit shall be issued in triplicate. An original shall be forwarded to the Tribal Council Secretary; an original shall be furnished to the applicant on the same day as the application is filed and approved; an original shall remain on file with the tribal court; and a duplicate original shall be provided to law enforcement. All of the following information shall appear on the permit:

(a) The name and address of the permit holder.

(b) The date on and after which fireworks may be sold.

(c) The kind and quantity of fireworks that may be sold.

(d) The date and location of permitted use and/or sale.

(e) Other special conditions prescribed by the Tribal Council.

(f) A copy of a permit under this subsection shall be given to tribal law enforcement at least 2 days before the date of authorized use.

(2) Revocation; suspension. A permit may be suspended or revoked by the Tribal Chairperson or Vice-Chairperson of the Tribal Council when reasonable cause exists to believe that its possession by the holder constitutes a substantial and immediate danger to the public health, safety and welfare. Violation of any of the provisions of this chapter constitutes reasonable cause. The procedures set forth in this act applicable to the refusal

of issuance of a permit shall apply to revocation.

(3) Review of refusal; application; hearing; order of determination, mailing, appeal. Within 5 days after the notice of refusal of an available permit, or suspension or revocation of an existing permit, the applicant may request, in writing, a review by the Tribal Council by filing a request with the Tribal Secretary, or as the Tribal Council may otherwise direct. Within 15 days after receipt by the Tribal Council of the application for review, it shall conduct a hearing and shall issue an order of determination on the review. The Tribal Secretary shall send to the applicant by certified mail, an order of the determination, with copies to tribal law enforcement and the tribal court, retaining a copy for Council records.

1.2405 Fireworks; sales to juveniles prohibited; penalty

Sales of fireworks to juveniles shall be limited to toy paper caps, sparklers containing no magnesium, chlorate or perchlorate; smoke/party novelties that contain less than .25 grain of explosive; a device designed to spray out paper confetti or streamers and which contains less than .25 grain of explosive mixture; a fuseless device that is designed to produce audible and/ or visible effects, and that contains less than .25 grain of explosive mixture; toy snakes not containing mercury, if packed in cardboard boxes with not more than 12 pieces per box for retail sale and if the manufacturer's name and the quantity contained in each box are printed on the box. If reasonable cause to suspect that a violation of this section exists, the Tribal Chairperson or Vice-Chairperson may issue an immediate order of suspension or revocation of a permit. A person or entity found to be in violation of this section may, upon conviction, be fined in an amount up to $5,000.00, plus costs, and may be incarcerated for a period of not more than 1 year, or both, and may be prohibited from further consideration as a recipient of a permit. Each sale of a product may constitute a separate violation.

1.2406 Fireworks; storage and handling; inspections

Except for sales from roadside stands or other temporary sales sites, the storage of fireworks at the site of a wholesaler or retailer shall be in accord with the following:

(1) In a 1 story, noncombustible building without a basement, or other secure structure, which building is weather resistant, well ventilated, and equipped with a strong door kept securely locked except when open for business.

(2) The location of the storage structure shall be approved by Tribal Council and shall be located not less than 300 feet from inhabited buildings, passenger railroads, and public highways for storage of up to 1,000 pounds of fireworks; not less than 1,000 feet for storage of 1,000-5,000 pounds of fireworks; not less than 2,000 feet for storage of 5,000-50,000 pounds of fireworks; and not less than 3,000 feet for over 50,000 pounds of fireworks, rounded to the nearest pound

(3) A person shall not cause or allow smoking, matches, open flames, spark producing devices, or firearms inside of or within 50 feet of a structure used for the storage of

fireworks. A person shall not store combustible materials, including but not limited to, gasoline or other volatile liquid, within 50 feet of a building used for the storage of fireworks.

(4) The interior of a structure used for the storage of fireworks shall be kept clean and free from debris and empty containers. A person shall not use a structure used for the storage of fireworks for the storage of any metal tools or any commodity other than fireworks.

(5) A person shall not provide a structure used for the storage of fireworks with heat or lights, except that if lights are necessary, an electric safety flashlight or safety lantern shall be used.

(6) A structure used for the storage of fireworks shall bear lettering on each side and top in letters not less than 4 inches high, the words "Explosives - Keep Fire Away".

(7) A structure used for the storage of fireworks shall be under the supervision of a competent person, who shall be not less than 18 years of age.

(8) There shall be no use of alcoholic beverages, intoxicants of any kind, mind-altering drugs, nor smoking within 50 feet of a place where fireworks are stored, sold, displayed or used.

