LAS VEGAS PAIUTE TRIBAL CODE

A Codification of the General Resolutions

of the Las Vegas Paiute Tribe

2022

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PREFACE

Citation to the Las Vegas Paiute Tribal Code: This code should be cited as LVPTC; i.e., "see LVPTC 5.10.020." A LVPTC title should be cited LVPTC Title 5. A LVPTC chapter should be cited Chapter 5.10 LVPTC. A LVPTC section should be cited LVPTC 5.10.020. Through references should be made as LVPTC 5.10.010 through 5.10.040. Series of sections should be cited as LVPTC 5.10.010, 5.10.020, and 5.10.060.

Numbering system: The number of each section of this code consists of three parts, in sequence as follows: Number of title; number of chapter within the title; number of section within the chapter. Thus LVPTC 5.10.020 is Title 5, Chapter 10, Section 20. The section part of the number (.020) initially consists of three digits. This provides a facility for numbering new sections to be inserted between existing sections already consecutively numbered. In most chapters of the LVPTC, sections have been numbered by tens (.010, .020, .030, .040, etc.), leaving nine vacant numbers between original sections so that for a time new sections may be inserted without extension of the section number beyond three digits.

Legislation: The legislative source of most sections is enclosed in parentheses at the end of the section. References to enactments are abbreviated. "Formerly" followed by a LVPTC citation preserves the record of original codification. A semicolon between enactment citations indicates an amendment of the earlier section.

Codification tables: To convert an enactment (ordinance, resolution, etc.) citation to its LVPTC number, consult the codification tables. The parenthetical information at the end of each enactment entry indicates where the enactment has been codified. Enactments designated as "Special," "Repealed," or "Not Codified" do not appear in the code.

Errors or omissions: Although considerable care has been used in the production of this code, it is inevitable in so large a work that there will be errors. As users of this code detect such errors, it is requested that a note citing the section involved and the nature of the error be emailed to: cpc@codepublishing.com, so that correction may be made in a subsequent update.

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How to Amend the Code

Code Structure and Organization: The code is organized using a 3-factor decimal numbering system which allows for additions between sections, chapters, and titles, without disturbing existing numbers.

2 . 04 . 050

Title Chapter Section

Typically, there are nine vacant positions between sections; four positions between chapters; and several title numbers are "Reserved" to allow for codification of new material whose subject matter may be unrelated to an existing title.

Enactments of a general or public nature, or one imposing a fine, penalty or forfeiture, are codifiable. Prior to adopting a codifiable enactment, ascertain whether the code already contains provisions on the topic.

Additions: If the proposed enactment will add material not contained in the code, the enactment will specify an "addition"; that is, a new title, chapter, section, or subsection will be added. For example:

Section 1. Chapter 5.20, Taxicab Licenses, is added to read as follows:

– or –

Section 1. A new title, Title 18, Zoning, is added to read as follows:

A specific subsection can also be added when appropriate:

Section 2. Subsection D is added to Section 5.05.070, to read as follows:

Amendments: If the enactment amends existing code provisions, specify the affected section or chapter numbers in the enactment. This kind of amendment typically adds a section to an existing chapter, or amends an existing section. Set out the entire section or subsection, not just the text (e.g., sentence) that was changed. For example:

Section 1. Section 5.05.030 is amended to read as follows:

– or –

Section 1. Section 5.05.035, Additional fees, is added to Chapter 5.05 to read as follows:

An enactment can also amend a specific subsection of a code section:

Section 3. Subsection B of Section 5.05.070 is amended to read:

Repeals: Enactments which repeal codified material should specify the code chapter, section, or subsection number. The chapter, section, or subsection numbers will be retained in the code, along with their title, as a record of enactment activity (and as an explanation for gaps in the numbering sequence). The number of the repealed section or chapter can be reused at a later time when desired. For example:

Section 2. Section 5.05.020, License, is repealed.

Renumbering: If the enactment renumbers existing code provisions (either sections or subsections), identify how remaining sections or subsections should be renumbered (or relettered).

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Table of Revised Pages

The following table is included in this code as a guide for determining whether the code volume properly reflects the latest printing of each page. This table will be updated with the printing of each supplement.

Through usage and supplementation, pages in looseleaf publications can be inserted and removed in error when pages are replaced on a page-for-page substitution basis.

The "Page" column lists all page numbers in sequence. The "Revised Date" column reflects the latest revision date (e.g., "(Revised 8/07)") and printing of pages in the up-to-date volume. A "—" indicates that the page has not been revised since the 2022 recodification. This table reflects all changes to the code through Resolution 19-009, passed June 3, 2019.

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Title 1

THE TRIBAL COURT

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Chapter 1.10

AUTHORIZATION AND DEFINITIONS

Sections:

1.10.010 Establishment of the Tribal Court.
1.10.015 Establishment of the Tribal Commercial Court.
1.10.020 Definitions.
1.10.030 Words and terms – Tense – Number and gender.

1.10.010 Establishment of the Tribal Court.

Pursuant to Article VII of the Constitution and Bylaws of the Las Vegas Tribe of Paiute Indians, there is hereby established by the Las Vegas Paiute Tribal Council a Tribal Court of general jurisdiction.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 7/5/77A and all amendments thereto.

[Res. 94-021, 1994. Prior Code § 1-10-010.]

1.10.015 Establishment of the Tribal Commercial Court.

Pursuant to Article VII of the Constitution and Bylaws of the Las Vegas Tribe of Paiute Indians, there is hereby established by the Las Vegas Paiute Tribal Council, as an adjunct to the Tribal Court, a Tribal Commercial Court of limited jurisdiction which may exercise the authority of the Tribal Court only with respect to those cases referred to the jurisdiction of the Tribal Commercial Court pursuant to LVPTC 1.20.060(b).

Comment: This section was created in its entirety pursuant to Tribal Council Resolution No. 95-028, dated June 27, 1995.

[Res. 95-028, 1995; Res. 94-021, 1994. Prior Code § 1-10-015.]

1.10.020 Definitions.

The following words have the meaning given below when used in this Law and Order Code:

"Clerk" means the Clerk of the Tribal Court.

"Code" means the Law and Order Code of the Las Vegas Tribe of Paiute Indians.

"Colony" or "Reservation" means all lands of the Las Vegas Tribe of Paiute Indians described or referenced in the Constitution and Bylaws of the Las Vegas Tribe of Paiute Indians, including, but not limited to, all lands described in United States Public Law 98-203.

"Juvenile Court" means the Tribal Court when exercising its jurisdiction pursuant to LVPTC 1.20.050.

"Tribal Council" means the duly elected Tribal Council of the Las Vegas Paiute Tribe.

"Tribal Court" means the Tribal Court of the Las Vegas Paiute Tribe and, except as otherwise clearly indicated, all adjuncts thereto, including, but not limited to, the Tribal Commercial Court.

"Tribe" means and "Tribal" refers to the Las Vegas Tribe of Paiute Indians.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 7/5/77A and all amendments thereto.

[Res. 94-021, 1994. Prior Code § 1-10-020.]

1.10.030 Words and terms – Tense – Number and gender.

In interpreting and applying the words and terms of this Code, save when otherwise fairly declared or clearly apparent from the context:

(a) Words and terms in the present tense shall include the future tense;

(b) Words and terms in any gender shall refer to all genders; and

(c) Words and terms in the singular shall include the plural, and words in the plural shall include the singular.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 7/5/77A and all amendments thereto.

[Res. 94-021, 1994. Prior Code § 1-10-030.]

Chapter 1.20

JURISDICTION OF THE TRIBAL COURT

Sections:

1.20.010 Territorial jurisdiction of the Tribal Court.
1.20.020 Civil jurisdiction.
1.20.030 Criminal jurisdiction.
1.20.040 Probate jurisdiction.
1.20.050 Juvenile jurisdiction.
1.20.060 Jurisdiction over certain commercial proceedings.

1.20.010 Territorial jurisdiction of the Tribal Court.

The jurisdiction of the Tribal Court shall extend to all territory within the boundaries of the Colony, including trust and nontrust land, and all roads, water and bridges, and any lands which may be added to the Colony in the future or which may otherwise become subject to the jurisdiction of the Tribe by any lawful means.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 7/5/77A and all amendments thereto.

[Res. 94-021, 1994. Prior Code § 1-20-010.]

1.20.020 Civil jurisdiction.

(a) The Tribal Court shall have original jurisdiction over all civil causes of action arising from any transaction or occurrence occurring within the territorial jurisdiction of the Tribal Court, including, but not limited to:

(1) The transaction of any business within the Reservation;

(2) The commission of a tortious act within the Reservation;

(3) The ownership, use, or possession of any property situated within the Reservation;

(4) Contracting to insure any person, property or risk residing or located within the Reservation; or

(5) The violation of any of the civil regulatory provisions of this Code.

(b) Personal jurisdiction shall exist over all defendants, Indians or non-Indians:

(1) Served within the territorial jurisdiction of the Tribal Court;

(2) Consenting to such jurisdiction; or

(3) Personally served with a summons outside the Reservation in the manner prescribed by applicable rules of procedure for the Tribal Court.

(c) The act of entry upon territory within the territorial jurisdiction of the Tribal Court, including, but not limited to, entry for the purpose of delivering goods or providing services, regardless of where any contract related to such goods or services may have been executed, shall be considered consent to the jurisdiction of the Tribal Court with respect to any action arising from or related to such entry.

(d) The Tribal Court shall have no jurisdiction in any matter in which the Tribe, any Tribal instrumentality, office, authority, or any officer of the Tribe or any officer of a Tribal instrumentality office or authority properly asserts the defense of sovereign immunity, unless such sovereign immunity has been explicitly waived in the context of the particular case before the Tribal Court.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 7/5/77A and all amendments thereto. This section is intended as an express reservation by the Tribal Council of civil adjudicatory jurisdiction to the full extent allowable under Tribal and federal law.

[Res. 94-021, 1994. Prior Code § 1-20-020.]

1.20.030 Criminal jurisdiction.

The Tribal Court shall have criminal jurisdiction over all offenses enumerated in this Code, or in any code or regulation adopted, utilized or enforced by the Tribe by virtue of Tribal, federal and/or state intergovernmental agreement, statute, ordinance, resolution or other enactment, when committed within the territorial jurisdiction of the Tribal Court.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 7/5/77A and all amendments thereto. This section is intended as an express reservation by the Tribal

Council of criminal prohibitory jurisdiction to the full extent allowable under Tribal and federal law and in recognition of the Nevada state criminal jurisdiction of Tribal law enforcement officers pursuant to NRS 171.1255 and any other applicable laws of the state of Nevada. Nothing in this section shall be construed as an assumption by the Tribe of criminal prohibitory jurisdiction over non-Indians greater than the maximum possible assumption of such jurisdiction under applicable federal law.

[Res. 94-021, 1994. Prior Code § 1-20-030.]

1.20.040 Probate jurisdiction.

To the full extent permitted by federal law, the Tribal Court shall have probate jurisdiction over all real and personal property located within the territorial jurisdiction of the Tribal Court at the time of the owner's death, and the personal property, wherever located, of any person residing within the Reservation at the time of their death.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 7/5/77A and all amendments thereto. This section is intended as an express reservation by the Tribal Council of probate jurisdiction to the full extent allowable under Tribal and federal law.

[Res. 94-021, 1994. Prior Code § 1-20-040.]

1.20.050 Juvenile jurisdiction.

The Tribal Court shall have original and exclusive jurisdiction in all proceedings and matters affecting children under the age of 18, when such children are residing or apprehended within the territorial jurisdiction of the Tribal Court. When exercising such jurisdiction, the Tribal Court shall be known as the Juvenile Court.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 7/5/77A and all amendments thereto. This section is intended as an express reservation by the Tribal Council of juvenile jurisdiction to the full extent allowable under Tribal and federal law.

[Res. 94-021, 1994. Prior Code § 1-20-050.]

1.20.060 Jurisdiction over certain commercial proceedings.

(a) Original jurisdiction in all civil proceedings of the type described in LVPTC 1.20.020(a), where the matter in controversy exceeds the sum or value of $50,000, exclusive of interest and costs, is hereby referred to the Tribal Commercial Court. The Chief Judge of the Tribal Court may also refer jurisdiction over other civil actions to the Tribal Commercial Court on a discretionary basis or at the direction of the Tribal Council.

(b) The Tribal Court may withdraw jurisdiction referred to the Tribal Commercial Court under subsection (a) of this section, in whole or in part, on its own motion or on timely motion of any party, for cause shown.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 7/5/77A and all amendments thereto.

[Res. 94-021, 1994. Prior Code § 1-20-060.]

Chapter 1.30

LAW TO BE APPLIED BY THE TRIBAL COURT

Sections:

1.30.010 Applicable law.
1.30.020 Tribal custom.
1.30.030 Federal law and Title 15 of the Nevada Revised Statutes.
1.30.040 Applicability of all other Nevada law and 25 CFR, Part 11.

1.30.010 Applicable law.

(a) The Tribal Court shall apply the provisions of this Code and any other procedural codes or rules, ordinances, resolutions or other enactments adopted by the Tribe. When appropriate, the Tribal Court shall rely on previous opinions issued by the Tribal Court, the Tribal Commercial Court or the Tribal Court of Appeals interpreting this Code or any other Tribal ordinance, resolution or enactment.

(b) In civil proceedings before the Tribal Court, as distinct from proceedings before the Tribal Commercial Court, the Tribal Court shall first adhere to the requirements of subsection (a) of this section and may then apply the substantive statutory, regulatory and common law of the United States and the state of Nevada, including, but not limited to, the Nevada Uniform Commercial Code and Nevada choice-of-law principles, but only to the extent that such Nevada substantive statutory, regulatory and common law does not conflict with this Code or any duly enacted ordinances, resolutions or other enactments of the Tribe or federal law.

(c) In proceedings before the Tribal Commercial Court, the Tribal Commercial Court shall first adhere to the requirements of subsection (a) of this section and shall then, to the maximum extent enforceable under federal law, apply the below listed provisions of the Nevada Revised Statutes (and any successor provisions), including all common law principles derived from such provisions and may then apply substantive statutory, regulatory and common law of the United States and the state of Nevada not below listed, but only to the extent that such Nevada substantive statutory, regulatory and common law, whether listed below or not, does not conflict with this Code or any duly enacted ordinances, resolutions or other enactments of the Tribe or federal law:

(1) Chapters 30, 31, 32, 33, 38, 40 and 42 NRS;
(2) NRS Title 4 in its entirety;
(3) NRS Title 7 in its entirety;
(4) NRS Title 8 in its entirety;
(5) Chapters 106, 107 and 108 NRS;
(6) Chapter 112 NRS;
(7) Chapter 120A NRS;
(8) NRS Title 13;
(9) NRS Title 54;
(10) NRS Title 55;
(11) NRS Title 57; and
(12) NRS Title 58.

(d) In criminal proceedings the Tribal Court shall first adhere to the requirements of subsection (a) of this section and shall then apply the substantive statutory, regulatory and common law of the United States and the state of Nevada.

(e) Upon the passage of this Code, neither Nevada law nor the provisions of 25 CFR, Part 11, shall be applied by the Tribal Court unless such application is specifically authorized by this Code.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 7/5/77A and all amendments thereto. The text of LVPTC 1.30.010(c) adopted by Tribal Council Resolution No. 94-021, dated June 21, 1994, was replaced in its entirety pursuant to Tribal Council Resolution No. 95-028, dated June 27, 1995.

[Res. 95-028, 1995; Res. 94-021, 1994. Prior Code § 1-30-010.]

1.30.020 Tribal custom.

(a) The Tribal Court shall not apply traditional or customary law of the Las Vegas Paiute Tribe, except that the customs of marriage and of divorce shall be applied when the marriage or divorce was consummated in accordance with Tribal custom prior to the ef-

fective date of Tribal Council Resolution No. 7/5/77A.

(b) The Tribal Court shall not consider whether Tribal customs relating to marriage and of divorce apply in any given case unless the issue of the application of Tribal customs to such case is raised by one of the parties. It is the obligation of the party wishing to benefit by the application of this section to bring to the attention of the Tribal Court the appropriate Tribal custom and to establish that their case meets the requirements for application of the custom.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 7/5/77A and all amendments thereto. For purposes of this section only, the effective date of this Code shall be deemed to be the effective date of Tribal Council Resolution No. 7/5/77A.

[Res. 94-021, 1994. Prior Code § 1-30-020.]

1.30.030 Federal law and Title 15 of the Nevada Revised Statutes.

In any matters not covered by LVPTC 1.30.010 and 1.30.020, the Tribal Court shall apply laws of the United States which could be applied by any courts of general jurisdiction; any regulations of any administrative agency of the United States which may be of general or specific applicability; Title 15 (Chapters 193 through 207) of the Nevada Revised Statutes, pertaining to crimes and punishments; and common law principles, usages, and causes of action in the civil arena. This section is subject to the provisions of LVPTC 1.30.040.

Comment: This section, amended pursuant to Resolution No. 94-021, dated June 21, 1994, is reinstated pursuant to Tribal Council Resolution No. 95, dated 1995.

[Res. 95, 1995; Res. 94-021, 1994. Prior Code § 1-30-030.]

1.30.040 Applicability of all other Nevada law and 25 CFR, Part 11.

Upon the passage of this Code, Nevada law and 25 CFR, Part 11 shall be applied by the Tribal Court.

Comment: This section was originally added by Tribal Council Resolution No. 92-025, dated November 19, 1992, but was not included in the recodification under Tribal Council Resolution No. 94-021, dated June 21, 1994.

[Res. 95-025, 1995; Res. 94-039, 1994; Res. 94-021, 1994. Prior Code § 1-30-040.]

Chapter 1.40

JUDGES OF THE TRIBAL COURT

Sections:

1.40.010 Composition of the Tribal Court.
1.40.020 Qualifications for Tribal Court judges.
1.40.025 Additional qualifications for judge of the Tribal Commercial Court.
1.40.030 Appointment of judges.
1.40.040 Term of office.
1.40.050 Duties and powers of Tribal Court judges.
1.40.055 Duties and powers of Tribal Commercial Court judge.
1.40.060 Appointment of temporary judges.
1.40.070 Compensation of judges.
1.40.080 Removal of judges.
1.40.090 Disqualification of judges – Conflict of interest.
1.40.100 Filling vacancies.

1.40.010 Composition of the Tribal Court.

(a) The Tribal Court, as distinct from the Tribal Commercial Court, shall consist of one Chief Judge and as many Associate Judges as the Tribal Council shall deem necessary.

(b) The Tribal Commercial Court shall consist of one judge.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 7/5/77A and all amendments thereto.

[Res. 94-021, 1994. Prior Code § 1-40-010.]