(9) A person or entity found to be in violation of subsections (1) through (8) of this section may, upon conviction, be fined in an amount up to $5,000.00, plus costs, and may be incarcerated for a period of not more than 1 year, or both, and may be prohibited from further consideration as a recipient of a permit.

(10) One fully charged fire extinguisher per 400 pounds of fireworks shall be readily available and present at any location where fireworks are sold, stored, displayed, handled or used. A violation of this subsection by any person or entity may be punished by a fine not to exceed $500.00.

(11) A permittee shall notify tribal law enforcement of the location where any fireworks are stored, handled, or sold. A law enforcement officer may make inspections of the premises of a permittee where fireworks are stored, handled or sold at reasonable times and hours in order to assure compliance with the requirements of this chapter.

1.2407 Fireworks; use by juveniles; hours permitted; pyrotechnical display, permit required; prohibition and penalty; no use of intoxicants

(1) Use of Class C fireworks by juveniles; liability. Use of Class C fireworks by juveniles, except for those fireworks which may be sold directly to juveniles pursuant to section 1.2405, shall only be permitted under the direct supervision of a parent, guardian, or other custodial adult. A parent, foster parent, treatment foster parent, family-operated group home parent or legal guardian of a minor who consents to the use of fireworks by a juvenile is liable for damages caused by the juvenile’s use of the fireworks. Persons

other than parents, guardians, or other custodial adults who permit the use of Class C fireworks by juveniles may be charged with appropriate violations of tribal law and may be held liable for any damages caused by the juvenile's use. Nothing in this section shall be construed to prohibit civil suit in regard to damages sustained to persons or property by the negligent use of fireworks by any person.

(2) Hours of use. With the exception of tribally approved displays, and on the officially designated federal national holiday, the use of fireworks shall be limited to the hours of 8:00 A.M. through 12:00 A.M.

(3) Intoxicants, smoking; prohibition. There shall be no use of alcoholic beverages, intoxicants of any kind, mind-altering drugs, nor smoking within 10 feet of the use of Class C fireworks. A violation of this subsection by any person or entity may be punished by a fine not to exceed $500.00, which may be in addition to any charges and penalties under other provisions of tribal law.

(4) Pyrotechnical displays of fireworks. There shall be no pyrotechnical displays of fireworks except by licensed pyrotechnical experts authorized by special limited permit as approved by the Tribal Council. A person or entity found to be in violation of this section may, upon conviction, be fined in an amount up to $5,000.00, plus costs, and may be incarcerated for a period of not more than 1 year, or both, and may be prohibited from further consideration as a recipient of a permit.

1.2408 Fireworks and explosives; no manufacture; penalties

Manufacture of fireworks and/or explosives is expressly prohibited. A person or entity found to be in violation of this section may, upon conviction, be fined in an amount up to $5,000.00, plus costs, and may be incarcerated for a period of not more than 1 year, or both, and may be prohibited from further consideration as a recipient of a permit.

1.2409 Explosives; transport; possession; transfer; use

A person or entity found to be in violation of any subsection of this section may, upon conviction, be fined in an amount not to exceed $5,000.00, plus costs, and may be incarcerated for a period of not more than 1 year, or both, and may be prohibited from further consideration as a recipient of a permit.

(1) A person shall not make, buy, transport, possess, or transfer, nor offer to make, buy, transport, possess, or transfer, any explosive compound and/or improvised explosive device, either with intent to use such explosive to commit a crime or knowing that another intends to use it to commit a crime.

(2) A person shall not make, buy, sell, transport, possess, use or transfer, nor offer to make, buy, sell, transport, possess, use or transfer, materials or components with intent to assemble any improvised explosive device, or knowing that another intends to assemble any improvised explosive device.

(3) A person shall only possess, transport and/or use explosives in accordance with federal and applicable state law and by special request of the Hannahville Indian Community.

1.2410 Tribal sovereignty preserved

Tribal sovereignty is preserved and nothing in this chapter shall be construed to authorize suit against the Hannahville Indian Community, its enterprises, agencies, or organizations.

Adopted by the Tribal Council on May 29, 2003 in special session at which a quorum was present, by a vote of 6 for; 0 against, and 1 abstaining.

Chapter 1.25 Alcohol-free zone

1.2500 Title

This chapter of the Hannahville Indian Community Legal Code may be cited as the "Alcohol-Free Zone Chapter."

1.2501 General Enforcement

Intoxicating alcohol possessed, consumed or sold by a person or entity in violation of this chapter may be seized and held as evidence of the violation.

1.2502 Definitions

(1) "Alcohol" shall have its commonly understood meaning. Without limiting the commonly understood meaning, "alcohol" shall include but not be limited to distilled spirits, wine, beer, and malt beverages containing alcohol.