1.40.020 Qualifications for Tribal Court judges.

A Tribal Court judge, including the Chief Judge, may be any person, Indian or non-Indian, whether a resident or nonresident of the Reservation; provided, that such person:

(a) Is 25 years of age or older;

(b) Has never been convicted of a felony;

(c) Is not a member of the Tribal Council;

(d) Is mature, trustworthy, and of good moral character;

(e) Is capable of supervising a staff of associate judges, clerks, and others;

(f) Is willing to attend training sessions for Tribal judges; and

(g) Is able to determine in what cases he will be disqualified and is willing to disqualify himself.

Preference for this position of judge of the Tribal Court shall be given to those who are educated or experienced in the law.

Preference shall also be given to enrolled members of federally recognized tribes, bands or communities of Native Americans.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 7/5/77A and all amendments thereto.

[Res. 94-021, 1994. Prior Code § 1-40-020.]

1.40.025 Additional qualifications for judge of the Tribal Commercial Court.

The judge of the Tribal Commercial Court may be any person, Indian or non-Indian, whether a resident or nonresident of the Reservation; provided, that such person:

(a) Meets the requirements of LVPTC 1.40.020; and

(b) Is duly licensed to practice law in the courts of any state within the ninth or tenth federal judicial circuits at all times while presiding as a judge of the Tribal Commercial Court.

Preference for the position of judge of the Tribal Commercial Court shall be given to persons having: (a) significant prior adjudicatory experience; (b) experience in the area of federal Indian law and/or commercial law in the state of Nevada; and (c) five or more years' experience as a licensed attorney in the state of Nevada.

Preference shall also be given to enrolled members of federally recognized tribes, bands or communities of Native Americans.

Comment: This section was created in its entirety pursuant to Tribal Council Resolution No. 95-028, dated June 27, 1995.

[Res. 95-028, 1995; Res. 94-021, 1994. Prior Code § 1-40-025.]

1.40.030 Appointment of judges.

(a) All judges of the Tribal Court shall be appointed by the Tribal Council. All judges shall be chosen from a list of qualified candidates recommended by the Law and Order Committee of the Tribal Council.

(b) Nothing in this section shall prohibit the Tribal Council from contracting or agreeing with the Bureau of Indian Affairs or any other agency or organization that such agency or organization shall provide all or part of the compensation of a Tribal Court judge, and shall in return have control over the appointment of such judge. In such situations, the Tribal Council shall by resolution recommend to such agency or organization the appointment of a particular person as a Tribal Court judge.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 7/5/77A and all amendments thereto.

[Res. 94-021, 1994. Prior Code § 1-40-030.]

1.40.040 Term of office.

(a) Unless removed for cause, the Chief Judge of the Tribal Court shall serve for a term of three years and until his successor assumes office; Associate Judges of the Tribal Court shall serve for a term of one year and until their successors assume office; and the judge of the Tribal Commercial Court shall serve a term of three years and until his successor assumes office.

(b) All judges shall be eligible for reappointment.

(c) All judges shall assume office following their appointment by taking the following oath of office, administered by the Tribal Council Chairperson or his designate, at a regularly scheduled meeting of the Tribal Council:

> I, _____, do solemnly swear/affirm that I will uphold and protect the Constitution and Bylaws of the Las Vegas Paiute Tribe, that I will fairly administer justice and perform the duties of judge of the Tribal Court/Tribal Commercial Court of the Las Vegas Tribe of Paiute Indians to the best of my abilities.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 7/5/77A and all amendments thereto.

[Res. 94-021, 1994. Prior Code § 1-40-040.]

1.40.050 Duties and powers of Tribal Court judges.

(a) Judges of the Tribal Court shall have the duty and power to conduct all Tribal Court proceedings, and issue all orders and papers incident thereto, in order to administer justice in all matters within the jurisdiction of the Tribal Court. In so doing they shall:

(1) Be responsible for establishing and maintaining Rules of the Tribal Court regulating conduct in the Tribal Court and the Tribal Commercial Court. Such Rules of the Tribal Court must be approved by the Tribal Council;

(2) Hold Tribal Court regularly at a designated time and place on the Colony;

(3) Hear and decide all cases;

(4) Enter all appropriate orders and judgments;

(5) Issue all appropriate warrants;

(6) Keep such records as are required by this Code, the Rules of the Tribal Court, Tribal ordinance, resolution or other enactment of the Tribe;

(7) Perform the duties of the Clerk in the Clerk's absence;

(8) Perform such other duties as are required by this Code, the Rules of the Tribal Court, Tribal ordinance, resolution or other enactment adopted by the Tribe; and

(9) Perform such other duties as are necessary and proper for the administration of justice.

(b) Unless a Coroner is appointed in accordance with the provisions of this Code, the

Chief Judge shall have the authority to perform the duties of Coroner for the Tribe.

(c) The Chief Judge shall hear all cases except those: (1) which are assigned by the Chief Judge to an Associate Judge; (2) which must be heard by an Associate Judge in order to assure the prompt administration of justice; or (3) for which jurisdiction has been referred to the Tribal Commercial Court pursuant to LVPTC 1.20.060(b).

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 7/5/77A and all amendments thereto.

[Res. 94-021, 1994. Prior Code § 1-40-050.]

1.40.055 Duties and powers of Tribal Commercial Court judge.

(a) The judge of the Tribal Commercial Court shall have the duty and full power of the Tribal Court to conduct all proceedings which have been referred to its jurisdiction pursuant to LVPTC 1.20.060, and to issue all orders and papers incident thereto, in order to administer justice in all matters within the jurisdiction of the Tribal Commercial Court. In so doing he shall:

(1) Hold Tribal Commercial Court on the Reservation at a location designated by the Chief Judge of the Tribal Court at such times as directed by the Chief Judge of the Tribal Court;

(2) Hear and decide all cases referred to the Tribal Commercial Court pursuant to LVPTC 1.20.060;

(3) Enter all appropriate orders and judgments in such cases;

(4) Keep such records as are required by this Code, the Rules of the Tribal Court, Tribal ordinance, resolution or other enactment adopted by the Tribe;

(5) Perform the duties of the Clerk in the Clerk's absence;

(6) Perform such other duties as are required by this Code, the Rules of the Tribal Court, Tribal ordinance, resolution or other enactment adopted by the Tribe; and

(7) Perform such other duties as are necessary and proper for the administration of justice.

(b) In addition to all standards and requirements imposed by this Code, the Rules of the Tribal Court, Tribal ordinance, resolution or other enactment adopted by the Tribe, the judge of the Tribal Commercial Court shall be bound by all judicial standards, codes of judicial conduct, and canons of judicial ethics applicable to judges presiding in Nevada courts of general jurisdiction.

Comment: This section was created in its entirety pursuant to Tribal Council Resolution No. 95-028, dated June 27, 1995.

[Res. 95-028, 1995; Res. 94-021, 1994. Prior Code § 1-40-055.]

1.40.060 Appointment of temporary judges.

(a) If, due to the disqualification or other unavailability of the Chief or Associate Judges of the Tribal Court, an additional judge is needed to adjudicate matters at trial or on appeal, the Tribal Council shall have the power to appoint a temporary judge to hear the case, or to contract with any agency or organization for such appointment.

(b) The Tribal Council must make such an appointment when it is necessary to ensure the prompt administration of justice.

(c) Whenever possible, a temporary judge shall have experience as a Tribal judge.

(d) Temporary judges must meet the requirements of LVPTC 1.40.020.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 7/5/77A and all amendments thereto.

[Res. 94-021, 1994. Prior Code § 1-40-060.]

1.40.070 Compensation of judges.

(a) The compensation of all judges of the Tribal Court shall be set by resolution of the Tribal Council. No judge shall have his compensation reduced during his term of office.

(b) Nothing in this section shall prohibit the Tribal Council from contracting or agreeing

with the Bureau of Indian Affairs or any other agency or organization that such agency or organization shall provide all or part of the compensation of a judge of the Tribal Court, and shall in return have control over the compensation of such judge. In such situations the Tribal Council shall by resolution make a recommendation to such agency or organization as to the compensation of judges of the Tribal Court.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 7/5/77A and all amendments thereto.

[Res. 94-021, 1994. Prior Code § 1-40-070.]

1.40.080 Removal of judges.

(a) Judges of the Tribal Court may be removed for good cause by a two-thirds vote of the full Tribal Council; provided, however, that no judge of the Tribal Court may be removed during the original pendency of any case.

(b) Procedures to be followed in removing a judge of the Tribal Court:

(1) No action will be taken except on a written complaint to the Tribal Council setting forth specific facts justifying removal;

(2) The judge shall be immediately notified of the charges against him;

(3) Within 60 days of receiving a complaint against any judge, the Tribal Council shall decide by majority vote of a quorum whether the complaint is frivolous and should be dismissed, or whether the complaint requires a hearing before the Tribal Council to determine if the judge should be removed. Notice of this decision must be sent by certified mail to both the judge accused and the complainant within five days of the decision. No judge shall be removed except following a hearing on the complaint and a subsequent decision and resolution by the Tribal Council that removal is appropriate.

(4) If the Tribal Council decides a removal hearing is required, it shall set a date and provide notice of such hearing to the complainant and the accused judge at least 30 days, but not more than 60 days, in advance. Once the date for a removal hearing is set by the Tribal Council, the accused judge shall be hereby automatically suspended from his duties as a judge of the Tribal Court.

(5) At the removal hearing both the accused judge and the complainant shall be given an opportunity to present evidence, call witnesses, and make a statement to the Tribal Council in support of their contentions.

(6) After a removal hearing is held, the Tribal Council shall vote on whether or not the evidence presented establishes that good cause exists for removing the accused judge. The parties shall be notified of the Tribal Council's decision within 60 days of the hearing. Any judge not removed is restored to his duties as of the time of the decision of the Tribal Council against removal.

(c) Nothing in this section shall prohibit the Tribal Council from contracting or agreeing with the Bureau of Indian Affairs or any other agency or organization that such agency or organization shall provide all or part of the compensation of a judge of the Tribal Court, and shall in return have control over the removal of such judge. When appropriate, the Tribal Council shall by resolution recommend to the agency or organization the removal of a Tribal judge after compliance with the procedures of this section.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 7/5/77A and all amendments thereto.

[Res. 94-021, 1994. Prior Code § 1-40-080.]

1.40.090 Disqualification of judges – Conflict of interest.

No judge shall hear or determine any case when he has a direct interest, other than an interest arising solely on the basis of a judge's enrollment in the Tribe, in the outcome of such case or where he is related by blood or marriage to one of the parties as: husband, wife, brother, sister, father, mother, grandfather, grandmother, grandson, granddaughter, son, daughter, uncle, aunt, nephew, niece or first cousin. Any party, or the relevant judge, may raise the question of conflict of interest. Upon decision by the judge involved that disqual-

ification is appropriate, another judge of the Tribal Court shall hear the matter. If the judge refuses to disqualify himself, such refusal may be grounds for appeal of the final decision in the case. If the Tribal Court of Appeals determines that the judge should have disqualified himself, it shall order the retrial of the matter in the Tribal Court before a different judge.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 7/5/77A and all amendments thereto.

[Res. 94-021, 1994. Prior Code § 1-40-090.]

1.40.100 Filling vacancies.

When a judge's position becomes vacant for any reason before the end of his term, the Tribal Council shall fill the vacancy by appointment. The judge appointed to fill a vacancy will serve the remainder of the original term and be eligible for reappointment. Any appointment under this section shall be subject to the requirements of LVPTC 1.40.060.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 7/5/77A and all amendments thereto.

[Res. 94-021, 1994. Prior Code § 1-40-100.]

Chapter 1.50

CLERK OF TRIBAL COURT

Sections:

1.50.010 Qualifications of Clerk.
1.50.020 Appointment of Clerk.
1.50.030 Duties of the Clerk.
1.50.040 Judge may assume duties of the Clerk.
1.50.050 Termination of a Clerk.

1.50.010 Qualifications of Clerk.

The Clerk shall:

(a) Be willing to attend training sessions for Tribal Court Clerks;

(b) Be qualified to perform the duties of the Clerk as set forth in LVPTC 1.50.030; and

(c) Be bondable.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 7/5/77A and all amendments thereto.

[Res. 94-021, 1994. Prior Code § 1-50-010.]

1.50.020 Appointment of Clerk.

(a) The Clerk shall be appointed by the Tribal Council upon the recommendation of the Law and Order Committee.

(b) Nothing in this section shall prohibit the Tribal Council from contracting or agreeing with the Bureau of Indian Affairs or any other agency or organization that the agency shall provide all or part of the Clerk's compensation, and shall in return have control over the appointment of such Clerk.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 7/5/77A and all amendments thereto.

[Res. 94-021, 1994. Prior Code § 1-50-020.]

1.50.030 Duties of the Clerk.

(a) The Clerk shall keep the records of the Tribal Court and the Tribal Commercial Court, including, but not limited to, a case file with an identifying number containing all of the pleadings and all papers filed in each case.

(b) The Clerk shall post all notices required by this Code and Tribal law to be sent by the Tribal Court.

(c) The Clerk shall assist all persons or organizations with their business before the Tribal Court so as to ensure the efficient operation of the Tribal Court and the Tribal Commercial Court. Such assistance may include, but is not limited to, help with the preparation of papers to be filed with the Tribal Court.

(d) The Clerk shall collect all fines paid, pay out all duly authorized fees, and account for all monies to the Tribal Council.

(e) The Clerk shall attend all sessions of the Tribal Court and the Tribal Commercial Court to administer oaths and otherwise assist the judge in the conduct of the Tribal Court.

(f) The Clerk shall be under the supervision of the Chief Judge and shall perform such other duties with regard to the Tribal Court or the Tribal Commercial Court as the Chief Judge may direct.

(g) Nothing in this section shall be construed to prohibit the Clerk from having other duties consistent with the office of Clerk, such as matron, bookkeeper, etc.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 7/5/77A and all amendments thereto.

[Res. 94-021, 1994. Prior Code § 1-50-030.]

1.50.040 Judge may assume duties of the Clerk.

When, for whatever reason, the position of Clerk is vacant or the Clerk is unavailable, any Tribal Court judge may assume and perform the duties of the Clerk.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 7/5/77A and all amendments thereto.

[Res. 94-021, 1994. Prior Code § 1-50-040.]

1.50.050 Termination of a Clerk.

The Clerk may be removed from office for cause by the vote of a majority of a quorum of the Tribal Council.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 7/5/77A and all amendments thereto.

[Res. 94-021, 1994. Prior Code § 1-50-050.]

Chapter 1.60

RECORDS OF THE TRIBAL COURT

Sections:

1.60.010 Tribal Court files.
1.60.020 Recording Tribal Court proceedings.
1.60.030 Forms of decisions.

1.60.010 Tribal Court files.

(a) Tribal Court files are generally not open to the public. Only the parties to proceedings before the Tribal Court or the Tribal Commercial Court and their designated representative(s) and/or agent(s), any judge of the Tribal Court, and the Tribal Council or its designated representative(s) and/or agent(s) may inspect the records of any proceeding before the Tribal Court or the Tribal Commercial Court and obtain copies of any documents included therein.

(b) To ensure the integrity of Tribal Court records, authorized persons may inspect Tribal Court or Tribal Commercial Court files only during the ordinary working hours of the Clerk or under the supervision of any Tribal Court judge. Under no circumstances shall anyone except the judge hearing a particular case take a file from the Clerk's office without a written order from the judge.

(c) Authorized persons may obtain copies of documents contained in a Tribal Court or Tribal Commercial Court file from the Clerk for a reasonable charge to be set by the Chief Judge. The Clerk shall certify that such copies are accurate copies of the document on file with the Tribal Court.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 7/5/77A and all amendments thereto.

[Res. 94-021, 1994. Prior Code § 1-60-010.]

1.60.020 Recording Tribal Court proceedings.

(a) When requested to do so by a party to a proceeding before the Tribal Court or the Tribal Commercial Court, the Clerk shall record the audio portion of such proceeding. Such recordings shall be identified by case number and maintained by the Clerk for one year from the date of the recording for use in appeals or collateral proceedings in which the events of the hearing or the manner in which it was conducted are in issue.

(b) To preserve the integrity of such recordings, the Clerk shall store them in a safe place and release them only upon the order of the Chief Judge.

(c) Nothing in this section shall prohibit the Tribal Council from authorizing the archiving of recordings older than one year in the central files of the Tribe, the Bureau of Indian Affairs, or any other agency or organization.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 7/5/77A and all amendments thereto.

[Res. 94-021, 1994. Prior Code § 1-60-020.]

1.60.030 Forms of decisions.

(a) Each decision of the Tribal Court, whether at trial or on appeal, shall be recorded on a form approved by the Tribal Council for such purpose. The decision form shall provide for recording the date, the case number, the parties, the substance of the complaint, a brief summary of the evidence presented and the judgment of the Tribal Court.

(b) This decision form shall be placed in the case file as an official document of the Tribal Court.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 7/5/77A and all amendments thereto.

[Res. 94-021, 1994. Prior Code § 1-60-030.]

Chapter 1.70

RULES OF THE TRIBAL COURT

Sections:

1.70.010 Preparation of rules.
1.70.020 Approval of rules.
1.70.030 Amendment of rules.
1.70.040 Sanctions.

1.70.010 Preparation of rules.

The Chief Judge may prepare Rules of Court concerning conduct in the Tribal Court. Such rules may include, but are not limited to, the time and place of Tribal Court and Tribal Commercial Court sessions, decorum in court and other matters which will make the Tribal Court function more efficiently. Such rules shall supplement, but may not conflict with, other court procedural rules, ordinances or other enactments of the Tribe.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 7/5/77A and all amendments thereto.

[Res. 94-021, 1994. Prior Code § 1-70-010.]

1.70.020 Approval of rules.

The Rules of Tribal Court shall be reviewed by the Tribal Council and become effective upon approval by the Tribal Council.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 7/5/77A and all amendments thereto.

[Res. 94-021, 1994. Prior Code § 1-70-020.]

1.70.030 Amendment of rules.

The Rules of Tribal Court may be amended upon the recommendation of the Chief Judge of the Tribal Court by a resolution of the Tribal Council. Such a resolution should specify which rules are superseded and include the text of the new rules.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 7/5/77A and all amendments thereto.

[Res. 94-021, 1994. Prior Code § 1-70-030.]

1.70.040 Sanctions.

(a) The Tribal Court may require observance of the Rules of Tribal Court, this Code and/or any court procedural rules adopted by the Tribe before taking any action in a case.

(b) Where any party to a case before the Tribal Court suffers actual monetary damages, including fees to a representative, due to delay in the proceedings or any other reason, because of the failure of another party in such case to obey the Rules of Tribal Court, this Code and/or any court procedural rules adopted by the Tribe, the injured party may sue to recover their actual damages.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 7/5/77A and all amendments thereto.

[Res. 94-021, 1994. Prior Code § 1-70-040.]

Chapter 1.80

PRACTICE BEFORE THE TRIBAL COURT

Sections:

1.80.010 Right to represent oneself or have a representative as counsel.
1.80.020 Who may be a representative.
1.80.030 Representative's right to appear.

1.80.010 Right to represent oneself or have a representative as counsel.

(a) Parties to cases before the Tribal Court shall have the right to represent themselves without the assistance of counsel, unless the court in which their case is being heard determines that such parties are not competent to proceed without a representative.

(b) Parties to any case before the Tribal Court may employ a representative as counsel to help present their case.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 7/5/77A and all amendments thereto.

[Res. 94-021, 1994. Prior Code § 1-80-010.]

1.80.020 Who may be a representative.

(a) Any person may be the representative of a party to a case before the Tribal Court or the Tribal Commercial Court and may appear on behalf of such party upon payment by each representative of a $50.00 fee to the Clerk, before each case in which such representative appears before the Tribal Court, and subscribing to the following oath:

> I, _____, do hereby (swear/affirm) that I am familiar with the Constitution and Bylaws and the Law and Order Code of the Las Vegas Paiute Tribe and that I will conduct myself with honor and integrity towards those I represent and with respect before the Tribal Court.

(b) A list of persons who have fulfilled the requirements of this section shall be kept by the Clerk.

(c) A relative or close friend of a party to any case before the Tribal Court who is not compensated for his efforts may represent such party without payment of the fee required under subsection (a) of this section.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 7/5/77A and all amendments thereto.

[Res. 94-021, 1994. Prior Code § 1-80-020.]

1.80.030 Representative's right to appear.

(a) A representative may be denied the privilege of appearing before the Tribal Court, permanently or for a stated period of time, on any of the following grounds:

(1) Swearing in Tribal Court to facts known to him to be false; or

(2) Conviction in any court of any offense within a year of the representative's appearance before the Tribal Court.

(b) No representative may be denied the privilege of appearing before the Tribal Court under subsection (a) of this section without a hearing before the Chief Judge of Tribal Court in which the necessary charges must be proven by a preponderance of the evidence.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 7/5/77A and all amendments thereto.

[Res. 94-021, 1994. Prior Code § 1-80-030.]

Chapter 1.90

TRIBAL COURT OF APPEALS

Sections:

1.90.010 Composition of the Tribal Court of Appeals.
1.90.020 Appeal procedure.

1.90.010 Composition of the Tribal Court of Appeals.

(a) The Tribal Court of Appeals shall consist of a panel of all the judges of Tribal Court except the judge from whose decision the appeal is taken. Such panel shall be composed of at least three judges of the Tribal Court.

(b) When necessary, the Tribal Council shall appoint temporary judges to sit on the Tribal Court of Appeals. Whenever possible such temporary judges shall have experience as Tribal Court judges.

(c) Nothing in this section shall prevent the Tribal Council from entering into an agreement with other tribes, reservations and colonies of Nevada Indians whereby Tribal Court judges are shared between the various Tribal Courts for the purpose of hearing appeals. Any such agreement by Tribal Council shall take precedence over the general provisions contained in subsections (a) and (b) of this section.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 7/5/77A and all amendments thereto.

[Res. 94-021, 1994. Prior Code § 1-90-010.]

1.90.020 Appeal procedure.

(a) Any party dissatisfied with a decision of the Tribal Court, except the prosecution in a criminal case, may appeal by filing a written notice of appeal with the Clerk within 30 days of the judge's decision. Where a decision is not delivered at a hearing with both parties present, the 30 days does not begin to run until the party who wishes to appeal receives formal notice of the decision.

(b) Upon receiving the notice of appeal, the Clerk shall create an appellate case file and transfer the entire record, including any notation indicating the existence of a recording of the proceedings, to the Tribal Court of Appeals.

(c) Whenever possible, appeals shall be decided on the record of the case, including the decision form and any recording of the proceedings, in order to eliminate unnecessary travel and delay. The Tribal Court of Appeals may require a hearing or oral argument if it considers that such would be necessary or helpful.

(d) After the decision by the Tribal Court of Appeals, one judge thereof shall fill out a decision form stating the result and reason for the result on appeal. A copy of the completed decision form shall be sent to each party to the appeal by certified mail. The original form of decision shall be filed in the appellate case file and remain a part of the record of the case in any further proceedings.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 7/5/77A and all amendments thereto.

[Res. 94-021, 1994. Prior Code § 1-90-020.]

Title 2

MEMBERSHIP

Chapters:

2.10 Membership and Enrollment Committee

Prior legislation: Res. 95.

Chapter 2.10

MEMBERSHIP AND ENROLLMENT COMMITTEE

Sections:

2.10.010 Requirements.
2.10.020 Appointment of Enrollment Committee and terms.
2.10.030 Procedures for enrollment.
2.10.040 Membership roll.
2.10.050 Disenrollment.
2.10.060 Confidentiality.
2.10.070 Severability clause.

2.10.010 Requirements.

The Tribal Constitution sets the requirements for membership in the Tribe as follows:

(a) The membership of the Las Vegas Paiute Tribe shall include all persons with at least one-quarter degree Paiute Indian blood whose names appear on the official census of the Las Vegas Indian Colony dated January 1, 1940, and the descendants of these persons who possess at least one-quarter degree Paiute Indian blood; provided, that they are not enrolled or affiliated with another Indian tribe or group; and provided further that subject to the approval of the Secretary of the Interior or his authorized representative, corrections may be made in said census within one year following approval of this Constitution and Bylaws.

(b) The Tribal Council shall have the power to enact ordinances subject to the approval of the Secretary of the Interior, providing for future membership, loss of membership, and the adoption of new members.

(c) Any person who is the legal spouse or surviving spouse of a member of the Las Vegas Paiute Tribe, or who is a minor child of a member or deceased member but having less than one-quarter degree Las Vegas Paiute blood, shall be permitted to continue to reside on these lands, but shall have no rights or status as members of the Las Vegas Paiute Tribe because of such residence.

Comment: This section, known as Section 1 of Ordinance III – Membership and approved as revised by Tribal Council Resolution No. 94-006, dated February 1, 1994, entirely restates and supersedes all prior versions developed by the Tribal Enrollment Committee relating to Tribal enrollment and membership practices and procedures.

[Res. 95, 1995; Res. 94-006, 1994. Prior Code § 2-10.]

2.10.020 Appointment of Enrollment Committee and terms.

(a) The Tribal Council shall appoint three enrolled Tribal members to serve as the Enrollment Committee ("Committee").

(b) The Committee shall select a Chairperson from among its members.

(c) Each Committee member shall serve a term of three years. Committee members may be reappointed. The Tribal Council shall stagger the terms of office for Committee members.

(d) A Committee member may be removed for cause by a majority vote of the Tribal Council.

(e) Any vacancies on the Committee shall be filled by Tribal Council appointment.

(f) The Committee shall adhere to all time lines established by this section with due diligence.

Comment: This section, known as Section 2 of Ordinance III – Membership and approved as revised by Tribal Council Resolution No. 94-006, dated February 1, 1994, entirely restates and supersedes all prior versions developed by the Tribal Enrollment Committee relating to Tribal enrollment and membership practices and procedures.

[Res. 95, 1995; Res. 94-006, 1994. Prior Code § 2-20.]

2.10.030 Procedures for enrollment.

The following enrollment procedures shall apply to all persons applying for membership in the Tribe:

(a) Step No. 1 – File Application. All persons who consider themselves eligible for membership in the Tribe and who wish to be enrolled as a member of the Tribe shall file an application for membership on a form approved by the Tribe (Form A) and in accordance with the steps established by this section. The application must be complete

and shall contain the following information, statements and certifications:

(1) Name, gender, address, place and date of birth, tribe and degree of Indian blood of the applicant.

(2) The name of the tribe and degree of Indian blood of the applicant's parents; and names of the applicant's grandparents.

(3) A statement as to the roll upon which the applicant or applicant's parents or grandparents appear.

(4) The applicant's certification as to eligibility either by the applicant's signature or the signature of the person filing on behalf of the applicant.

(5) A statement as to whether the application has been approved or disapproved, and the date of the Tribal Council's action.

(6) The following provisions also apply to all applications for membership:

(A) Persons to File Application. Any person who considers himself or herself to be eligible for membership in the Tribe and who is 18 years of age or older may file an application for membership. An applicant's parents, legal guardian, next of kin, or spouse may file an application for membership on behalf of a child under 18, a mental incompetent, or any other person in need of assistance.

(B) Minor Children. Upon reaching the age of 18, any person may apply for membership in the Tribe regardless of whether their parents or guardians enrolled the minor child in another tribe.

Such enrollment in another tribe as a minor child shall not be used as the sole determining factor in denying the applicant membership in the Las Vegas Paiute Tribe. Any other affiliations with another tribe(s) as a minor child shall not automatically prohibit a person from becoming enrolled in the Las Vegas Paiute Tribe.

(C) Applications Filed With Enrollment Committee. Applications shall be filed with the Committee at the following address: Enrollment Committee, Las Vegas Paiute Tribe, Number One Paiute Drive, Las Vegas, Nevada 89106. The day on which the Committee receives an application shall be considered the date of receipt of an application.

(D) Burden of Proof. The burden of proof of Paiute descendency shall be upon the applicant by clear and convincing evidence, and documentary evidence to support his or her rights for membership shall consist of the following, if available: birth certificates, death certificates of lineal ancestors such as parents and grandparents, tribal records, church records, military records, and affidavits of older Indians and any other information requested by the Committee. Failure to comply with a request from the Committee for additional information may constitute grounds to deny an application.

(b) Step No. 2 – Enrollment Committee Review. The Committee shall conduct the initial review of all applications for membership submitted to the Tribe. The Committee shall notify the applicant in writing of receipt of his or her application within 45 days of receipt of the application (Form B). The Committee shall review the application for sufficiency and accuracy to make a preliminary determination as to whether the applicant meets the criteria for membership as contained in Article III of the Tribal Constitution. The Committee may reject an application for cause. The Committee may in its discretion return an application to the applicant and request additional information. The Committee may return an incomplete application or an application which is otherwise deficient on its face.

(c) Step No. 3 – Enrollment Committee Makes Initial Decision. The Committee shall notify the Tribal Council in writing of its decision as to whether an applicant should or should not be granted membership in the Las Vegas Paiute Tribe. The Committee shall complete its initial review of an application and shall notify the Tribal Council of its decision within 180 days of receipt of an application.

(d) Step No. 4 – Enrollment Committee's Decision Accepted or Rejected by Tribal Council.

(1) The Tribal Council, by a majority vote, may accept or reject the Committee's

recommendations. The Tribal Council may return an application for membership to the Committee to request additional information or for clarification of information already submitted. The Tribal Council shall take action within 90 days of receiving the Committee's recommendation. If the Tribal Council approves the Committee's decision, the Council may issue a certificate of membership. If the Tribal Council rejects the Committee's decision, the Committee shall notify the applicant that his or her application has not been approved (Form C).

(2) The Tribal Council, when deciding whether a person is enrolled or affiliated with another Indian tribe, may consider the following factors which may or may not be individually dispositive of membership:

(A) Whether a person was enrolled with another tribe, and, if so, for how long was the person enrolled with another tribe and under what circumstances;

(B) Whether a person ever received any benefits from another tribe including, but not limited to, land claims monies, housing assistance, home energy assistance, scholarships, or any other tribal assistance of any kind;

(C) Whether a person owns property, an assignment(s) or any interest in any property at another tribe or reservation;

(D) Whether a person ever received medical assistance from any public health service facility, Indian health service facility, contract health care facility, tribal medical facility, or any other medical facility and whether tribal enrollment was a requirement of such services and, if so, which tribe the applicant listed;

(E) Whether a person ever participated in the political affairs of another tribe including, but not limited to, voting, holding office, or otherwise actively participating in the political affairs of another tribe;

(F) Whether the applicant is otherwise in any way affiliated with another Indian tribe or group.

(e) Step No. 5 – Appeal to Tribal Council.

(1) Appeals. If the Enrollment Committee rejects an application, or if the Tribal Council does not accept a decision by the Enrollment Committee, the applicant shall be so notified in writing by mail and shall have 30 days from the date of receipt of the rejection notice to present a written appeal to the Council. The appeal should include any supporting evidence not previously furnished and may include affidavits from persons having personal knowledge of the facts. The Tribal Council may require an applicant to present evidence to support or prove eligibility for membership.

(2) Final Action. The actions of the Tribal Council, by a majority vote of the Council, on all appeals shall be final and shall not be appealable to the Tribal Court. The Tribal Council hereby expressly does not waive the Tribe's sovereign immunity and does not consent to be sued in Tribal Court on membership matters except to the extent that a person seeks to enforce the procedural requirements of this section. Substantive determinations of membership shall remain in the exclusive domain of the Tribal Council. Written notice of the Council's decision shall be given to the applicant.

(f) Step No. 6 – Procedures to Reapply for Membership. Any person rejected from membership in the Tribe may not reapply for membership unless the applicant has discovered new bona fide information which was previously unavailable. Incomplete applications returned to any applicant shall not be considered a formal submission of an application for purposes of this section (Step No. 6).

Comment: This section, known as Section 3 of Ordinance III – Membership and approved as revised by Tribal Council Resolution No. 94-006, dated February 1, 1994, entirely restates and supersedes all prior versions developed by the Tribal Enrollment Committee relating to Tribal enrollment and membership practices and procedures.

[Res. 95, 1995; Res. 94-006, 1994. Prior Code § 2-30.]

2.10.040 Membership roll.

A membership roll shall be prepared from all applications which are received and approved. The roll shall be prepared on forms prescribed by the Tribal Council. The roll shall be kept current by adding the names of new members and deleting the names of the deceased. The roll shall contain at a minimum the following information:

(a) Tribal roll number;
(b) Census roll number of base roll;
(c) Name;
(d) Gender;
(e) Date of birth;
(f) Degree of Paiute blood;
(g) Total degree of Indian blood;
(h) The authority for enrollment;
(i) Any pertinent remarks.

Comment: This section, known as Section 4 of Ordinance III – Membership and approved as revised by Tribal Council Resolution No. 94-006, dated February 1, 1994, entirely restates and supersedes all prior versions developed by the Tribal Enrollment Committee relating to Tribal enrollment and membership practices and procedures.

[Res. 95, 1995; Res. 94-006, 1994. Prior Code § 2-40.]

2.10.050 Disenrollment.

The Tribal Council may, by a majority vote of the full Tribal Council, terminate membership of any person for causes related to membership, including but not limited to misrepresentation, error or omission in an application for membership.

Comment: This section, known as Section 5 of Ordinance III – Membership and approved as revised by Tribal Council Resolution No. 94-006, dated February 1, 1994, entirely restates and supersedes all prior versions developed by the Tribal Enrollment Committee relating to Tribal enrollment and membership practices and procedures.

[Res. 95, 1995; Res. 94-006, 1994. Prior Code § 2-50.]

2.10.060 Confidentiality.

All records maintained by the Enrollment Committee shall be confidential.

Comment: This section, known as Section 6 of Ordinance III – Membership and approved as revised by Tribal Council Resolution No. 94-006, dated February 1, 1994, entirely restates and supersedes all prior versions developed by the Tribal Enrollment Committee relating to Tribal enrollment and membership practices and procedures.

[Res. 95, 1995; Res. 94-006, 1994. Prior Code § 2-60.]

2.10.070 Severability clause.

If any provision of this chapter shall in the future be declared invalid by a court of competent jurisdiction, the invalid provision or provisions shall be severed and the remaining provisions shall continue in full force and effect.

Comment: This section, known as Section 7 of Ordinance III – Membership and approved as revised by Tribal Council Resolution No. 94-006, dated February 1, 1994, entirely restates and supersedes all prior versions developed by the Tribal Enrollment Committee relating to Tribal enrollment and membership practices and procedures.

[Res. 95, 1995; Res. 94-006, 1994. Prior Code § 2-70.]

Title 3

RULES OF CIVIL PROCEDURE

Chapters:

3.10	Scope of Rules – One Form of Action
3.20	Commencement of Action – Service of Process, Pleadings, Motions and Orders
3.30	Pleadings and Motions
3.40	Parties
3.50	Depositions and Discovery
3.60	Trials
3.70	Judgment
3.80	Provisional and Final Remedies
3.90	Courts and Clerks
3.100	General Provisions

Chapter 3.10

SCOPE OF RULES – ONE FORM OF ACTION

Sections:

3.10.010 Scope and purpose of rules.
3.10.020 One form of action.

3.10.010 Scope and purpose of rules.

These rules govern procedures to be followed in all civil actions in the courts, including the Tribal Commercial Court, of the Las Vegas Paiute Tribe. They shall be construed to secure the just, speedy and inexpensive determination of every civil action. No provision of this title shall be construed or interpreted as an adoption or enactment of the laws of any state or federal law except to the extent otherwise explicitly set forth herein.

Comment: To the extent a civil procedural issue is not addressed by this title, or by Tribal common law, a Tribal Court judge may refer to the Federal Rules of Civil Procedure and cases construing the same; provided, however, that in no event shall reference to such federal rules be interpreted or construed as an explicit adoption of such rules.

[Prior Code § 3-10-010.]

3.10.020 One form of action.

There shall be one civil form of action which shall be known as a “civil action.”

Comment: To the extent a civil procedural issue is not addressed by this title, or by Tribal common law, a Tribal Court judge may refer to the Federal Rules of Civil Procedure and cases construing the same; provided, however, that in no event shall reference to such federal rules be interpreted or construed as an explicit adoption of such rules.

[Prior Code § 3-10-020.]

Chapter 3.20

COMMENCEMENT OF ACTION – SERVICE OF PROCESS, PLEADINGS, MOTIONS AND ORDERS

Sections:

3.20.010 Commencement of action.
3.20.020 Summons.
3.20.025 Service of other process.
3.20.030 Service and filing of pleadings and other papers.
3.20.040 Time.

3.20.010 Commencement of action.

A civil action is commenced by filing a complaint with the appropriate court.

Comment: To the extent a civil procedural issue is not addressed by this title, or by Tribal common law, a Tribal Court judge may refer to the Federal Rules of Civil Procedure and cases construing the same; provided, however, that in no event shall reference to such federal rules be interpreted or construed as an explicit adoption of such rules.

[Prior Code § 3-20-010.]

3.20.020 Summons.

(a) Form. The summons shall be signed by the Clerk, bear the seal of the court, identify the court and the parties, be directed to the defendant, and state the name and address of the plaintiff’s attorney or, if unrepresented, of the plaintiff. It shall also state the time within which the defendant must appear and defend, and notify the defendant that failure to do so will result in a judgment by default against the defendant for the relief demanded in the complaint. The court may allow a summons to be amended.

(b) Issuance. Upon or after filing the complaint, the plaintiff may present a summons to the Clerk for signature and seal. If the summons is in proper form, the Clerk shall sign, seal, and issue it to the plaintiff for service on the defendant. A summons, or a copy of the summons if addressed to multiple defendants, shall be issued for each defendant to be served.

(c) Service With Complaint – By Whom Made.

(1) A summons shall be served together with a copy of the complaint. The plaintiff is responsible for service of a summons and complaint within the time allowed under subsection (m) of this section and shall furnish the person effecting service with the necessary copies of the summons and complaint.