(2) "Alcohol-Free Zone" is a specific or special area which has been set apart for the purpose of establishing a more family-like, spiritual or sober living environment where the possession, consumption, or sale of alcoholic beverages is prohibited.

(3) "Gathering Grounds" also known as the "Woodland Valley Gathering Grounds" means the trust land located between (confined within the area between) B1 Road, the Public Works Building, the Sweet Grass Golf Course, and the fee owned properties adjoining the Gathering Grounds.

(4) "Old Ceremonial Grounds" means the trust land located between (confined within the area between) Swede Road, Poplar Lane, County Road 551, and 400 Road.

(5) "Playgrounds" means any outdoor facility for recreation by children and all adjoining trust land fifty feet from the recreation area.

(6) "Hannahville Indian School" means the Nah Tah Wahsh PSA and Hannahville Indian School located at or around N15100 Eagle Rd, Wilson, Michigan 49896, including the

greenhouse, soccer field and bus garages, and all Hannahville Indian School land partitioned by fencing and the land adjoining Eagle Road and Pine Drive. This ordinance does not impact any residential properties.

(7) "Three Fires" means the Three Fires building on D Road and all adjoining trust land fifty feet from the Three Fires building in all directions.

1.2503 Alcohol-Free Zone Established

The alcohol-free zone is established as follows:

(1) Not including privately owned residences and the Hannahville golf courses, the alcohol-free zone shall include:

(a) Gathering Grounds;

(b) Old Ceremonial Grounds;

(c) Playgrounds;

(d) Hannahville Indian School; and

(e) Three Fires.

(2) Except when approved by the Tribal Council, the possession, consumption, or sale of any alcoholic beverages is unlawful within the alcohol-free zone.

1.2504 Enforcement and Penalty

Possession, consumption or sale of alcohol in the alcohol-free zone shall be punishable by a fine not to exceed five hundred dollars ($500.00) or by imprisonment not to exceed sixty (60) days or by both such fine and imprisonment.

Enacted for immediate effect on October 2, 2017 by a vote of 9 yes, 0 against, 0 abstaining.
Amended on April 1, 2019, by a vote of _____yes, ____ against, ____ abstaining.

Chapter 1.30 Animal Regulation and Control

1.3001 Definitions

As used in this chapter, the following terms mean:

(1) Animal - The word as used in this chapter shall refer to dogs and cats unless otherwise specified as other wild or domestic or livestock in accordance with the Dog Law of **MCL 287.261 Section 2A**.

(2) Owner - A person having the right of property or custody of an animal or who keeps or

harbors an animal or knowingly permits an animal to remain on or about any premises occupied or under control of that person.

(3) Person - Any individual, corporation, partnership, organization, or institution commonly recognized by law as a unit.

(4) Hobby kennel or cattery - Any kennel where four (4) or more cats are kept for organized shows, breeding, rodent control, or enjoyment of the household.

(5) Kennel - Shall mean any establishment where four (4) or more dogs are kept for the purpose of breeding, boarding, sale, training, trading, or sporting purposes (raccoon, bear, sled, etc.).

(6) Animal shelter - Facility designated or recognized by the Hannahville Indian Community for the purpose of impounding and caring for animals.

(7) Nuisance - A dog or cat shall be considered a nuisance if it:

(a) Damages, soils, defiles or defecates on private property other than the owner's property or on public walks or recreation areas unless such waste is immediately removed and properly disposed of by the owner of such animal.

(b) Causes unsanitary, dangerous, or offensive conditions.

(c) Chases vehicles, or molests, attacks, or interferes with person(s) or domestic animals on public or private property.

(d) Any nuisance caused by excessive barking, howling, yelping or other noise making may be considered as disturbing the peace and shall be investigated by an animal control officer and/or any law enforcement agency. The disposition of complaints will be at the discretion of the Hannahville Police or Community Court and subject to penalty per ordinance.

(8) Restraint - A dog or cat shall be considered under restraint if it is within the real property limits of its owner or secured by a leash or lead.

(9) Vicious animal - Any animal that constitutes a physical threat to humans or other domestic animals or wildlife.

(10) Cruelty - Any act, omission, or neglect whereby unjustifiable pain and suffering is caused or permitted.

1.3002 Cruelty to animals

No person shall cruelly treat, abuse, or neglect any animal, bird or wildlife. Anyone found guilty of this offense shall be punished in accordance with section 1.3013.