(2) Service may be effected by any person who is not a party and who is at least 18 years of age. At the request of the plaintiff, however, the court may direct that service be effected by an officer of the Las Vegas Paiute Tribal Police Department, or other person or officer specially appointed by the court for that purpose.

(d) Waiver of Service – Duty to Save Costs of Service – Request to Waive.

(1) A defendant who waives service of a summons does not thereby waive any objection to the jurisdiction of the court over the person of the defendant.

(2) An individual, corporation, or association that is subject to service under subsection (e) or (f) of this section and that receives notice of an action in the manner provided in this subsection has a duty to avoid unnecessary costs of serving the summons. To avoid costs, the plaintiff may notify such a defendant of the commencement of the action and request that the defendant waive service of summons. The notice and request shall:

(A) Be in writing and shall be addressed directly to the defendant, if an individual, or else to an officer or managing or general agent (or other agent authorized by appointment or law to receive service of process) of a defendant subject to service under subsection (f) of this section;

(B) Be dispatched through first-class mail or other reliable means;

(C) Be accompanied by a copy of the complaint and shall identify the court in which it has been filed;

(D) Inform the defendant of the consequences of compliance and of a failure to comply with the request;

(E) Set forth the date on which the request is sent;

(F) Allow the defendant a reasonable time to return the waiver, which shall be at least 30 days from the date on which the request is sent; and

(G) Provide the defendant with an extra copy of the notice and request, as well as a prepaid means of compliance in writing.

(3) A defendant that, before being served with process, timely returns a waiver so requested is not required to serve an answer to the complaint until 60 days after the date on which the request for waiver of service was sent.

(4) When the plaintiff files a waiver of service with the court, the action shall proceed, except as provided in subsection (d)(3) of this section, as if a summons and complaint had been served at the time of filing the waiver, and no proof of service shall be required.

(5) The costs to be imposed on a defendant under subsection (d)(2) of this section for failure to comply with a request to waive service of a summons shall include the costs subsequently incurred in effecting service under subsection (e) or (f) of this section, together with the costs, including a reasonable attorneys' fee, of any motion required to collect the costs of service.

(e) Service Upon Individuals. Unless otherwise provided by resolution or ordinance of the Las Vegas Paiute Tribe, service upon an individual from whom a waiver has not been obtained and filed may be effected by delivering a copy of the summons and of the complaint to the individual personally, or if such individual is an infant or an incompetent person, upon the parent or legal guardian of such person or by leaving copies thereof at the individual's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein or by delivering a copy of the summons and of the complaint to an agent authorized by appointment or by law to receive service of process.

(f) Service Upon Corporations and Associations. Unless otherwise provided by

resolution or ordinance of the Las Vegas Paiute Tribe, service upon a corporation or upon a partnership or other unincorporated association that is subject to suit under a common name, and from which a waiver of service has not been obtained, shall be effected by delivering a copy of the summons and of the complaint to an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process and, if the agent is one authorized by statute to receive service and the statute so requires, by also mailing a copy to the defendant.

(g) Service Upon the Las Vegas Paiute Tribe and Its Agencies, Corporations, or Officers. Service upon the Las Vegas Paiute Tribe shall be effected by delivering a copy of the summons and of the complaint to the Chairperson of the Board of Directors of the Las Vegas Paiute Tribe, and in any action attacking the validity of an order of an officer or agency of the Las Vegas Paiute Tribe not made a party, by also sending a copy of the summons and of the complaint by registered or certified mail to such officer or agency.

(h) Service Upon the United States, and Its Agencies, Corporations, or Officers. Service upon the United States, its agencies, corporations, or officers shall be effected by delivering a copy of the summons and of the complaint to the United States Attorney for the district in which the action is brought or to an assistant United States Attorney or clerical employee designated by the United States Attorney in a writing filed with the Clerk of the Court and by sending a copy of the summons and of the complaint by registered or certified mail to the civil process clerk at the Office of the Attorney General of the United States at Washington, District of Columbia, and in any action against an officer, agency or corporation of the United States, including an action attacking the validity of an order of an officer or agency of the United States not made a party, by also sending a copy of the summons and of the complaint by registered or certified mail to such officer or agency.

(i) Upon a state or municipal corporation or other governmental organization thereof subject to suit, by delivering a copy of the summons and of the complaint to the chief executive officer thereof or by serving the summons and complaint in the manner prescribed by the law of that state for the service of summons or other like process upon any such defendant.

(j) Territorial Limits of Effective Service. All process under this section may be served anywhere within the United States.

(k) Proof of Service. If service is not waived, the person effecting service shall make proof thereof to the court. The person serving the process shall make proof of service by affidavit thereof to the court promptly and in any event within the time during which the person served must respond to the process. If service is made by a person other than a person specially appointed by the court for that purpose, such person shall make affidavit thereof. Failure to make proof of service does not affect the validity of the service. The court may allow proof of service to be amended.

(l) Amendment. At any time in its discretion and upon such terms as it deems just, the court may allow any process or proof of service thereof to be amended, unless it clearly appears that material prejudice would result to the substantial rights of the party against whom the process issued.

(m) Summons – Time Limit for Service. If service of the summons and complaint is not made upon a defendant within 120 days after the filing of the complaint, the court, upon motion or on its own initiative after notice to the plaintiff, shall dismiss the action without prejudice as to that defendant or direct that service be effected within a specified time; provided, that if the plaintiff shows good cause for the failure, the court shall extend the time for service for an appropriate period.

Comment: To the extent a civil procedural issue is not addressed by this title, or by Tribal common law, a Tribal Court judge may refer to the Federal Rules of Civil Procedure and cases construing the same; provided, however, that in no event shall

reference to such federal rules be interpreted or construed as an explicit adoption of such rules.

[Prior Code § 3-20-020.]

3.20.025 Service of other process.

(a) Generally. Process other than a summons as provided in LVPTC 3.20.020 or subpoena as provided in LVPTC 3.60.060 shall be served by a person specially appointed by the court for that purpose, who shall make proof of service as provided in LVPTC 3.20.020(k). Such process may be served anywhere in the United States.

(b) Enforcement of Orders – Commitment for Civil Contempt. An order of civil contempt of a person held to be in contempt of any order, decree or injunction issued by the court to enforce the Rules of the Court, the laws of the Las Vegas Paiute Tribe or of the United States may be served and enforced anywhere in the United States by any court of competent jurisdiction whether as a matter of law or comity. [Prior Code § 3-20-025.]

3.20.030 Service and filing of pleadings and other papers.

(a) Service – When Required. Except as otherwise provided in these rules, every order required by its terms to be served, every pleading subsequent to the original complaint unless the court otherwise orders because of numerous defendants, every paper relating to discovery required to be served upon a party unless the court otherwise orders, every written motion other than one which may be heard ex parte, and every written notice, appearance, demand, offer of judgment, designation of record on appeal, and similar paper shall be served upon each of the parties. No service need be made on parties in default for failure to appear except that pleadings asserting new or additional claims for relief against them shall be served upon them in the manner provided for service of summons in LVPTC 3.20.020.

In an action begun by seizure of property, in which no person need be or is named as defendant, any service required to be made prior to the filing of an answer, claim, or appearance shall be made upon the person having custody or possession of the property at the time of its seizure.

(b) Service – How Made. Whenever under this chapter service is required or permitted to be made upon a represented party the service shall be made upon the representative unless service upon the party is ordered by the court. Service upon the representative or upon a party shall be made by delivering a copy to the representative or party or by mailing it to the representative or party at the representative's or party's last known address or, if no address is known, by leaving it with the Clerk of the Court. Delivery of a copy within this section means: handing it to the representative or to the party; or leaving it at the representative's or party's office with a clerk or other person in charge thereof; or, if there is no one in charge, leaving it in a conspicuous place therein; or, if the office is closed or the person to be served has no office, leaving it at the person's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein. Service by mail is complete upon mailing.

(c) Service – Numerous Defendants. In any action in which there are unusually large numbers of defendants, the court, upon motion or upon its own initiative, may order that service of the pleadings to the defendants and replies thereto need not be made as between the defendants and that any cross-claim, counterclaim, or matter constituting an avoidance or affirmative defense contained therein shall be deemed to be denied or avoided by all other parties and that the filing of any such pleading and service thereof upon the plaintiff constitutes due notice of it to the parties. A copy of every such order shall be served upon the parties in such manner and form as the court directs.

(d) Filing – Certificate of Service. All papers after the complaint required to be served upon a party, together with a certificate of service, shall be filed with the court within 30 days after service, but the court may on motion of a party or on its own initiative order that depositions upon oral examination and inter-

rogatories, requests for documents, requests for admission, and answers and responses thereto not be filed unless on order of the court or for use in the proceeding.

(e) Filing With the Court Defined. The filing of papers with the court as requred by these rules shall be made by filing them with the Clerk of the Court, except that the judge may permit the papers to be filed with the judge, in which event the judge shall note thereon the filing date and forthwith transmit them to the Office of the Clerk. Papers may be filed by facsimile transmission with the prior permission of the Clerk of the Court. The Clerk shall not refuse to accept for filing any paper presented for that purpose solely because it is not presented in proper form as required by these rules or any rules or practices of the Las Vegas Paiute Tribe.

Comment: To the extent a civil procedural issue is not addressed by this title, or by Tribal common law, a Tribal Court judge may refer to the Federal Rules of Civil Procedure and cases construing the same; provided, however, that in no event shall reference to such federal rules be interpreted or construed as an explicit adoption of such rules.

[Prior Code § 3-20-030.]

3.20.040 Time.

(a) Computation. In computing any period of time prescribed or allowed by these rules, by Rules of the Court, by order of the court, or by any applicable ordinance or resolution of the Las Vegas Paiute Tribe, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday, or, when the act to be done is the filing of a paper in court, a day on which weather or other conditions have made the Office of the Clerk of the Court inaccessible, in which event the period runs until the end of the next day which is not one of the aforementioned days. When the period of time prescribed or allowed is less than 11 days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation. As used in this section, “legal holiday” includes New Year’s Day, Birthday of Martin Luther King, Jr., Washington’s Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, Christmas Day, and any other day appointed as a holiday by the President of the United States, or by resolution or ordinance of the Las Vegas Paiute Tribe.

(b) Enlargement. When by these rules or by a notice given thereunder or by order of court an act is required or allowed to be done at or within a specified time, the court for cause shown may at any time in its discretion (1) with or without motion or notice order the period enlarged if request therefor is made before the expiration of the period originally prescribed or as extended by a previous order, or (2) upon motion made after the expiration of the specified period permit the act to be done where the failure to act was the result of excusable neglect. But it may not extend the time for taking any action under LVPTC 3.60.080(b), 3.70.060(b), (d) and (e), and 3.70.070(b), except to the extent and under the conditions stated therein.

(c) For Motions – Affidavits. A written motion, other than one which may be heard ex parte, and notice of the hearing thereof shall be served not later than five days before the time specified for the hearing, unless a different period is fixed by these rules or by order of the court. Such an order may for cause shown be made on ex parte application. When a motion is supported by affidavit, the affidavit shall be served with the motion; and, except as otherwise provided in these rules opposing affidavits may be served not later than one day before the hearing, unless the court permits them to be served at some other time.

(d) Additional Time After Service by Mail. Whenever a party has the right or is required to do some act within a prescribed period after the service of a notice or other paper upon the party and the notice or paper is served upon the party by mail, three days shall be added to the prescribed period.

Comment: To the extent a civil procedural issue is not addressed by this title, or by Tribal common law, a Tribal Court judge may refer to the Federal

Rules of Civil Procedure and cases construing the same; provided, however, that in no event shall reference to such federal rules be interpreted or construed as an explicit adoption of such rules.

[Prior Code § 3-20-040.]

Chapter 3.30

PLEADINGS AND MOTIONS

Sections:

3.30.010 Pleadings allowed – Form of motions.
3.30.020 General rules of pleading.
3.30.030 Pleading special matters.
3.30.040 Form of pleadings.
3.30.050 Signing of pleadings, motions, and other papers – Representations to court – Sanctions.
3.30.060 Defenses and objections – When and how presented – By pleading or motion – Motion for judgment on the pleadings.
3.30.070 Counterclaim and cross-claim.
3.30.080 Third-party practice.
3.30.090 Amended and supplemental pleadings.
3.30.100 Pretrial conferences – Scheduling – Management.

3.30.010 Pleadings allowed – Form of motions.

(a) Pleadings. There shall be a complaint and an answer; a reply to a counterclaim denominated as such; an answer to a cross-claim, if the answer contains a cross-claim; a third-party complaint, if a person who was not an original party is summoned under the provisions of LVPTC 3.30.080; and a third-party answer, if a third-party complaint is served. No other pleading shall be allowed, except that the court may order a reply to an answer or a third-party answer.

(b) Motions and Other Papers.

(1) An application to the court for an order shall be by motion which, unless made during a hearing or trial, shall be made in writing, shall state with particularity the grounds therefor, and shall set forth the relief or order sought. The requirement of writing is fulfilled if the motion is stated in a written notice of the hearing of the motion.

(2) The rules applicable to captions and other matters of form of pleadings apply to

all motions and other papers provided for by these rules.

(3) All motions shall be signed in accordance with LVPTC 3.30.050.

Comment: To the extent a civil procedural issue is not addressed by this title, or by Tribal common law, a Tribal Court judge may refer to the Federal Rules of Civil Procedure and cases construing the same; provided, however, that in no event shall reference to such federal rules be interpreted or construed as an explicit adoption of such rules.

[Prior Code § 3-30-010.]

3.30.020 General rules of pleading.

(a) Claims for Relief. A pleading which sets forth a claim for relief, whether an original claim, counterclaim, cross-claim, or third-party claim, shall contain (1) a short and plain statement of the grounds upon which the court's jurisdiction depends, unless the court already has jurisdiction and the claim needs no new grounds of jurisdiction to support it, (2) a short and plain statement of the claim showing that the pleader is entitled to relief, and (3) a demand for judgment for the relief the pleader seeks. Relief in the alternative or of several different types may be demanded.

(b) Defenses – Form of Denials. A party shall state in short and plain terms the party's defenses to each claim asserted and shall admit or deny the claims upon which the adverse party relies. If a party is without knowledge or information sufficient to form a belief as to the truth of a claim, the party shall so state and this has the effect of a denial. Denials shall fairly meet the substance of the claims denied. When a pleader intends in good faith to deny only a part or a qualification of a claim, the pleader shall specify so much of it as is true and material and shall deny only the remainder. Unless the pleader intends in good faith to controvert all the claims of the preceding pleading, the pleader may make denials as specific denials of designated claims or paragraphs or may generally deny all the claims except such designated claims or paragraphs as the pleader expressly admits; but, when the pleader does so intend to controvert all its claims, including claims of the grounds upon which the court's jurisdiction depends, the pleader may do so by general denial subject to the obligations set forth in LVPTC 3.30.050.

(c) Affirmative Defenses. In pleading to a preceding pleading, a party shall set forth affirmatively accord and satisfaction, arbitration and award, assumption of risk, contributory negligence, discharge in bankruptcy, duress, estoppel, failure of consideration, fraud, illegality, injury by fellow servant, laches, license, payment, release, res judicata, statute of frauds, statute of limitations, waiver, and any other matter constituting an avoidance or affirmative defense. When a party has mistakenly designated a defense as a counterclaim or a counterclaim as a defense, the court on terms, if justice so requires, shall treat the pleading as if there had been a proper designation.

(d) Effect of Failure to Deny. Claims in a pleading to which a responsive pleading is required, other than those as to the amount of damage, are admitted when not denied in the responsive pleading. Claims in a pleading to which no responsive pleading is required or permitted shall be taken as denied or avoided.

(e) Pleading to Be Concise and Direct – Consistency.

(1) Each claim in a pleading shall be simple, concise, and direct. No technical forms of pleading or motions are required.

(2) A party may set forth two or more statements of a claim or defense alternately or hypothetically, either in one count or defense or in separate counts or defenses. When two or more statements are made in the alternative and one of them if made independently would be sufficient, the pleading is not made insufficient by the insufficiency of one or more of the alternative statements. A party may also state as many separate claims or defenses as the party has regardless of consistency and whether based on legal or equitable grounds. All statements shall be made subject to the obligations set forth in LVPTC 3.30.050.

(f) Construction of Pleadings. All pleadings shall be so construed as to do substantial justice.

Comment: To the extent a civil procedural issue is not addressed by this title, or by Tribal common law, a Tribal Court judge may refer to the Federal Rules of Civil Procedure and cases construing the same; provided, however, that in no event shall reference to such federal rules be interpreted or construed as an explicit adoption of such rules.

[Prior Code § 3-30-020.]

3.30.030 Pleading special matters.

(a) Capacity. It is not necessary to claim the capacity of a party to sue or be sued or the authority of a party to sue or be sued in a representative capacity or the legal existence of an organized association of persons that is made a party, except to the extent required to show the jurisdiction of the court. When a party desires to raise an issue as to the legal existence of any party or the capacity of any party to sue or be sued or the authority of a party to sue or be sued in a representative capacity, the party desiring to raise the issue shall do so by specific negative claim, which shall include such supporting particulars as are peculiarly within the pleader's knowledge.

(b) Fraud, Mistake, Condition of the Mind. In all claims of fraud or mistake, the circumstances constituting fraud or mistake shall be stated with particularity. Malice, intent, knowledge, and other condition of mind of a person may be claimed generally.

(c) Conditions Precedent. In pleading the performance or occurrence of conditions precedent, it is sufficient to claim generally that all conditions precedent have been performed or have occurred. A denial of performance or occurrence shall be made specifically and with particularity.

(d) Official Document or Act. In pleading an official document or official act it is sufficient to claim that the document was issued or the act done in compliance with law.

(e) Judgment. In pleading a judgment or decision of another court, judicial or quasijudicial tribunal, or of a board or officer, it is sufficient to claim the judgment or decision without setting forth matter showing jurisdiction to render it.

(f) Time and Place. For the purpose of testing the sufficiency of a pleading, claims of time and place are material and shall be considered like all other claims of material matter.

(g) Special Damage. When items of special damage are claimed, they shall be specifically stated.

Comment: To the extent a civil procedural issue is not addressed by this title, or by Tribal common law, a Tribal Court judge may refer to the Federal Rules of Civil Procedure and cases construing the same; provided, however, that in no event shall reference to such federal rules be interpreted or construed as an explicit adoption of such rules.

[Prior Code § 3-30-030.]

3.30.040 Form of pleadings.

(a) Caption – Names of Parties. Every pleading shall contain a caption setting forth the name of the court, the title of the action, the file number, and a designation as in LVPTC 3.30.010(a). In the complaint the title of the action shall include the names of all the parties, but in other pleadings it is sufficient to state the name of the first party on each side with an appropriate indication of other parties.

(b) Paragraphs – Separate Statements. All claims and defenses shall be made in numbered paragraphs, the contents of each of which shall be limited as far as practicable to a statement of a single set of circumstances; and a paragraph may be referred to by number in all succeeding pleadings. Each claim founded upon a separate transaction or occurrence and each defense other than denials shall be stated in a separate count or defense.

(c) Adoption by Reference – Exhibits. Statements in a pleading may be adopted by reference in a different part of the same pleading or in another pleading or in any motion. A copy of any written instrument which is an exhibit to a pleading is a part thereof for all purposes.

Comment: To the extent a civil procedural issue is not addressed by this title, or by Tribal common law, a Tribal Court judge may refer to the Federal Rules of Civil Procedure and cases construing the

same; provided, however, that in no event shall reference to such federal rules be interpreted or construed as an explicit adoption of such rules.

[Prior Code § 3-30-040.]

3.30.050 Signing of pleadings, motions, and other papers – Representations to court – Sanctions.

(a) Every pleading, written motion, and other paper shall be signed by at least one attorney of record in the attorney's individual name, or, if the party is not represented by an attorney, shall be signed by the party. Each paper shall state the signer's address and telephone number, if any. Except when otherwise specifically provided by rule or resolution or ordinance of the Las Vegas Paiute Tribe, pleadings need not be verified or accompanied by affidavit. An unsigned paper shall be stricken unless omission of the signature is corrected promptly after being called to the attention of the attorney or party.

(b) Representations to Court. By presenting to the court (whether by signing, filing, submitting, or later advocating) a pleading, written motion, or other paper, an attorney or unrepresented party is certifying that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances:

(1) It is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;

(2) The claims, defenses, and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(3) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(4) The denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on a lack of information or belief.

(c) Sanctions. If, after notice and a reasonable opportunity to respond, the court determines that subsection (b) of this section has been violated, the court may, subject to the conditions stated below, impose an appropriate sanction upon the attorneys, law firms, or parties that have violated subsection (b) of this section or are responsible for the violation.

(1) How Initiated.

(A) By Motion. A motion for sanctions under this section shall be made separately from other motions or requests and shall describe the specific conduct alleged to violate subsection (b) of this section. It shall be served as provided in LVPTC 3.20.030, but shall not be filed with or presented to the court unless, within 21 days after service of the motion (or such other period as the court may prescribe), the challenged paper, claim, defense, contention, allegation, or denial is not withdrawn or appropriately corrected. If warranted, the court may award to the party prevailing on the motion the reasonable expenses and attorneys' fees incurred in presenting or opposing the motion. Absent exceptional circumstances, a law firm shall be held jointly responsible for violations committed by its partners, associates, and employees.

(B) On Court's Initiative. On its own initiative, the court may enter an order describing the specific conduct that appears to violate subsection (b) of this section and directing an attorney, law firm, or party to show cause why it has not violated subsection (b) of this section with respect thereto.

(2) Nature of Sanctions – Limitations. A sanction imposed for violation of this section shall be limited to what is sufficient to deter repetition of such conduct or comparable conduct by others similarly situated. Subject to the limitations in subsections (c)(2)(A) and (B) of this section, the sanction may consist of, or include, directives of a nonmonetary nature, an order to pay a penalty into court, or, if imposed on motion and warranted for effective deterrence, an order directing payment to the movant of some or all of the reasonable attor-

neys' fees and other expenses incurred as a direct result of the violation.

(A) Monetary sanctions may not be awarded against a represented party for a violation of subsection (b)(2) of this section.

(B) Monetary sanctions may not be awarded on the court's initiative unless the court issues its order to show cause before a voluntary dismissal or settlement of the claims made by or against the party which is, or whose attorneys are, to be sanctioned.

(3) Order. When imposing sanctions, the court shall describe the conduct determined to constitute a violation of this section and explain the basis for the sanction imposed.

(d) Inapplicability to Discovery. Subsections (a) through (c) of this section do not apply to disclosures and discovery requests, responses, objections, and motions that are subject to the provisions of LVPTC 3.50.010 through 3.50.300.

Comment: To the extent a civil procedural issue is not addressed by this title, or by Tribal common law, a Tribal Court judge may refer to the Federal Rules of Civil Procedure and cases construing the same; provided, however, that in no event shall reference to such federal rules be interpreted or construed as an explicit adoption of such rules.

[Prior Code § 3-30-050.]

3.30.060 Defenses and objections – When and how presented – By pleading or motion – Motion for judgment on the pleadings.

(a) When Presented.

(1) Unless a different time is prescribed in a resolution or ordinance of the Las Vegas Paiute Tribe, a defendant shall serve an answer:

(A) Within 20 days after being served with the summons and complaint; or

(B) If service of the summons has been timely waived on request under LVPTC 3.20.020(d), within 60 days after the date when the request for waiver was sent.

(2) A party served with a pleading stating a cross-claim against that party shall serve an answer thereto within 20 days after being served. The plaintiff shall serve a reply to a counterclaim in the answer within 20 days after service of the answer or, if a reply is ordered by the court, within 20 days after service of the order, unless the order otherwise directs.

(3) The United States or an officer or agency thereof shall serve an answer to the complaint or to a cross-claim, or a reply to a counterclaim, within 60 days after the service upon the United States Attorney of the pleading in which the claim is asserted.

(4) Unless a different time is fixed by court order, the service of a motion permitted under this section alters these periods of time as follows:

(A) If the court denies the motion or postpones its disposition until the trial on the merits, the responsive pleading shall be served within 10 days after notice of the court's action; or

(B) If the court grants a motion for a more definite statement the responsive pleading shall be served within 10 days after the service of the more definite statement.

(b) How Presented. Every defense, in law or fact, to a claim for relief in any pleading, whether a claim, counterclaim, cross-claim, or third-party claim, shall be asserted in the responsive pleading thereto if one is required, except that the following defenses may at the option of the pleader be made by motion: (1) lack of jurisdiction over the subject matter, (2) lack of jurisdiction over the person, (3) insufficiency of process, (4) insufficiency of service of process, (5) failure to state a claim upon which relief can be granted, (6) failure to join a party under LVPTC 3.40.030. A motion making any of these defenses shall be made before pleading if a further pleading is permitted. No defense or objection is waived by being joined with one or more other defenses or objections in a responsive pleading or motion. If a pleading sets forth a claim for relief to which the adverse party is not required to serve a responsive pleading, the adverse party may assert at the trial any defense in law or fact to that claim for relief. If, on a motion asserting the defense numbered (6) to dismiss for failure of the pleading to state a

claim upon which relief can be granted, matters outside the pleading are presented to and not excluded by the court, the motion shall be treated as one for summary judgment and disposed of as provided in LVPTC 3.70.030 and all parties shall be given reasonable opportunity to present all material made pertinent to such a motion.

(c) Motion for Judgment on the Pleadings. After the pleadings are closed but within such time as not to delay the trial, any party may move for judgment on the pleadings. If, on a motion for judgment on the pleadings, matters outside the pleadings are presented to and not excluded by the court, the motion shall be treated as one for summary judgment and disposed of as provided in LVPTC 3.70.030, and all parties shall be given reasonable opportunity to present all material made pertinent to such a motion by LVPTC 3.70.030.

(d) Preliminary Hearings. The defenses specifically enumerated (1) through (6) in subsection (b) of this section, whether made in a pleading or by motion, and the motion for judgment mentioned in subsection (c) of this section shall be heard and determined before trial on application of any party, unless the court orders that the hearing and determination thereof be deferred until the trial.

(e) Motion for More Definite Statement. If a pleading to which a responsive pleading is permitted is so vague or ambiguous that a party cannot reasonably be required to frame a responsive pleading, the party may move for a more definite statement before interposing a responsive pleading. The motion shall point out the defects complained of and the details desired. If the motion is granted and the order of the court is not obeyed within 10 days after notice of the order or within such other time as the court may fix, the court may strike the pleading to which the motion was directed or make such order as it deems just.

(f) Motion to Strike. Upon motion made by a party before responding to a pleading or, if no responsive pleading is permitted by these rules, upon motion made by a party within 20 days after the service of the pleading upon the party or upon the court's own initiative at any time, the court may order stricken from any pleading any insufficient defense or any redundant, immaterial, impertinent, or scandalous matter.

(g) Consolidation of Defenses in Motion. A party who makes a motion under this section may join with it any other motions herein provided for and then available to the party.

(h) Waiver or Preservation or Certain Defenses.

(1) A defense of lack of jurisdiction over the person, insufficiency of process, or insufficiency of service of process is waived (A) if omitted from a motion in the circumstances described in subsection (g) of this section or (B) if it is neither made by motion under this section nor included in a responsive pleading or an amendment thereof permitted by LVPTC 3.30.090(a) to be made as a matter of course.

(2) A defense of failure to state a claim upon which relief can be granted, a defense of failure to join a party indispensable under LVPTC 3.40.030, and an objection of failure to state a legal defense to a claim may be made in any pleading permitted or ordered under LVPTC 3.30.010(a), or by motion for judgment on the pleadings, or at the trial on the merits.

(3) Whenever it appears by suggestion of the parties or otherwise that the court lacks jurisdiction of the subject matter, the court shall dismiss the action.

Comment: To the extent a civil procedural issue is not addressed by this title, or by Tribal common law, a Tribal Court judge may refer to the Federal Rules of Civil Procedure and cases construing the same; provided, however, that in no event shall reference to such federal rules be interpreted or construed as an explicit adoption of such rules.

[Prior Code § 3-30-060.]

3.30.070 Counterclaim and cross-claim.

(a) Compulsory Counterclaims. A pleading shall state as a counterclaim any claim which at the time of serving the pleading the pleader has against any opposing party, if it arises out of the transaction or occurrence that is the subject matter of the opposing party's claim and does not require for its adjudication the

presence of third parties of whom the court cannot acquire jurisdiction.

(b) Permissive Counterclaims. A pleading may state as a counterclaim any claim against an opposing party not arising out of the transaction or occurrence that is the subject matter of the opposing party's claim.

(c) Counterclaim Exceeding Opposing Claim. A counterclaim may or may not diminish or defeat the recovery sought by the opposing party. It may claim relief exceeding in amount or different in kind from that sought in the pleading of the opposing party.

(d) Counterclaim Maturing or Acquired After Pleading. A claim which either matured or was acquired by the pleader after serving a pleading may, with the permission of the court, be presented as a counterclaim by supplemental pleading.

(e) Omitted Counterclaim. When a pleader fails to set up a counterclaim through oversight, inadvertence, or excusable neglect, or when justice requires, the pleader may by leave of the court set up the counterclaim by amendment.

(f) Cross-Claim Against Co-Party. A pleading may state as a cross-claim any claim by one party against a co-party arising out of the transaction or occurrence that is the subject matter either of the original action or of a counterclaim therein or relating to any property that is the subject matter of the original action. Such cross-claim may include a claim that the party against whom it is asserted is or may be liable to the cross-claimant for all or part of a claim asserted in the action against the cross-claimant.

(g) Joinder of Additional Parties. Persons other than those made parties to the original action may be made parties to a counterclaim or cross-claim in accordance with the provisions of LVPTC 3.40.030 and 3.40.040.

Comment: To the extent a civil procedural issue is not addressed by this title, or by Tribal common law, a Tribal Court judge may refer to the Federal Rules of Civil Procedure and cases construing the same; provided, however, that in no event shall reference to such federal rules be interpreted or construed as an explicit adoption of such rules.

[Prior Code § 3-30-070.]

3.30.080 Third-party practice.

(a) When Defendant May Bring In Third Party. At any time after commencement of the action a defending party, as a third-party plaintiff, may cause a summons and complaint to be served upon a person not a party to the action who is or may be liable to the third-party plaintiff for all or part of the plaintiff's claim against the third-party plaintiff. The third-party plaintiff need not obtain leave to make the service if the third-party plaintiff files the third-party complaint not later than 10 days after serving the original answer. Otherwise the third-party plaintiff must obtain leave on motion upon notice to all parties to the action. Third-party plaintiff and defendants shall have rights and duties under these rules equivalent with original plaintiff and defendants.

(b) When Plaintiff May Bring In Third Party. When a counterclaim is asserted against a plaintiff, the plaintiff may cause a third party to be brought in under circumstances which under this section would entitle a defendant to do so.

Comment: To the extent a civil procedural issue is not addressed by this title, or by Tribal common law, a Tribal Court judge may refer to the Federal Rules of Civil Procedure and cases construing the same; provided, however, that in no event shall reference to such federal rules be interpreted or construed as an explicit adoption of such rules.

[Prior Code § 3-30-080.]

3.30.090 Amended and supplemental pleadings.

(a) Amendments. A party may amend the party's pleading once as a matter of course at any time before a responsive pleading is served or, if the pleading is one to which no responsive pleading is permitted and the ac-

tion has not been placed upon the trial calendar, the party may so amend it at any time within 20 days after it is served. Otherwise a party may amend the party's pleading only by leave of court or by written consent of the adverse party; and leave shall be freely given when justice so requires. A party shall plead in response to an amended pleading within the time remaining for response to the original pleading or within 10 days after service of the amended pleading, whichever period may be the longer, unless the court otherwise orders.

(b) Amendments to Conform to the Evidence. When issues not raised by the pleadings are tried by express or implied content of the parties, they shall be treated in all respects as if they had been raised in the pleadings. Such amendment of the pleadings as may be necessary to cause them to conform to the evidence and to raise these issues may be made upon motion of any party at any time, even after judgment; but failure so to amend does not affect the result of the trial of these issues. If evidence is objected to at the trial on the ground that it is not within the issues made by the pleadings, the court may allow the pleadings to be amended and shall do so freely when the presentation of the merits of the action will be subserved thereby and the objecting party fails to satisfy the court that the admission of such evidence would prejudice the party in maintaining the party's action or defense upon the merits. The court may grant a continuance to enable the objecting party to meet such evidence.

(c) Relation Back of Amendments. An amendment of a pleading relates back to the date of the original pleading when:

(1) Relation back is permitted by the law that provides the statute of limitations applicable to the action; or

(2) The claim or defense asserted in the amended pleading arose out of the conduct, transaction, or occurrence set forth or attempted to be set forth in the original pleading; or

(3) The amendment changes the party or the naming of the party against whom a claim is asserted if the foregoing provision in subsection (c)(2) of this section is satisfied and, within the period provided by LVPTC 3.20.020(m) for service of the summons and complaint, the party to be brought in by amendment (A) has received such notice of the institution of the action that the party will not be prejudiced in maintaining a defense on the merits, and (B) knew or should have known that, but for a mistake concerning the identity of the proper party, the action would have been brought against the party.

The delivery or mailing of process to the United States Attorney, or United States Attorney's designee, or the Attorney General of the United States, or an agency or officer who would have been a proper defendant if named, satisfies the requirement of subsections (c)(1) and (2) of this section with respect to the United States or any agency or officer thereof to be brought into the action as a defendant.

(d) Supplemental Pleadings. Upon motion of a party the court may, upon reasonable notice and upon such terms as are just, permit the party to serve a supplemental pleading setting forth transactions or occurrences or events which have happened since the date of the pleading sought to be supplemented. Permission may be granted even though the original pleading is defective in its statement of a claim for relief or defense. If the court deems it advisable that the adverse party plead to the supplemental pleading, it shall so order, specifying the time therefor.

Comment: To the extent a civil procedural issue is not addressed by this title, or by Tribal common law, a Tribal Court judge may refer to the Federal Rules of Civil Procedure and cases construing the same; provided, however, that in no event shall reference to such federal rules be interpreted or construed as an explicit adoption of such rules.

[Prior Code § 3-30-090.]

3.30.100 Pretrial conferences – Scheduling – Management.

(a) Pretrial Conferences – Objectives. In any action, the court may in its discretion direct the attorneys for the parties and any unrepresented parties to appear before it for a

conference or conferences before trial for such purposes as:

(1) Expediting the disposition of the action;

(2) Establishing early and continuing control so that the case will not be protracted because of lack of management;

(3) Discouraging wasteful pretrial activities;

(4) Improving the quality of the trial through more thorough preparation; and

(5) Facilitating the settlement of the case.

(b) Scheduling and Planning. The court may, after consulting with the attorneys for the parties and any unrepresented parties, by a scheduling conference, telephone, mail, or other suitable means, enter a scheduling order that limits the time:

(1) To join other parties and to amend the pleadings;

(2) To file and hear motions; and

(3) To complete discovery.

The scheduling order also may include:

(4) The date or dates for conferences before trial, a final pretrial conference, and trial; and

(5) Any other matters appropriate in the circumstances of the case.

The order shall issue as soon as practicable, but in any event within 90 days after the appearance of a defendant and within 120 days after the complaint has been served on a defendant. A schedule shall not be modified except by leave of the judge upon a showing of good cause.

(c) Subjects to Be Discussed at Pretrial Conferences. At any conference under this section consideration may be given, and the court may take appropriate action, with respect to the:

(1) Formulation and simplification of the issues, including the elimination of frivolous claims or defenses;

(2) Necessity or desirability of amendments to the pleadings;

(3) Possibility of obtaining admissions of fact and of documents which will avoid unnecessary proof, stipulations regarding the authenticity of documents, and advance rulings from the court on the admissibility of evidence;

(4) Avoidance of unnecessary proof and of cumulative evidence;

(5) Appropriateness and timing of summary adjudication under LVPTC 3.70.030;

(6) Control and scheduling of discovery, including orders affecting disclosures and discovery pursuant to LVPTC 3.50.010 and LVPTC 3.50.040 through 3.50.300;

(7) Identification of witnesses and documents, the need and schedule for filing and exchanging pretrial briefs, and the date or dates for further conferences and for trial;

(8) Settlement and use of extrajudicial procedures to assist in resolving the dispute when authorized by resolution or ordinance of the Las Vegas Paiute Tribe;

(9) Form and substance of the pretrial order;

(10) Disposition of pending motions;

(11) Need for adopting special procedures for managing potentially difficult or protracted actions that may involve complex issues, multiple parties, difficult legal questions, or unusual proof problems; and to

(12) An order for a separate trial pursuant to LVPTC 3.60.030(b) with respect to a claim, counterclaim, cross-claim, or third-party claim; or with respect to any particular issue in the case;

(13) An order directing a party or parties to present evidence early in the trial with respect to a manageable issue that could, on the evidence, be the basis for a judgment as a matter of law under LVPTC 3.70.030(a) or a judgment on partial findings under LVPTC 3.60.080(c);

(14) An order establishing a reasonable limit on the time allowed for presenting evidence; and

(15) Such other matters as may facilitate the just, speedy, and inexpensive disposition of the action.

At least one of the attorneys for each party participating in any conference before trial shall have authority to enter into stipulations and to make admissions regarding all matters

that the participants may reasonably anticipate may be discussed. If appropriate, the court may require that a party or its representative be present or reasonably available by telephone in order to consider possible settlement of the dispute.

(d) Final Pretrial Conference. Any final pretrial conference shall be held as close to the time of trial as reasonable under the circumstances. The participants at any such conference shall formulate a plan for trial, including a program for facilitating the admission of evidence. The conference shall be attended by at least one of the attorneys who will conduct the trial for each of the parties and by any unrepresented parties.