1.3003 Poisoning animals

No person shall throw or deposit any poisonous substance on any exposed public or private place where it endangers or is likely to endanger, any animal or bird. This provision will in no way restrict the approved operating procedures duly licensed by the State DNR, Hannahville Police Department or the Hannahville Health Department to dispose of health hazards, as well as neighborhood safety hazards. This provision does not apply to poisonous substances used on farm premises for rodent and/or non-protected species control.

1.3004 Birds and birds' nest

No person shall molest, injure, kill or capture any protected bird species or molest or disturb any protected birds' nest or the contents thereof (a police officer acting in his/her official capacity may fulfill designated functions and is exempt from this restriction). Homeowners may remove the nests of certain protected bird species that build nests under the eaves of private homes and dwellings, i.e. barn swallows, etc.

1.3005 Animal control officer and his/her duties

It shall be the duty of the animal control officer to enforce the provisions of all appropriate ordinances and to perform the following duties:

(1) To impound any animal he/she finds running at large and not under reasonable control.

(2) To impound any animal not duly licensed as provided by law.

(3) To impound any animal he/she finds to be violating the provisions of this chapter in any way.

(4) To service notice, in writing, upon the owner of any animal impounded under the provisions of this chapter, if such owner is known and can be identified by the license on the collar of said animal; and to make a reasonable effort to identify the owner of a dog or cat so impounded.

(5) To make a report to the Chief of Police of the Hannahville Indian Community of any unlicensed animal he finds in the jurisdiction of the Hannahville Indian Community after October 1st of each year.

(6) To conduct an annual animal census as provided by law. This census shall include owner’s name, address, telephone number, and number of animals owned, type, age, sex, and color. Information shall also be provided indicating rabies vaccination and licensing.

(7) To keep a record of the breed, sex, age, color and marking of every animal impounded, together with the date and hour of impounding, the circumstances of acquiring, the name

of its owner, if it is known, the date notice was sent to the owner, and subsequent disposition.

(8) It shall be the duty of the animal control officer to dispose of all stray animals impounded at the animal shelter, which are not claimed or released within 4 days (not including Sundays) after impoundment. However, if the owner can be identified, the animal shall not be disposed of within 4 days from the date of mailing of the notice of impoundment, and the animal shall be held for a minimum of 10 days. If, after 10 days of owner identification and the mailing of notification the animal is not claimed, the animal becomes Tribal property. If the owner cannot be identified, the animal shall be disposed of in the following manner:

(a) If the animal is diseased or badly injured in the opinion of the animal control officer, it shall be immediately disposed of in a humane manner.

(b) Other animals, if not adopted, will be forthwith disposed of, after such 4 days, in a humane manner.

(9) Any animals voluntarily turned into the animal shelter for the purpose of euthanasia need not be held for 4 days in accordance with **MCL 287.388**, or if the animal is sick or injured otherwise. Animals surrendered by their owners will be held the minimum of 4 days (not including Sundays).

(10) The bodies of all animals (not including wildlife) destroyed at the animal shelter shall be disposed of by the Animal Control Officer, or assistants (See Reference MCLA 224.21; MSA 9.12).

(11) To inspect any kennel and suspend its license if conditions exist which are unhealthy or inhumane to animals kept therein, pending correction of such conditions. Inspections shall be held annually and shall be in accordance with the current State of Michigan Animal Control Laws. Additionally, all kennels must be in compliance with the appropriate Building and Zoning Ordinance(s) in effect at the time of inspections.

(12) To investigate complaints of cruelty to animals and to seize or impound any animal which has been determined, upon investigation, to be subject to such cruelty.

(13) To keep an accurate record of the euthanasia drug utilized, including entry of the date, case number, and amount of CC's used. Additionally, the drug will be stored in a locked cabinet and remain under supervised control at all times.

(14) Animal Control Fund: Fees collected for adoption of animals shall be collected by the animal control officer or assistants, and shall be in addition to the impounding fee and boarding fee as herein provided. All fees collected are to be placed into the hands of the Chief of Police of the Hannahville Police Department or his designee, who shall keep accurate records of same and deposit them to the Animal Control Fund, under the Law Enforcement Program, except those portions required to be deposited by local ordinance

elsewhere. In addition, the Chief of Police or his designee, shall provide a monthly report of all deposits and records concerning the Animal Control Fund, to the Tribal Chairman.

(15) To investigate complaints of animals alleged to be dangerous to persons or property, and seize or impound such animals.

(16) To investigate wild or domestic animal bite cases involving human exposure, and to impound or quarantine the animal for rabies examination in accordance with provisions of this ordinance or prevailing State Statues.

(17) In the absence of an Animal Control Officer, any Officer of the Hannahville Police Department shall have the authority to enforce any and all sections of this Animal Control Chapter 1.30.