(e) Pretrial Orders. After any conference held pursuant to this section, an order shall be entered reciting the action taken. This order shall control the subsequent course of the action unless modified by a subsequent order. The order following a final pretrial conference shall be modified only to prevent manifest injustice.

(f) Sanctions. If a party or party's attorney fails to obey a scheduling or pretrial order, or if no appearance is made on behalf of a party at a scheduling or pretrial conference, or if a party or party's attorney is substantially unprepared to participate in the conference, or if a party or party's attorney fails to participate in good faith, the judge, upon motion or the judge's own initiative, may make such orders with regard thereto as are just, and among others any of the orders provided in LVPTC 3.50.300(b)(2)(B), (C) and (D). In lieu of or in addition to any other sanction, the judge shall require the party or the representative or both to pay the reasonable expenses incurred because of any noncompliance with this section, including attorney fees, unless the judge finds that the noncompliance was substantially justified or that other circumstances make an award of expenses unjust.

(g) Representatives/Privilege. In all instances of practice before the court, the representations of any party shall enjoy all the duties and privileges of confidentiality to which licensed attorneys are subject when practicing before the United States District Court for the District of Nevada.

Comment: To the extent a civil procedural issue is not addressed by this title, or by Tribal common law, a Tribal Court judge may refer to the Federal Rules of Civil Procedure and cases construing the same; provided, however, that in no event shall reference to such federal rules be interpreted or construed as an explicit adoption of such rules.

[Prior Code § 3-30-100.]

Chapter 3.40

PARTIES

Sections:

3.40.010 Parties plaintiff and defendant – Capacity.
3.40.020 Joinder of claims and remedies.
3.40.030 Joinder of persons needed for just adjudication.
3.40.040 Permissive joinder of parties.
3.40.050 Misjoinder and nonjoinder of parties.
3.40.051 Interpleader.
3.40.052 Derivative actions by shareholders.
3.40.053 Actions relating to unincorporated associations.
3.40.060 Intervention.
3.40.070 Substitution of parties.

3.40.010 Parties plaintiff and defendant – Capacity.

(a) Real Party in Interest. Every action shall be prosecuted in the name of the real party in interest. An executor, administrator, guardian, bailee, trustee of an express trust, a party with whom or in whose name a contract has been made for the benefit of another, or a party authorized by ordinance or resolution of the Las Vegas Paiute Tribe may sue in that person's own name without joining the party for whose benefit the action is brought; and when a statute of the United States so provides, an action for the use or benefit of another shall be brought in the name of the United States. No action shall be dismissed on the ground that it is not prosecuted in the name of the real party in interest until a reasonable time has been allowed after objection for ratification of commencement of the action by, or joinder or substitution of, the real party in interest; and such ratification, joinder, or substitution shall have the same effect as if the action had been commenced in the name of the real party in interest.

(b) Capacity to Sue or Be Sued. The capacity of an individual, other than one acting in a representative capacity, to sue or be sued shall be determined by the law of the individual's domicile. The capacity of a corporation to sue or be sued shall be determined by the law under which it was organized. In all other cases capacity to sue or be sued shall be determined by law of the Las Vegas Paiute Tribe or the laws of the state of Nevada, except that a partnership or other unincorporated association, which has no such capacity by the law of such state, may sue or be sued in its common name for the purpose of enforcing for or against it a substantive right existing under the Constitution or laws of the United States and of the Las Vegas Paiute Tribe.

(c) Infants or Incompetent Persons. Whenever an infant or incompetent person has a representative, such as a general guardian, committee, conservator, or other like fiduciary, the representative may sue or defend on behalf of the infant or incompetent person. An infant or incompetent person who does not have a duly appointed representative may sue by next friend or by a guardian ad litem. The court shall appoint a guardian ad litem for an infant or incompetent person not otherwise represented in an action or shall make such other order as it deems proper for the protection of the infant or incompetent person.

Comment: To the extent a civil procedural issue is not addressed by this title, or by Tribal common law, a Tribal Court judge may refer to the Federal Rules of Civil Procedure and cases construing the same; provided, however, that in no event shall reference to such federal rules be interpreted or construed as an explicit adoption of such rules.

[Prior Code § 3-40-010.]

3.40.020 Joinder of claims and remedies.

(a) Joinder of Claims. A party asserting a claim for relief as an original claim, counterclaim, cross-claim, or third-party claim, may join, either as independent or as alternate claims, as many claims, legal or equitable as the party has against an opposing party.

(b) Joinder of Remedies – Fraudulent Conveyances. Whenever a claim is one heretofore cognizable only after another claim has been prosecuted to a conclusion, the two claims may be joined in a single action; but

the court shall grant relief in that action only in accordance with the relative substantive rights of the parties. In particular, a plaintiff may state a claim for money and a claim to have set aside a conveyance fraudulent as to that plaintiff, without first having obtained a judgment establishing the claim for money.

Comment: To the extent a civil procedural issue is not addressed by this title, or by Tribal common law, a Tribal Court judge may refer to the Federal Rules of Civil Procedure and cases construing the same; provided, however, that in no event shall reference to such federal rules be interpreted or construed as an explicit adoption of such rules.

[Prior Code § 3-40-020.]

3.40.030 Joinder of persons needed for just adjudication.

(a) Persons to Be Joined if Feasible. A person who is subject to service of process and whose joinder will not deprive the court of jurisdiction over the subject matter of the action shall be joined as a party in the action if (1) in the person's absence complete relief cannot be accorded among those already parties, or (2) if the person claims an interest relating to the subject matter of the action and is so situated that the disposition of the action in the person's absence may (i) as a practical matter impair or impede the person's ability to protect that interest, or (ii) leave any of the persons already parties subject to a substantial risk in incurring double, multiple, or otherwise inconsistent obligations by reason of the claimed interest. If the person has not been so joined, the court shall order that the person be made a party. If the person should join as a plaintiff but refuses to do so, the person may be made a defendant, or, in a proper case, an involuntary plaintiff.

(b) Determination by Court Whenever Joinder Not Feasible. If a person as described in subsection (a) of this section cannot be made a party, the court shall determine whether in equity and good conscience the action should proceed among the parties before it, or should be dismissed, the absent person being thus regarded as indispensable. The factors to be considered by the court include: first, to what extent a judgment rendered in the person's absence might be prejudicial to the person or those already parties; second, the extent to which, by protective provisions in the judgment, by the shaping of relief, or other measures, the prejudice can be lessened or avoided; third, whether a judgment rendered in the person's absence will be adequate; fourth, whether the plaintiff will have an adequate remedy if the action is dismissed for nonjoinder.

(c) Pleading Reasons for Nonjoinder. A pleading asserting a claim for relief shall state the names, if known to the pleader, of any persons as described in subsection (a) of this section who are not joined, and the reasons why they are not joined.

Comment: To the extent a civil procedural issue is not addressed by this title, or by Tribal common law, a Tribal Court judge may refer to the Federal Rules of Civil Procedure and cases construing the same; provided, however, that in no event shall reference to such federal rules be interpreted or construed as an explicit adoption of such rules.

[Prior Code § 3-40-030.]

3.40.040 Permissive joinder of parties.

(a) Permissive Joinder. All persons may join in one action as plaintiffs if they assert any right to relief jointly, severally, or in the alternative in respect of or arising out of the same transaction, occurrence, or series of transactions or occurrences and if any question of law or fact common to all these persons will arise in the action. All persons may be joined in one action as defendants if there is asserted against them jointly, severally, or in the alternative, any right to relief in respect of or arising out of the same transaction, occurrence, or series of transactions or occurrences and if any question of law or fact common to all defendants will arise in the action. A plaintiff or defendant need not be interested in obtaining or defending against all the relief demanded. Judgment may be given for one or more of the plaintiffs according to their respective rights to relief, and against one or more defendants according to their respective liabilities.

(b) Separate Trials. The court may make such orders as will prevent a party from being embarrassed, delayed, or put to expense by the inclusion of a party against whom the party asserts no claim and who asserts no claim against the party, and may order separate trials or make other orders to prevent delay or prejudice.

Comment: To the extent a civil procedural issue is not addressed by this title, or by Tribal common law, a Tribal Court judge may refer to the Federal Rules of Civil Procedure and cases construing the same; provided, however, that in no event shall reference to such federal rules be interpreted or construed as an explicit adoption of such rules.

[Prior Code § 3-40-040.]

3.40.050 Misjoinder and nonjoinder of parties.

Misjoinder of parties is not ground for dismissal of an action. Parties may be dropped or added by order of the court on motion of any party or of its own initiative at any stage of the action and on such terms as are just. Any claim against a party may be severed and proceeded with separately.

Comment: To the extent a civil procedural issue is not addressed by this title, or by Tribal common law, a Tribal Court judge may refer to the Federal Rules of Civil Procedure and cases construing the same; provided, however, that in no event shall reference to such federal rules be interpreted or construed as an explicit adoption of such rules.

[Prior Code § 3-40-050.]

3.40.051 Interpleader.

Persons having claims against the plaintiff may be joined as defendants and required to interplead when their claims are such that the plaintiff is or may be exposed to double or multiple liability. It is not ground for objection to the joinder that the claims of the several claimants or the titles on which their claims depend do not have a common origin or are not identical but are adverse to and independent of one another, or that the plaintiff claims that the plaintiff is not liable in whole or in part to any or all of the claimants. A defendant exposed to similar liability may obtain such interpleader by way of cross-claim or counterclaim. The provisions of this section supplement and do not in any way limit the joinder of parties permitted in LVPTC 3.40.040.

Comment: To the extent a civil procedural issue is not addressed by this title, or by Tribal common law, a Tribal Court judge may refer to the Federal Rules of Civil Procedure and cases construing the same; provided, however, that in no event shall reference to such federal rules be interpreted or construed as an explicit adoption of such rules.

[Prior Code § 3-40-051.]

3.40.052 Derivative actions by shareholders.

In a derivative action brought by one or more shareholders or members to enforce a right of a corporation or of an unincorporated association, the corporation or association having failed to enforce a right which may properly be asserted by it, the complaint shall be verified and shall allege that the plaintiff was a shareholder or member at the time of the transaction of which the plaintiff complains or that the plaintiff's share or membership thereafter devolved on the plaintiff by operation of law. The complaint shall also allege with particularity the efforts, if any, made by the plaintiff to obtain the action the plaintiff desires from the directors or comparable authority and, if necessary, from the shareholders or members, and the reasons for the plaintiff's failure to obtain the action or for not making the effort. The derivative action may not be maintained if it appears that the plaintiff does not fairly and adequately represent the interests of the shareholders or members similarly situated in enforcing the right of the corporation or association. The action shall not be dismissed or compromised without the approval of the court, and notice of the proposed dismissal or compromise shall be given to shareholders or members in such manner as the court directs.

Comment: To the extent a civil procedural issue is not addressed by this title, or by Tribal common law, a Tribal Court judge may refer to the Federal Rules of Civil Procedure and cases construing the same; provided, however, that in no event shall

reference to such federal rules be interpreted or construed as an explicit adoption of such rules.

[Prior Code § 3-40-052.]

3.40.053 Actions relating to unincorporated associations.

An action brought by or against the members of an unincorporated association as a class by naming certain members as representative parties may be maintained only if it appears that the representative parties will fairly and adequately protect the interests of the association and its members. In the conduct of the action the court may make appropriate orders: (1) determining the course of proceedings or prescribing measures to prevent undue repetition or complication in the presentation of evidence or argument; (2) requiring, for the protection of the members of the class or otherwise for the fair conduct of the action, that notice be given in such a manner as the court may direct to some or all of the members of any step in the action, or of the proposed extent of the judgment, or of the opportunity of members to signify whether they consider the representation fair and adequate, to intervene and present claims or defenses, or otherwise to come into the action; (3) imposing conditions on the representative parties or on intervenors; (4) requiring that the pleadings be amended to eliminate therefrom allegations as to representation of absent persons, and that the action proceed accordingly; (5) approving, if appropriate, dismissal or compromise; and (6) directing the manner of notice given to all members of the class.

Comment: To the extent a civil procedural issue is not addressed by this title, or by Tribal common law, a Tribal Court judge may refer to the Federal Rules of Civil Procedure and cases construing the same; provided, however, that in no event shall reference to such federal rules be interpreted or construed as an explicit adoption of such rules.

[Prior Code § 3-40-053.]

3.40.060 Intervention.

(a) Intervention of Right. Upon timely application anyone shall be permitted to intervene in an action: (1) when an ordinance or resolution of the Las Vegas Paiute Tribe or a statute of the United States confers an unconditional right to intervene; or (2) when the applicant claims an interest relating to the property or transaction which is the subject of the action and the applicant is so situated that the disposition of the action may as a practical matter impair or impede the applicant's ability to protect that interest, unless the applicant's interest is adequately represented by existing parties.

(b) Permissive Intervention. Upon timely application anyone may be permitted to intervene in an action: (1) when an ordinance or resolution of the Las Vegas Paiute Tribe or a statute of the United States confers a conditional right to intervene; or (2) when an applicant's claim or defense and the main action have a question of law or fact in common. When a party to an action relies for ground of claim or defense upon any statute, ordinance, resolution or executive order administered by a Tribal or federal officer or agency or upon any regulation, order, requirement or agreement issued or made pursuant to the statute, ordinance, resolution or executive order, the officer or agency upon timely application may be permitted to intervene in the action. In exercising its discretion the court shall consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties.

(c) Procedure. A person desiring to intervene shall serve a motion to intervene upon the parties as provided in LVPTC 3.20.030. The motion shall state the grounds therefor and shall be accompanied by a pleading setting forth the claim or defense for which intervention is sought. The same procedure shall be followed when an ordinance or resolution of the Las Vegas Paiute Tribe or a statute of the United States gives a right to intervene.

Comment: To the extent a civil procedural issue is not addressed by this title, or by Tribal common law, a Tribal Court judge may refer to the Federal Rules of Civil Procedure and cases construing the same; provided, however, that in no event shall reference to such federal rules be interpreted or construed as an explicit adoption of such rules.

[Prior Code § 3-40-060.]

3.40.070 Substitution of parties.

(a) Death.

(1) If a party dies and the claim is not thereby moot or extinguished, the court may order substitution of the proper parties. The motion for substitution may be made by any party or by the successors or representatives of the deceased party and, together with the notice of hearing, shall be served on the parties as provided in LVPTC 3.20.020 and upon persons not parties in the manner provided in LVPTC 3.20.020 for the service of a summons. Unless the motion for substitution is made not later than 90 days after the death is suggested upon the record by service of a statement of the fact of the death as provided herein for the service of the motion, the action shall be dismissed as to the deceased party.

(2) In the event of the death of one or more of the plaintiffs or of one or more of the defendants in an action in which the right sought to be enforced survives only to the surviving plaintiffs or only against the surviving defendants, the action does not abate. The death shall be suggested upon the record and the action shall proceed in favor of or against the surviving parties.

(b) Incompetency. If a party becomes incompetent, the court upon motion served as provided in subsection (a) of this section may allow the action to be continued by or against the party's representative.

(c) Transfer of Interest. In case of any transfer of interest, the action may be continued by or against the original party, unless the court upon motion directs the person to whom the interest is transferred to be substituted in the action or joined with the original party. Service of the motion shall be made as provided in subsection (a) of this section.

(d) Public Officers – Death or Separation From Office.

(1) When a public officer is a party to an action in his official capacity and during its pendency dies, resigns, or otherwise ceases to hold office, the action does not abate and the officer's successor is automatically substituted as a party. Proceedings following the substitution shall be in the name of the substituted party, but any misnomer not affecting the substantial rights of the parties shall be disregarded. An order of substitution may be entered at any time, but the omission to enter such an order shall not affect the substitution.

(2) A public officer who sues or is sued in an official capacity may be described as a party by the officer's official title rather than by name; but the court may require the officer's name to be added.

Comment: To the extent a civil procedural issue is not addressed by this title, or by Tribal common law, a Tribal Court judge may refer to the Federal Rules of Civil Procedure and cases construing the same; provided, however, that in no event shall reference to such federal rules be interpreted or construed as an explicit adoption of such rules.

[Prior Code § 3-40-070.]

Chapter 3.50

DEPOSITIONS AND DISCOVERY

Sections:

3.50.010 General provisions governing discovery – Duty of disclosure.
3.50.020 Depositions before action or pending appeal.
3.50.030 Persons before whom depositions may be taken.
3.50.040 Stipulations regarding discovery procedure.
3.50.050 Depositions upon oral examination.
3.50.060 Depositions upon written questions.
3.50.070 Use of depositions in court proceedings.
3.50.080 Interrogatories to parties.
3.50.090 Production of documents and things and entry upon land for inspection and other purposes.
3.50.100 Physical and mental examinations of persons.
3.50.200 Requests for admission.
3.50.300 Failure to make disclosure or cooperate in discovery – Sanctions.

3.50.010 General provisions governing discovery – Duty of disclosure.

(a) Required Disclosures – Methods to Discover Additional Matter.

(1) Initial Disclosures. Except to the extent otherwise stipulated by order, a party shall, without waiting for a discovery request, provide to other parties:

(A) The name and, if known, the address and telephone number of each individual likely to have discoverable information relevant to disputed facts alleged with particularity in the pleadings, identifying the subjects of the information;

(B) A copy of, or a description by category and location of, all documents, data compilations, and tangible things in the possession, custody, or control of the party that are relevant to disputed facts alleged with particularity in the pleadings;

(C) A computation of any category of damages claimed by the disclosing party, making available for inspection and copying as under LVPTC 3.50.090 the documents or other evidentiary material, not privileged or protected from disclosure, on which such computation is based, including materials bearing on the nature and extent of injuries suffered; and

(D) For inspection and copying as under LVPTC 3.50.090 any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in the action or to indemnify or reimburse for payments made to satisfy the judgment.

Unless otherwise stipulated or directed by the court, these disclosures shall be made at or within 10 days after the meeting of the parties under subsection (f) of this section. A party shall make its initial disclosures based on the information then reasonably available to it and is not excused from making its disclosures because it has not fully completed its investigation of the case or because it challenges the sufficiency of another party's disclosures or because another party has not made its disclosures.

(2) Disclosure of Expert Testimony.

(A) In addition to the disclosures required by subsection (a)(1) of this section, a party shall disclose to other parties the identity of any person who may be used at trial to present evidence under the court's applicable rules of evidence governing expert witnesses.

(B) Except as otherwise stipulated or directed by the court, this disclosure shall, with respect to a witness who is retained or specially employed to provide expert testimony in the case or whose duties as an employee of the party regularly involve giving expert testimony, be accompanied by a written report prepared and signed by the witness. The report shall contain a complete statement of all opinions to be expressed and the basis and reasons therefor; the data or other information considered by the witness in

forming the opinions; any exhibits to be used as a summary of or support for the opinions; the qualifications of the witness, including a list of all publications authored by the witness within the preceding 10 years; the compensation to be paid for the study and testimony; and a listing of any other cases in which the witness has testified as an expert at trial or by deposition within the preceding four years.

(C) These disclosures shall be made at the times and in the sequence directed by the court. In the absence of other directions from the court or stipulation by the parties, the disclosures shall be made at least 90 days before the trial date or the date the case is to be ready for trial or, if the evidence is intended solely to contradict or rebut evidence on the same subject matter identified by another party under subsection (a)(2)(B) of this section, within 30 days after the disclosure made by the other party. The parties shall supplement these disclosures when required under subsection (e)(1) of this section.

(3) Pretrial Disclosures. In addition to the disclosures required in the preceding paragraphs, a party shall provide to other parties the following information regarding the evidence that it may present at trial other than solely for impeachment purposes:

(A) The name and, if not previously provided, the address and telephone number of each witness, separately identifying those whom the party expects to present and those whom the party may call if the need arises;

(B) The designation of those witnesses whose testimony is expected to be presented by means of a deposition and, if not taken stenographically, a transcript of the pertinent portions of the deposition testimony; and

(C) An appropriate identification of each document or other exhibit, including summaries of other evidence, separately identifying those which the party expects to offer and those which the party may offer if the need arises.

Unless otherwise directed by the court, these disclosures shall be made at least 30 days before trial. Within 14 days thereafter, unless a different time is specified by the court, a party may serve and file a list disclosing (i) any objections to the use under LVPTC 3.50.070(a) of a deposition designated by another party under subsection (a)(3)(B) of this section and (ii) any objection, together with the grounds therefor, that may be made to the admissibility of materials identified under subsection (a)(3)(C) of this section. Objections not so disclosed, other than objections under Rules 402 and 403 of the Rules of Evidence of the Las Vegas Paiute Tribe, shall be deemed waived unless excused by the court for good cause shown.

(4) Form of Disclosures – Filing. Unless otherwise directed by order of the court, all disclosures under subsections (a)(1) through (3) of this section shall be made in writing, signed, served, and promptly filed with the court.

(5) Methods to Discover Additional Matter. Parties may obtain discovery by one or more of the following methods: depositions upon oral examination or written questions; written interrogatories; production of documents or things or permission to enter upon land or other property, for inspection and other purposes; physical and mental examinations; and requests for admission.

(b) Discovery Scope and Limits. Unless otherwise limited by order of the court in accordance with these rules, the scope of discovery is as follows:

(1) In General. Parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of any other party, including the existence, description, nature, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter. The information sought need not be admissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

(2) Limitations. By order, the court may alter the limits in these rules on the number of depositions and interrogatories and may also limit the length of depositions under LVPTC 3.50.050 and the number of requests under LVPTC 3.50.200. The frequency or extent of use of the discovery methods set forth in subsection (a) of this section shall be limited by the court if it determines that: (A) the discovery sought is unreasonably cumulative or duplicative, or is obtainable from some other source that is more convenient, less burdensome, or less expensive; (B) the party seeking discovery has had ample opportunity by discovery in the action to obtain the information sought; or (C) the burden or expense of the proposed discovery outweighs its likely benefit, taking into account the needs of the case, the amount in controversy, the parties' resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving the issues. The court may act upon its own initiative after reasonable notice or pursuant to a motion under subsection (c) of this section.

(3) Trial Preparation – Materials. Subject to the provisions of subsection (b)(4) of this section, a party may obtain discovery of documents and tangible things otherwise discoverable under subsection (b)(1) of this section and prepared in anticipation of litigation or for trial by or for another party or by or for that other party's representative (including the other party's attorney, consultant, surety, indemnitor, insurer, or agent) only upon a showing that the party seeking discovery has substantial need of the materials in the preparation of the party's case and that the party is unable without undue hardship to obtain the substantial equivalent of the materials by other means. In ordering discovery of such materials when the required showing has been made, the court shall protect against disclosure of the mental impressions, conclusions, opinions, or legal theories of an attorney or other representative of a party concerning the litigation.

A party may obtain without the required showing a statement concerning the action or its subject matter previously made by that party. Upon request, a person not a party may obtain without the required showing a statement concerning the action or its subject matter previously made by that person. If the request is refused, the person may move for a court order. The provisions of LVPTC 3.50.300(a) apply to the award of expenses incurred in relation to the motion. For purposes of this paragraph, a statement previously made is (A) a written statement signed or otherwise adopted or approved by the person making it, or (B) a stenographic, mechanical, electrical, or other recording, or a transcription thereof, which is a substantially verbatim recital of an oral statement by the person making it and contemporaneously recorded.

(4) Trial Preparation – Experts.

(A) A party may depose any person who has been identified as an expert whose opinions may be presented at trial. If a report from the expert is required under subsection (a)(2)(B) of this section, the deposition shall not be conducted until after the report is provided.

(B) A party may, through interrogatories or by deposition, discover facts known or opinions held by an expert who has been retained or specially employed by another party in anticipation of litigation or preparation for trial and who is not expected to be called as a witness at trial only as provided in LVPTC 3.50.100(b) or upon a showing of exceptional circumstances under which it is impracticable for the party seeking discovery to obtain facts or opinions on the same subject by other means.

(C) Unless manifest injustice would result, (i) the court shall require that the party seeking discovery pay the expert a reasonable fee for time spent in responding to discovery under this subdivision; and (ii) with respect to discovery obtained under subsection (b)(4)(B) of this section the court shall require the party seeking discovery to pay the other party a fair portion of the fees and expenses reasonably incurred by the latter party

in obtaining facts and opinions from the expert.

(5) Claims of Privilege or Protection of Trial Preparation Materials. When a party withholds information otherwise discoverable under these rules by claiming that it is privileged or subject to protection as trial preparation material, the party shall make the claim expressly and shall describe the nature of the documents, communications, or things not produced or disclosed in a manner that, without revealing information itself privileged or protected, will enable other parties to assess the applicability of the privilege or protection.

(c) Protective Orders. Upon motion by a party or by the person from whom discovery is sought, and for good cause shown, accompanied by a certification that the movant has in good faith conferred or attempted to confer with the other affected parties in an effort to resolve the dispute without court action, and for good cause shown, the court may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following:

(1) That the discovery not be had;

(2) That the discovery may be had only on specified terms and conditions, including a designation of the time or place;

(3) That the discovery may be had only by a method of discovery other than that selected by the party seeking discovery;

(4) That certain matters not be inquired into, or that the scope of the discovery be limited to certain matters;

(5) That discovery be conducted with no one present except persons designated by the court;

(6) That a deposition after being sealed be opened only by order of the court;

(7) That a trade secret or other confidential research, development, or commercial information not be disclosed or be disclosed only in a designated way; and

(8) That the parties simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the court.

If the motion for a protective order is denied in whole or in part, the court may, on such terms and conditions as are just, order that any party or person provide or permit discovery. The provisions of LVPTC 3.50.300(a) apply to the award of expenses incurred in relation to the motion.

(d) Timing and Sequence of Discovery. Except when authorized under these rules or by order of the court, agreement of the parties, a party may not seek discovery from any source before the parties have met and conferred as required by subsection (f) of this section. Unless the court upon motion, for the convenience of parties and witnesses and in the interests of justice, orders otherwise, methods of discovery may be used in any sequence and the fact that a party is conducting discovery, whether by deposition or otherwise, shall not operate to delay any other party's discovery.

(e) Supplementation of Disclosures and Responses. A party who has made a disclosure under subsection (a) of this section or responded to a request for discovery with a disclosure or response is under a duty to supplement or correct the disclosure or response to include information thereafter acquired if ordered by the court or in the following circumstances:

(1) A party is under a duty to supplement at appropriate intervals its disclosures under subsection (a) of this section if the party learns that in some material respect the information disclosed is incomplete or incorrect and if the additional or corrective information has not otherwise been made known to the other parties during the discovery process or in writing. With respect to testimony of an expert from whom a report is required under subsection (a)(2)(B) of this section the duty extends both to information contained in the report and to information provided through a deposition of the expert, and any additions or other changes to this information shall be disclosed by the time the party's disclosures under LVPTC 3.50.010(a)(3) are due.

(2) A party is under a duty reasonably to amend a prior response to an interrogatory,

request for production, or request for admission if the party learns that the response is in some material respect incomplete or incorrect and if the additional or corrective information has not otherwise been made known to the other parties during the discovery process or in writing.

(f) Meeting of Parties – Planning for Discovery. Except when otherwise ordered, the parties shall, as soon as practicable and in any event at least 14 days before a scheduling conference is held or a scheduling order is due under LVPTC 3.30.100(b), meet to discuss the nature and basis of their claims and defenses and the possibilities for a prompt settlement or resolution of the case, to make or arrange for the disclosures required by subsection (a)(1) of this section, and to develop a proposed discovery plan. The plan shall indicate the parties' views and proposals concerning:

(1) What changes should be made in the timing, form, or requirement for disclosures under subsection (a) of this section or local rule, including a statement as to when disclosures under subsection (a)(1) of this section were made or will be made;

(2) The subjects on which discovery may be needed, when discovery should be completed, and whether discovery should be conducted in phases or be limited to or focused upon particular issues;

(3) What changes should be made in the limitations on discovery imposed under these rules and what other limitations should be imposed; and

(4) Any other orders that should be entered by the court under subsection (c) of this section or under LVPTC 3.30.100(b) and (c).

The attorneys of record and all unrepresented parties that have appeared in the case are jointly responsible for arranging and being present or represented at the meeting, for attempting in good faith to agree on the proposed discovery plan, and for submitting to the court within 10 days after the meeting a written report outlining the plan.

(g) Signing of Disclosures, Discovery Requests, Responses, and Objections.

(1) Every disclosure made pursuant to subsection (a)(1) or (3) of this section shall be signed by at least one attorney of record in the attorney's individual name, whose address shall be stated. An unrepresented party shall sign the disclosure and state the party's address. The signature of the attorney or party constitutes a certification that to the best of the signer's knowledge, information, and belief, formed after a reasonable inquiry, the disclosure is complete and correct as of the time it is made.

(2) Every discovery request, response, or objection made by a party represented by an attorney shall be signed by at least one representative of record in the representative's individual name, whose address shall be stated. An unrepresented party shall sign the request, response, or objection and state the party's address. The signature of the attorney or party constitutes a certification that the signer has read the request, response, or objection, and that to the best of the signer's knowledge, information, and belief formed after a reasonable inquiry it is:

(A) Consistent with these rules and warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law;

(B) Not interposed for any improper purpose such as to harass or to cause unnecessary delay or needless increase in the cost of litigation; and

(C) Not unreasonable or unduly burdensome or expensive, given the needs of the case, the discovery already had in the case, the amount in controversy, and the importance of the issues at stake in the litigation.

If a request, response, or objection is not signed, it shall be stricken unless it is signed promptly after the omission is called to the attention of the party making the request, response, or objection, and a party shall not be obligated to take any action with respect to it until it is signed.

(3) If, without substantial justification, a certification is made in violation of this sec-

tion, the court, upon motion or upon its own initiative, shall impose upon the person who made the certification, the party on whose behalf the disclosure, request, response, or objection is made, or both, an appropriate sanction, which may include an order to pay the amount of the reasonable expenses incurred because of the violation, including any reasonable fees to representatives.

Comment: To the extent a civil procedural issue is not addressed by this title, or by Tribal common law, a Tribal Court judge may refer to the Federal Rules of Civil Procedure and cases construing the same; provided, however, that in no event shall reference to such federal rules be interpreted or construed as an explicit adoption of such rules.

[Prior Code § 3-50-010.]

3.50.020 Depositions before action or pending appeal.

(a) Before Action.

(1) Petition. A person who desires to perpetuate testimony regarding any matter that may be cognizable in any court of the Las Vegas Paiute Tribe may file a verified petition in the court. The petition shall be entitled in the name of the petitioner and shall show (A) that the petitioner expects to be a party to an action cognizable in a court of the Las Vegas Paiute Tribe but is presently unable to bring it or cause it to be brought, (B) the subject matter of the expected action and the petitioner's interest therein, (C) the facts which the petitioner desires to establish by the proposed testimony and the reasons for desiring to perpetuate it, (D) the names or a description of the persons the petitioner expects will be adverse parties and their addresses so far as known, and (E) the names and addresses of the persons to be examined and the substance of the testimony which the petitioner expects to elicit from each, and shall ask for an order authorizing the petitioner to take the depositions of the persons to be examined named in the petition, for the purpose of perpetuating their testimony.

(2) Notice and Service. The petitioner shall thereafter serve a notice upon each person named in the petition as an expected adverse party, together with a copy of the petition, stating that the petitioner will apply to the court, at a time and place named therein, for the order described in the petition. At least 20 days before the date of hearing the notice shall be served in the manner provided in LVPTC 3.20.020(d) for service of summons; but if such service cannot with due diligence be made upon any expected adverse party named in the petition, the court may make such order as is just for service by publication or otherwise, and shall appoint, for persons not served in the manner provided in LVPTC 3.20.020(d), an attorney who shall represent them, and, in case they are not otherwise represented, shall cross-examine the deponent. If any expected adverse party is a minor or incompetent the provisions of LVPTC 3.40.010(c) apply.

(3) Order and Examination. If the court is satisfied that the perpetuation of the testimony may prevent a failure or delay of justice, it shall make an order designating or describing the persons whose depositions may be taken and specifying the subject matter of the examination and whether the depositions shall be taken upon oral examination or written interrogatories. The depositions may then be taken in accordance with these rules; and the court may make orders of the character provided for by LVPTC 3.50.090 and 3.50.100.

(b) Pending Appeal. If an appeal is allowed from a judgment of the court or before the taking of an appeal if the time therefor has not expired, the court may allow the taking of the depositions of witnesses to perpetuate their testimony for use in the event of further proceedings in the court. In such case the party who desires to perpetuate the testimony may make a motion in the court for leave to take the depositions, upon the same notice and service thereof as if the action was pending in the court. The motion shall show (1) the names and addresses of persons to be examined and the substance of the testimony which the party expects to elicit from each; (2) the reasons for perpetuating their testimony. If the court finds that the perpetuation of the testimony is proper to avoid a failure or delay of

justice, it may make an order allowing the depositions to be taken, and may make orders of the character provided by LVPTC 3.50.090 and 3.50.100, and thereupon the depositions may be taken and used in the same manner and under the same conditions as are prescribed in these rules for depositions taken in actions pending in the court.

(c) Perpetuation by Action. This section does not limit the power of the court to entertain an action to perpetuate testimony.

Comment: To the extent a civil procedural issue is not addressed by this title, or by Tribal common law, a Tribal Court judge may refer to the Federal Rules of Civil Procedure and cases construing the same; provided, however, that in no event shall reference to such federal rules be interpreted or construed as an explicit adoption of such rules.

[Prior Code § 3-50-020.]

3.50.030 Persons before whom depositions may be taken.

(a) Depositions shall be taken before an officer authorized to administer oaths by the court, or before a person approved or appointed by the court. A person so appointed has power to administer oaths and take testimony. The term “officer” as used in LVPTC 3.50.050, 3.50.060 and 3.50.070 includes a person appointed by the court or designated by the parties under LVPTC 3.50.040.

(b) Disqualification for Interest. No deposition shall be taken before a person who is a relative or employee or attorney of any of the parties, or is a relative or employee of such attorney, or is financially interested, except for an interest arising solely from membership in the Las Vegas Paiute Tribe.

Comment: To the extent a civil procedural issue is not addressed by this title, or by Tribal common law, a Tribal Court judge may refer to the Federal Rules of Civil Procedure and cases construing the same; provided, however, that in no event shall reference to such federal rules be interpreted or construed as an explicit adoption of such rules.

[Prior Code § 3-50-030.]

3.50.040 Stipulations regarding discovery procedure.

Unless otherwise directed by the court, the parties may by written stipulation (a) provide that depositions may be taken before any person, at any time or place, upon any notice, and in any manner and when so taken may be used like other depositions, and (b) modify other procedures governing limitations placed upon discovery, except that stipulations extending the time provided in LVPTC 3.50.080, 3.50.090, and 3.50.200 for responses to discovery may, if they would interfere with any time set for completion of discovery, for hearing of a motion, or for trial, be made only with the approval of the court.

Comment: To the extent a civil procedural issue is not addressed by this title, or by Tribal common law, a Tribal Court judge may refer to the Federal Rules of Civil Procedure and cases construing the same; provided, however, that in no event shall reference to such federal rules be interpreted or construed as an explicit adoption of such rules.

[Prior Code § 3-50-040.]

3.50.050 Depositions upon oral examination.

(a) When Depositions May Be Taken – When Leave Required.

(1) A party may take the testimony of any person, by deposition upon oral examination without leave of court except as provided in subsection (a)(2) of this section. The attendance of witnesses may be compelled by subpoena as provided in LVPTC 3.60.060.

(2) A party must obtain leave of court, which shall be granted to the extent consistent with the principles stated in LVPTC 3.50.010(b)(2), if the person to be examined is confined in prison or if, without the written stipulation of the parties:

(A) A proposed deposition would result in more than 10 depositions being taken under this section or LVPTC 3.50.060 by the plaintiffs, or by the defendants, or by third-party defendants;

(B) The person to be examined already has been deposed in the case; or

(C) A party seeks to take a deposition before the time specified in LVPTC 3.50.010(d) unless the notice contains a certification, with supporting facts, that the person to be examined is expected to leave the United States and be unavailable for examination in this country unless deposed before that time.

(b) Notice of Examination – General Requirements – Special Notice – Method of Recording – Production of Documents and Things – Deposition of Organization – Deposition by Telephone.

(1) A party desiring to take the deposition of any person upon oral examination shall give reasonable notice in writing to every other party to the action. The notice shall state the time and place for taking the deposition and the name and address of each person to be examined, if known, and, if the name is not known, a general description sufficient to identify the person or the particular class or group to which the person belongs. If a subpoena duces tecum is to be served on the person to be examined, the designation of the materials to be produced as set forth in the subpoena shall be attached to or included in the notice.

(2) The party taking the deposition shall state in the notice the method by which the testimony shall be recorded. Unless the court orders otherwise, it may be recorded by sound, sound-and-visual, or stenographic means, and the party taking the deposition shall bear the cost of the recording. Any party may arrange for a transcription to be made from the recording of a deposition taken by nonstenographic means.

(3) With prior notice to the deponent and other parties, any party may designate another method to record the deponent's testimony in addition to the method specified by the person taking the deposition. The additional record or transcript shall be made at that party's expense unless the court otherwise orders.

(4) Unless otherwise agreed by the parties, a deposition shall be conducted before an officer appointed or designated under LVPTC 3.50.030 and shall begin with a statement on the record by the officer that includes (A) the officer's name and business address; (B) the date, time, and place of the deposition; (C) the name of the deponent; (D) the administration of the oath or affirmation to the deponent; and (E) an identification of all persons present. If the deposition is recorded other than stenographically, the officer shall repeat items (A) through (C) at the beginning of each unit of recorded tape or other recording medium. The appearance or demeanor of deponents or attorneys shall not be distorted through camera or sound-recording techniques. At the end of the deposition, the officer shall state on the record that the deposition is complete and shall set forth any stipulations made by counsel concerning the custody of the transcript or recording and the exhibits, or concerning other pertinent matters.