1.3006 Licensing and vaccination

(1) No person shall own, keep or harbor any animal, male, female or unsexed, of the age of 6 months or over, within the jurisdiction of the Hannahville Indian Community unless such animal is vaccinated and licensed. It shall be unlawful for any person to own, possess, shelter, keep, or harbor more than 4 dogs or 4 cats over 6 months of age at any one time, at any one residence or address. These provisions do not apply to a licensed kennel/cattery facility.

(2) All animals shall be vaccinated against rabies by a licensed veterinarian in accordance with the latest "Compendium of Animal Rabies Vaccines and Recommendations for Immunizations".

(3) A certificate of vaccination shall be issued to the owner of each animal vaccinated, on a form recommended by the Compendium. Each owner shall receive a durable vaccination tag indicating the year in which it was issued and a serialized number.

(4) The licensing period shall be for 1 year (January 1 to December 31). License renewal may be applied for within 30 days prior to the expiration date. New residents must apply for a license within 30 days of establishing residence.

(5) License Fee:

Dogs:	Male/Female	$5.00	Penalty	$10.00
	Neuter/Spay	$2.00	Penalty	$4.00
Cats:	Male/Female	$2.00	Penalty	$4.00
	Neuter/Spay	$1.00	Penalty	$2.00

A penalty of double the license fee occurs after March 1st of the designated year. Replacement licenses for lost licenses will be at 1/2 the above-mentioned fees.

(6) All commercial and private kennels, hobby kennels or catteries shall be licensed annually. All animals shall be vaccinated against rabies but be exempt from individual licensing. Commercial kennels annual fee of $50.00. Private kennels annual fee of $25.00. Hobby kennels or catteries annual fee of $25.00.

(7) Current rules under the definition of hobby kennel or cattery, permit the possession of more than 4 cats for purposes such as rodent control. Any cats on farm premises that qualify under this definition are exempt from the above mentioned licensing and vaccination fees. It is strongly recommended that cats on farm premises be vaccinated against rabies for the protection of public health. Additionally, any cats off farm premises will be subject to all requirements as outlined in this Ordinance.

1.3007 Fees and expenses

All fees and expenses collected shall be put into the Law Enforcement Program under the Equipment line item for the purchase of Equipment for the Law Enforcement and Animal Control Officers.

(1) Both rabies and license tags must be attached to the collar of the animal. Tags must be worn at all times and are not transferable. Please note that although not mandated, the American Humane Society encourages the use of cat collars constructed in such a manner and with such material that the cat can pull out in the event of an emergency.

1.3008 Owner responsibility

(1) All animals shall be kept under restraint.

(2) Every vicious animal, as determined by the Animal Control Officer or assistant, shall be confined by its owner within a building or secure enclosure and shall be securely muzzled or caged whenever off the premises of its owner.

(3) No animal shall be allowed to cause a nuisance. The owner of every animal shall be held responsible for every behavior of such animal under the provisions of this ordinance.

(4) Any person in physical possession and control of any animal in a public place shall remove excrement or other solid waste deposited by the animal in any public area not designed to receive these wastes, including, but not limited to streets, sidewalks, parking strips, and public parks.

(5) No person shall transport or carry on any public highway or public roadway, any dog or other animal in a motor vehicle unless the animal is safely enclosed within the vehicle or if traveling in an unenclosed or partially enclosed vehicle (including, but not limited to convertibles, pick-ups and flat-bed trucks) shall be confined by a container, cage or other devices that will prevent the animal falling from or jumping from the motor vehicle.

(6) No person shall leave any animal in any standing or parked vehicle in such a way as to endanger the animal's health, safety or welfare. An animal control officer or law enforcement officer, is hereby authorized to use reasonable force to remove the animal from the motor vehicle whenever it appears that the animal's health, safety or welfare is or will be endangered.

1.3009 Impoundment

(1) Any animal found running at large, shall be impounded by an animal control officer or may be impounded by a law enforcement officer, in an animal shelter and confined in a humane manner.

(2) Any animal found to be vicious, creating a nuisance, or that has in fact attacked and/or bitten any person, shall be impounded by the Animal Control or Law Enforcement Officer, in an animal shelter and confined in a humane manner.

1.3010 Redemption

Any animal seized or impounded shall be released to the owner thereof, upon the following conditions:

(1) The payment of an impoundment fee:

1st	Impoundment	$10.00 (same animal).
2nd	Impoundment	$25.00 (same animal).
3rd	Impoundment	$50.00 (same animal).

$50.00 for each Impoundment of the same animal thereafter.

(2) Payment for the boarding of such animal at a cost of $2.00 per day.

(3) Exhibiting a currently effective license, or in the case of an unlicensed animal, the owner shall purchase a license before the release of the animal.

(4) Exhibiting a proper certificate from a veterinarian that such animal is currently immunized for rabies during the period of the license period or in the case of an unimmunized animal so impounded, the owner shall forthwith have the animal immunized. Additionally, the proper procedures shall have occurred in the animal control officer’s judgment that the deficiencies originally requiring the animal's impounding have been rectified.

(5) The animal control officer shall have the right to hold an animal indefinitely, with cause.

1.3011 Adoption

An adoption fee shall be assessed at the time of adoption:

Dogs: $55.00 (includes rabies shot & license).

Cats: $45.00 (includes rabies shot & license).

No animal shall be released for adoption as a pet without mandatory neutering or spaying; therefor, the release will be accompanied with a spay-neuter certificate to be presented at the veterinarian of choice.

This fee includes:

Dogs:	Cats:
Rabies	Rabies
License	License
1st DALP-CPV	1st FVRCP-CL

1.3012 Interference

No person shall interfere with, hinder or molest any agent of the Animal Control Division of the Hannahville Police Department in the performance of any duty as herein provided.

1.3013 Penalty

Any person who violates or fails to comply with any provisions of this ordinance shall be deemed guilty of an offense and upon conviction thereof, shall be fined not more than $100.00, or sentenced to imprisonment for a period not to exceed 90 days, or to both such fine and imprisonment, with costs.

1.3014 Severability

If any part of this ordinance shall be held invalid, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts of this ordinance.

1.3015 Applicability

This ordinance shall be in full force and effect upon the expiration of 60 days after its passage and publication.

1.3016 Safety Clause

The Hannahville Indian Community hereby finds, determines, and declares that this ordinance is necessary for the immediate preservation of the public health, safety, and welfare of the People of the Hannahville Indian Community thereof.

1.3017 Control of Rabies

Any person who shall have in his possession any animal which has contracted rabies or which has been exposed or subjected to the same, or which is suspected of having rabies, or which has bitten any person, shall, upon demand of any member of law enforcement or animal control officer, produce and surrender such animal to the said officer, to be held for observation for a minimum period of 10 days as hereinafter provided, or confine the same to the owner's premises, at the discretion and direction of such officer. It shall be the duty of any person owning or harboring an animal showing the symptoms of rabies, to immediately notify law enforcement or animal control that such person has such an animal in his possession.

1.3018 Restricted animals

Ownership or possession of Wolf, Wolf Hybrid, Pit Bull Terrier, and Rottweiler

(1) Purpose. The purpose of this code, which may be referred to as the "Restricted Animals Code," is to regulate the ownership and possession of wolves, wolf hybrids, pit bull terriers, and rottweilers, as defined in this code, collectively referred to as "restricted animals," on the Reservation of the Hannahville Indian Community in order to protect the health, safety and welfare of persons residing on or visiting the Reservation and the safety of their property.

(2) Definitions.

(a) Wolf - a large dog-like mammalian carnivorous predator that hunts in packs, is not susceptible to domestication, and is recognizable by a knowledgeable person to be a wolf.

(b) Wolf Hybrid - a crossbreed resulting from the breeding of a wolf with a dog, or a crossbreed resulting from the breeding of 2 wolf hybrids, or that is represented by the owner or is determined by a knowledgeable person to be a wolf-dog crossbreed or a descendant of a wolf-dog crossbreed, whether by advertisement, registration papers, sworn statements or other method.

(c) Person - an individual, partnership, corporation, association or other legal entity.

(d) Pit Bull Terrier - (aka American Staffordshire Terrier, American Pit Bull Terrier, Staffordshire Bull Terrier) is an American breed of muscular terriers with powerful jaws, a short close-lying still coat, a broad skull originally developed for dog fighting; or that is represented by the owner or is determined by a knowledgeable person to be a pit bull terrier, a pit bull terrier crossbreed or a descendant of a pit bull terrier or pit bull terrier crossbreed, whether by advertisement, registration papers, sworn statements or other method.

(e) Reservation - lands held in trust by the United States Department of the Interior for

the benefit of the Hannahville Indian Community, and lands hereafter acquired by the Hannahville Indian Community over which the Community exercises civil or criminal jurisdiction.

(f) Rottweiler - a medium large, robust and powerful dog with a massive skull, and if purebred, a black coat and definitive tan muzzle and markings or red with brown markings, or that is represented by the owner or is determined by a knowledgeable person to be a rottweiler, a rottweiler crossbreed or a descendant of a rottweiler or rottweiler crossbreed, whether by advertisement, registration papers, sworn statements or other method.

(3) Prohibition; possession of restricted animals. No person shall engage in any of the following activities on the Reservation of the Hannahville Indian Community:

(a) Own or possess a restricted animal as defined in subsection (2) of this code except in compliance with this code.

(b) Make or receive, or attempt to make or receive, a conveyance or transfer of ownership or possession of a restricted animal on or off the reservation unless the person does so in compliance with applicable tribal or state laws.

(c) Breed a restricted animal.

(4) Legal possession of restricted animals; permit.

(a) Acquisition of restricted animal prohibited. A person shall not own or possess a restricted animal unless the person was in possession of that individual animal on the date that this statute is effective, and obtains a permit.

(b) Permit required. A permit shall be requested by a person owning or possessing a restricted animal within 90 days of adoption of this statute. The permit request applies only to the individual animals listed on the application, and is nontransferable. Permit requests shall be submitted to the law enforcement department of the Hannahville Indian community, and shall not be granted unless all the requirements of this code are met by the applicant.

(c) Application for permit; contents. An application for a permit shall include all the following:

[1] A nonrefundable permit fee of $75.00.

[2] A description of the number and type of restricted animals possessed by the applicant, a description of the property where the animal is to be kept, and a detailed description of each animal possessed by the applicant.

[3] A scale diagram of the property where the animal will be kept, including the

location of any residence on the property, and a detailed description of the cage/pen for each animal.

[4] A notarized statement from the applicant that:

[a] The applicant is at least 21 years of age;

[b] The applicant has not been convicted of violating federal, tribal or state criminal law within the previous five (5) years;

[c] The name and address of the veterinarian who will provide care to the animal(s).

[5] Documentation that each animal has been sexually sterilized by a veterinarian.

[6] Documentation that the applicant has liability insurance coverage for each restricted animal for which a permit is required.

(d) Permit; contents. Any permit issued under this code by the Law Enforcement Department shall include the following information:

[1] The name and address of the person in possession of the restricted animal(s), the address where the animal(s) will be kept, if different, and the number and type of animal(s) possessed by the person, identified separately.

[2] The date the permit is issued.

[3] The permit expiration date.

(e) Permit; annually renewed. Each permit issued under this code shall be renewed on an annual basis, subject to the reapplication by the permittee, which shall contain all the information and fees required in subsection (c), above. A copy of any permit issued shall be retained by the law enforcement department for a minimum of 1 year.

(5) Care and control of restricted animals. A person who owns or is in possession of a restricted animal shall ensure all of the following, subject to monitoring by the law enforcement department:

(a) Adult supervision. That the animal is under adult supervision and control so as to prevent injury to any human or other animal.

(b) Secure facility. That the animal is never tethered outdoors or transported outside of a travel cage, but is constantly kept in a facility which meets all of the following requirements:

[1] It is sufficiently secure to prevent the animal's escape and protect the animal from injury.

[2] It has a floor area of at least 900 square feet.

[3] It has walls extending at least 3 feet below ground, and at least 8 feet above ground with an inward overhang of at least 3 feet.

[4] It is constructed of cement block, brick, concrete, chain link fence, wire or bars of a suitable thickness, gauge, or diameter to prevent the animal's escape and protect it from injury.

[5] It has a double-gated safety entrance with lock.

[6] It is enclosed with a secondary fence located at least 3 feet outside the walls of the facility and adequate to prevent a human being from coming into contact with the animal.

[7] It is maintained in such a manner that the animal is kept in a sanitary and safe condition.

[8] The facility shall be inspected and approved by the animal control officer or the law enforcement department.

(c) Identification number. That the animal shall have an identification number placed on the animal by a veterinarian which shall be obtained by the veterinarian from the Michigan Department of Agriculture. The number shall be placed on the animal by marking the animal with indelible ink on the animal's inner left thigh or by subcutaneously injecting the animal with a microchip on which the number is stored.

(d) Vaccinations. That the animal is vaccinated for rabies, distemper, and parvovirus, on the schedule recommended by the national association of state public health veterinarians. Documentation of such vaccinations shall be maintained by the owner and available for inspection upon demand by the law enforcement department.

(6) Law enforcement supervision of owner care and control of a restricted animal.

(a) Animal bite. If a restricted animal bites a human, livestock or a domestic animal, the restricted animal shall be immediately taken into custody and humanely euthanized. The animal's brain shall be tested for the presence of the rabies virus or antigen in the manner established by Michigan law. Immediate euthanization is not required if all required vaccinations are current and documentation of this fact is immediately produced. In such event, the animal shall be placed in a facility authorized by Michigan law until such time as the Tribal Court shall hold a hearing to determine whether the animal in custody has been vaccinated against rabies with a vaccine

demonstrated to be effective for that species. If documentation exists and vaccinations are current but the owner or possessor fails to immediately produce the same as required herein, the owner shall have no grounds or cause for complaint by reason of the euthanization of his or her restricted animal pursuant to this Code.

(b) Possession of restricted animal without permit. Any restricted animal which is owned or possessed without the permit required by this code shall be immediately confiscated and disposed of, at the owner's or possessor's expense, as directed by the Tribal Court of the Hannahville Indian Community.

(c) Ownership or possession of restricted animal(s) in violation of permit conditions. If an animal subject to a permit issued by the law enforcement department is found to be maintained in a manner which violates this code or the terms and conditions of the permit, and if a citation is not issued, then written notification of the violation shall be immediately provided to the permit holder. Any noted violation shall be corrected within 14 days of receipt of the notice. In the alternative, the permit-holder may transfer possession within said 14 days to a person authorized by applicable tribal or state law to care for such an animal and shall notify the law enforcement department of such transfer, including written documentation that such occurred. In the event that the violation is not corrected or the animal is not transferred within the 14-day period, a first or second citation, as appropriate, shall be issued and the animal shall be confiscated and disposed of, at the owner's expense, as directed by the Tribal Court of the Hannahville Indian Community. The owner or possessor shall also be responsible for any damages done by the animal that are attributable to the violation. This provision does not prohibit charges under other sections of the Hannahville Indian Community Legal Code or other applicable law.

(d) Power of entry, inspection, and confiscation. Any location where a restricted animal is kept is subject to entry and inspection at reasonable hours by the law enforcement department. An animal which has caused any injury to person, property or another animal, or which is maintained in violation of this code is subject to confiscation without prior court order. The animal shall be placed in a nature preserve, wildlife sanctuary, animal protection shelter, or an accredited zoo, as appropriate to its species and condition, pending a dispositional order by the Hannahville Indian Community Tribal Court.

(e) Tribal Court order for disposition. The tribal court, upon filing by law enforcement department personnel of a notice of confiscation, shall issue an order to show cause why the animal should not be humanely euthanized, securely confined, sexually sterilized or forfeited with revocation of any permit previously issued. The court may issue any of the above dispositions, upon its determination, after an evidentiary hearing, that the provisions of this code have been violated and that the owner or possessor has not cured the violation. Full restitutionary damages or other equitable remedies, as appropriate, may also be ordered.

(f) Penalties for violation of this code. In addition to the provisions for disposition of

the animal described in subsection (e), the following apply:

[1] Civil fine. A person who violates this code is subject to a civil fine of not less than $500, and not more than $5,000.

[2] The court may require the payment of restitution to the law enforcement department of any costs incurred for the care of, relocation or euthanization of any confiscated animal, including, without limitation, costs of impoundment.

[3] Any person held responsible for a violation of this code shall be prohibited from possessing any animal subject to permit for a period of five (5) years.

[4] A second or subsequent violation of this code shall be a criminal violation, subjecting the violator to imprisonment of not more than 90 days and a fine of not more than $2,000 for each violation.

[5] An owner, possessor or other person responsible for the care of a restricted animal, who, intentionally, carelessly, recklessly, or in a negligent manner allows a restricted animal to roam or to escape so that the animal, whether acting alone or in concert with others, causes death or serious bodily injury to a person, is guilty of a major crime and may be incarcerated for a period not to exceed 1 year and a fine of up to $5,000.00, plus restitution and other appropriate equitable relief.

(7) Civil liability.

(a) Civil liability for injury. The owner or a person in possession or responsible for the care of a restricted animal is civilly liable for the death of or injury to any animal or human, or for property damage caused by a restricted animal, whether or not the person possesses a permit.

(b) Liability for recapture. If a restricted animal escapes or is released, intentionally or unintentionally, the owner, the owner, a person in possession or responsible for the care of a restricted animal, shall immediately contact the law enforcement department and report the escape or release. The owner, possessor or responsible caregiver is financially liable for all expenses associated with efforts to recapture the animal that is released or escapes.

(c) Self-defense; immunity. A person who witnesses a restricted animal attack on any animal or human, or who reasonably believes such an attack is about to occur, may capture, repel, disable, or kill the restricted animal. A person is immune from civil or criminal liability for action authorized by this subsection. **Amended on February 6, 2006.**

1.3019 Reserved

1.3020 Reserved

Enacted 11/13/92.