(5) The notice to a party deponent may be accompanied by a request made in compliance with LVPTC 3.50.090 for the production of documents and tangible things at the taking of the deposition. The procedure of LVPTC 3.50.090 shall apply to the request.

(6) A party may in the party's notice and in a subpoena name as the deponent a public or private corporation or a partnership or association or governmental agent and describe with reasonable particularity the matters on which examination is requested. In that event, the organization so named shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. A subpoena shall advise a nonparty organization of its duty to make such a designation. The persons so designated shall testify as to matters known or reasonably available to the organization. This subsection does not preclude taking a deposition by any other procedure authorized in these rules.

(7) The parties may stipulate in writing or the court may upon motion order that a depo-

sition be taken by telephone or other remote electronic means.

(c) Examination and Cross-Examination – Record of Examination – Oath – Objections. Examination and cross-examination of witnesses may proceed as permitted at the trial under the provisions of the applicable rules of evidence in the court. The officer before whom the deposition is to be taken shall put the witness on oath or affirmation and shall personally, or by someone acting under the officer's direction and in the officer's presence, record the testimony of the witness. The testimony shall be taken stenographically or recorded by any other means ordered in accordance with subsection (b)(2) of this section. All objections made at the time of the examination to the qualifications of the officer taking the deposition, to the manner of taking it, to the evidence presented, to the conduct of any party, or to any other aspect of the proceedings shall be noted by the officer upon the record of the deposition; but the examination shall proceed, with the testimony being taken subject to the objections. In lieu of participating in the oral examination, parties may serve written questions in a sealed envelope on the party taking the deposition and the party taking the deposition shall transmit them to the officer, who shall propound them to the witness and record the answers verbatim.

(d) Schedule and Duration – Motion to Terminate or Limit Examination.

(1) Any objection to evidence during a deposition shall be stated concisely and in a nonargumentative and nonsuggestive manner. A party may instruct a deponent not to answer only when necessary to preserve a privilege, to enforce a limitation on evidence directed by the court, or to present a motion under subsection (d)(3) of this section.

(2) By order, the court may limit the time permitted for the conduct of a deposition, but shall allow additional time consistent with LVPTC 3.50.010(b)(2) if needed for a fair examination of the deponent or if the deponent or another party impedes or delays the examination. If the court finds such an impediment, delay, or other conduct that has frustrated the fair examination of the deponent, it may impose upon the persons responsible an appropriate sanction, including the reasonable costs and attorneys' fees incurred by any parties as a result thereof.

(3) At any time during a deposition, on motion of a party or of the deponent and upon a showing that the examination is being conducted in bad faith or in such manner as unreasonably to annoy, embarrass, or oppress the deponent or party, the court may order the officer conducting the examination to cease forthwith from taking the deposition, or may limit the scope and manner of the taking of the deposition as provided in LVPTC 3.50.010(c). If the order made terminates the examination, it shall be resumed thereafter only upon the order of the court. Upon demand of the objecting party or deponent, the taking of the deposition shall be suspended for the time necessary to make a motion for an order. The provisions of LVPTC 3.50.300(a) apply to the award of expenses incurred in relation to the motion.

(e) Review by Witness – Changes – Signing. If requested by the deponent or a party before completion of the deposition, the deponent shall have 30 days after being notified by the officer that the transcript or recording is available in which to review the transcript or recording and, if there are changes in form or substance, to sign a statement reciting such changes and the reasons given by the deponent for making them. The officer shall indicate in the certificate prescribed by subsection (f)(1) of this section whether any review was requested and, if so, shall append any changes made by the deponent during the period allowed.

(f) Certification and Filing by Officer – Exhibits – Copies – Notice of Filing.

(1) The officer shall certify that the witness was duly sworn by the officer and that the deposition is a true record of the testimony given by the witness. This certificate shall be in writing and accompany the record of the deposition. Unless otherwise ordered by the court, the person in charge of the deposition shall then securely seal the deposition in an

envelope or package indorsed with the title of the action and marked "Deposition of [here insert name of witness]" and shall promptly file it with the court in which the action is pending or send it to the attorney who arranged for the transcript or recording, who shall store it under conditions that will protect it against loss, destruction, tampering or deterioration. Documents and things produced for inspection during the examination of the witness shall, upon the request of a party, be marked for identification and annexed to the deposition, and may be inspected and copied by any party, except that if the person producing the materials desires to retain them the person may (A) offer copies to be marked for identification and annexed to the deposition and to serve thereafter as originals if the person affords to all parties fair opportunity to verify the copies by comparison with the originals, or (B) offer the originals to be marked for identification, after giving to each party an opportunity to inspect and copy them, in which event the materials may then be used in the same manner as if annexed to the deposition. Any party may move for an order that the original be annexed to and returned with the deposition to the court, pending final disposition of the case.

(2) Unless otherwise ordered by the court or agreed by the parties, the officer shall retain stenographic notes of any deposition taken stenographically or a copy of the recording of any deposition taken by another method. Upon payment of reasonable charges therefor, the person in charge of the deposition shall furnish a copy of the deposition to any party or to the deponent.

(3) The party taking the deposition shall give prompt notice of its filing to all other parties.

(g) Failure to Attend or to Serve Subpoena – Expenses.

(1) If the party giving the notice of the taking of a deposition fails to attend and proceed therewith and another party attends in person or by attorney pursuant to the notice, the court may order the party giving the notice to pay to such other party the reasonable expenses incurred by that party and that party's attorney in attending, including reasonable attorneys' fees.

(2) If the party giving the notice of the taking of a deposition of a witness fails to serve a subpoena upon the witness and the witness because of such failure does not attend, and if another party attends in person or by attorney because that party expects the deposition of that witness to be taken, the court may order the party giving the notice to pay to such other party the reasonable expenses incurred by that party and that party's attorney in attending, including reasonable attorneys' fees.

Comment: To the extent a civil procedural issue is not addressed by this title, or by Tribal common law, a Tribal Court judge may refer to the Federal Rules of Civil Procedure and cases construing the same; provided, however, that in no event shall reference to such federal rules be interpreted or construed as an explicit adoption of such rules.

[Prior Code § 3-50-050.]

3.50.060 Depositions upon written questions.

(a) Serving Questions – Notice.

(1) A party may take the testimony of any person, including a party, by deposition upon written questions without leave of court except as provided in subsection (a)(2) of this section. The attendance of witnesses may be compelled by the use of subpoena as provided in LVPTC 3.60.060.

(2) A party must obtain leave of court, which shall be granted to the extent consistent with the principles stated in LVPTC 3.50.010(b)(2), if the person to be examined is confined in prison or if, without the written stipulation of the parties:

(A) A proposed deposition would result in more than 10 depositions being taken under this section or LVPTC 3.50.050 by the plaintiffs, or by the defendants, or by third-party defendants;

(B) The person to be examined has already been deposed in the case; or

(C) A party seeks to take a deposition before the time specified in LVPTC 3.50.010(d).

(3) A party desiring to take a deposition upon written questions shall serve them upon every other party with a notice stating (A) the name and address of the person who is to answer them, if known, and if the name is not known, a general description sufficient to identify the person or the particular class or group to which the person belongs, and (B) the name or descriptive title and address of the officer before whom the deposition is to be taken. A deposition upon written questions may be taken of a public or private corporation or a partnership or association or governmental agency in accordance with the provisions of LVPTC 3.50.050(b)(6).

(4) Within 14 days after the notice and written questions are served, a party may serve cross questions upon all other parties. Within seven days after being served with cross questions, a party may serve redirect questions upon all other parties. Within seven days after being served with redirect questions, a party may serve recross questions upon all other parties. The court may for cause shown enlarge or shorten the time listed in this subsection.

(b) Officer to Take Responses and Prepare Record. A copy of the notice and copies of all questions served shall be delivered by the party taking the deposition to the officer designated in the notice, who shall proceed promptly, in the manner provided by LVPTC 3.50.050(c), (e), and (f), to take the testimony of the witness in response to the questions and to prepare, certify, and file or mail the deposition, attaching thereto the copy of the notice and the questions received by the officer.

(c) Notice of Filing. When the deposition is filed the party taking it shall promptly give notice thereof to all other parties.

Comment: To the extent a civil procedural issue is not addressed by this title, or by Tribal common law, a Tribal Court judge may refer to the Federal Rules of Civil Procedure and cases construing the same; provided, however, that in no event shall reference to such federal rules be interpreted or construed as an explicit adoption of such rules.

[Prior Code § 3-50-060.]

3.50.070 Use of depositions in court proceedings.

(a) Use of Depositions. At the trial or upon the hearing of a motion or an interlocutory proceeding, any part or all of a deposition, so far as admissible under the rules of evidence applied as though the witness were then present and testifying, may be used against any party who was present or represented at the taking of the deposition or who had reasonable notice thereof, in accordance with any of the following provisions:

(1) Any deposition may be used by any party for the purpose of contradicting or impeaching the testimony of deponent as a witness, or for any other purpose permitted by the court.

(2) The deposition of a party or of anyone who at the time of taking the deposition was an officer, director, or managing agent, or a person designated under LVPTC 3.50.050(b)(6) or 3.50.060(a) to testify on behalf of a public or private corporation, partnership or association or governmental agency which is a party may be used by an adverse party for any purpose.

(3) The deposition of a witness, whether or not a party, may be used by any party for any purpose if the court finds:

(A) That the witness is dead; or

(B) That the witness is at a greater distance than 100 miles from the place of trial or hearing, or is out of the territorial jurisdiction of the court, unless it appears that the absence of the witness was procured by the party offering the deposition; or

(C) That the witness is unable to attend or testify because of age, illness, infirmity, or imprisonment; or

(D) That the party offering the deposition has been unable to procure the attendance of the witness by subpoena; or

(E) Upon application and notice, that such exceptional circumstances exist as to make it desirable, in the interest of justice and with due regard to the importance of presenting the testimony of witnesses orally in open court, to allow the deposition to be used.

A deposition taken without leave of court pursuant to a notice under LVPTC 3.50.050(a)(2)(C) shall not be used against a party who demonstrates that, when served with the notice, it was unable through the exercise of diligence to obtain counsel to represent it at the taking of the deposition; nor shall a deposition be used against a party who, having received less than 11 days' notice of a deposition, has promptly upon receiving such notice filed a motion for a protective order under LVPTC 3.50.010(c)(2) requesting that the deposition not be held or be held at a different time or place and such motion is pending at the time the deposition is held.

(4) If only part of a deposition is offered in evidence by a party, an adverse party may require the offeror to introduce any other part which ought in fairness to be considered with the part introduced, and any party may introduce any other parts.

Substitution of parties pursuant to LVPTC 3.40.070 does not affect the right to use depositions previously taken; and, when an action has been brought in the court and another action involving the same subject matter is afterward brought between the same parties or their representatives or successors in interest, all depositions lawfully taken and duly filed in the former action may be used in the latter as if originally taken therefor. A deposition previously taken may also be used as permitted under the Rules of Evidence of the Las Vegas Paiute Tribe.

(b) Objections to Admissibility. Subject to the provisions of LVPTC 3.50.030(b) and subsection (d)(3) of this section, objection may be made at the trial or hearing to receiving in evidence any deposition or part thereof for any reason which would require the exclusion of the evidence if the witness were then present and testifying.

(c) Form of Presentation. Except as otherwise directed by the court, a party offering deposition testimony pursuant to this section may offer it in stenographic or nonstenographic form, but, if in nonstenographic form, the party shall also provide the court with a transcript of the portions so offered. On request of any party in a case tried before a jury, deposition testimony offered other than for impeachment purposes shall be presented in nonstenographic form, if available, unless the court for good cause orders otherwise.

(d) Effect of Errors and Irregularities in Depositions.

(1) As to Notice. All errors and irregularities in the notice for taking a deposition are waived unless written objection is promptly served upon the party giving the notice.

(2) As to Disqualification of Officer. Objection to taking a deposition because of disqualification of the officer before whom it is to be taken is waived unless made before the taking of the deposition begins or as soon thereafter as the disqualification becomes known or could be discovered with reasonable diligence.

(3) As to Taking of Deposition.

(A) Objections to the competency of a witness or to the competency, relevancy, or materiality of testimony are not waived by failure to make them before or during the taking of the deposition, unless the ground of the objection is one which might have been obviated or removed if presented at that time.

(B) Errors and irregularities occurring at the oral examination in the manner of taking the deposition, in the form of the questions or answers, in the oath or affirmation, or in the conduct of parties, and errors of any kind which might be obviated, removed, or cured if promptly presented, are waived unless reasonable objection thereto is made at the taking of the deposition.

(C) Objections to the form of written questions submitted under LVPTC 3.50.060 are waived unless served in writing upon the party propounding them within the time al-

lowed for serving the succeeding cross or other questions and within five days after service of the last questions authorized.

(4) As to Completion and Return of Deposition. Errors and irregularities in the manner in which the testimony is transcribed or the deposition is prepared, signed, certified, sealed, indorsed, transmitted, filed, or otherwise dealt with by the officer under LVPTC 3.50.050 and 3.50.060 are waived unless a motion to suppress the deposition or some part thereof is made with reasonable promptness after such defect is, or with due diligence might have been, ascertained.

Comment: To the extent a civil procedural issue is not addressed by this title, or by Tribal common law, a Tribal Court judge may refer to the Federal Rules of Civil Procedure and cases construing the same; provided, however, that in no event shall reference to such federal rules be interpreted or construed as an explicit adoption of such rules.

[Prior Code § 3-50-070.]

3.50.080 Interrogatories to parties.

(a) Availability. Without leave of court or written stipulation, any party may serve upon any other party written interrogatories, not exceeding 25 in number including all discrete subparts to be answered by the party served or, if the party served is a public or private corporation or a partnership or association or governmental agency, by any officer or agent, who shall furnish such information as is available to the party. Leave to serve additional interrogatories shall be granted to the extent consistent with the principles of LVPTC 3.50.010(b)(2). Without leave of the court or written stipulation, interrogatories may not be served before the time specified in LVPTC 3.50.010(d).

(b) Answers and Objections.

(1) Each interrogatory shall be answered separately and fully in writing under oath, unless it is objected to, in which event the objecting party shall state the reasons for objection and shall answer to the extent the interrogatory is not objectionable.

(2) The answers are to be signed by the person making them, and the objections signed by the attorney making them.

(3) The party upon whom the interrogatories have been served shall serve a copy of the answers, and objections if any, within 30 days after the service of the interrogatories. A shorter or longer time may be directed by the court or, in the absence of such an order, agreed to in writing by the parties subject to LVPTC 3.50.040.

(4) All grounds for an objection to an interrogatory shall be stated with specificity. Any ground not stated in a timely objection is waived unless the party's failure to object is excused by the court for good cause shown.

(5) The party submitting the interrogatories may move for an order under LVPTC 3.50.300(a) with respect to any objection to or other failure to answer an interrogatory.

(c) Scope – Use at Trial. Interrogatories may relate to any matters which can be inquired into under LVPTC 3.50.010(b)(1), and the answers may be used to the extent permitted by applicable rules of evidence.

An interrogatory otherwise proper is not necessarily objectionable merely because an answer to the interrogatory involves an opinion or contention that relates to fact or the application of law to fact, but the court may order that such an interrogatory need not be answered until after designated discovery has been completed or until a pretrial conference or other later time.

(d) Option to Produce Business Records. Where the answer to an interrogatory may be derived or ascertained from the business records of the party upon whom the interrogatory has been served or from an examination, audit or inspection of such business records, including a compilation, abstract or summary thereof and the burden of deriving or ascertaining the answer is substantially the same for the party serving the interrogatory as for the party served, it is a sufficient answer to such interrogatory to specify the records from which the answer may be derived or ascertained and to afford to the party serving the interrogatory reasonable opportunity to exam-

ine, audit or inspect such records and to make copies, compilations, abstracts or summaries. A specification shall be in sufficient detail to permit the interrogating party to locate and to identify, as readily as can the party served, the records from which the answer may be ascertained.

Comment: To the extent a civil procedural issue is not addressed by this title, or by Tribal common law, a Tribal Court judge may refer to the Federal Rules of Civil Procedure and cases construing the same; provided, however, that in no event shall reference to such federal rules be interpreted or construed as an explicit adoption of such rules.

[Prior Code § 3-50-080.]

3.50.090 Production of documents and things and entry upon land for inspection and other purposes.

(a) Scope. Any party may serve on any other party a request (1) to produce and permit the party making the request, or someone acting on the requestor's behalf, to inspect and copy any designated documents (including writings, drawings, graphs, charts, photographs, phonorecords, and other data compilations from which information can be obtained, translated, if necessary, by the respondent through detection devices into reasonably usable form), or to inspect and copy, test, or sample any tangible things which constitute or contain matters within the scope of LVPTC 3.50.010(b) and which are in the possession, custody or control of the party upon whom the request is served; or (2) to permit entry upon designated land or other property in the possession or control of the party upon whom the request is served for the purpose of inspection and measuring, surveying, photographing, testing, or sampling the property or any designated object or operation thereon, within the scope of LVPTC 3.50.010(b).

(b) Procedure. The request shall set forth the items to be inspected either by individual item or by category, and describe each item and category with reasonable particularity. The request shall specify a reasonable time, place, and manner of making the inspection and performing the related acts. Without leave of court or written stipulation, a request may not be served before the time specified in LVPTC 3.50.010(d).

The party upon whom the request is served shall serve a written response within 30 days after the service of the request. A shorter or longer time may be directed by the court or, in the absence of such an order, agreed to in writing by the parties, subject to LVPTC 3.50.040. The response shall state, with respect to each item or category, that inspection and related activities will be permitted as requested, unless the request is objected to, in which event the reasons for objection shall be stated. If objection is made to part of an item or category, the part shall be specified and inspection permitted of the remaining parts. The party submitting the request may move for an order under LVPTC 3.50.300(a) with respect to any objection to or other failure to respond to the request or any part thereof, or any failure to permit inspection as requested.

A party who produces documents for inspection shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the request.

(c) Persons Not Parties. A person not a party to the action may be compelled to produce documents and things or to submit to an inspection by means of a subpoena issued by the court as provided in LVPTC 3.60.060.

Comment: To the extent a civil procedural issue is not addressed by this title, or by Tribal common law, a Tribal Court judge may refer to the Federal Rules of Civil Procedure and cases construing the same; provided, however, that in no event shall reference to such federal rules be interpreted or construed as an explicit adoption of such rules.

[Prior Code § 3-50-090.]

3.50.100 Physical and mental examinations of persons.

(a) Order for Examination. When the mental or physical condition (including the blood group) of a party or of a person in the custody or under the legal control of a party is in controversy, the court may order the party to sub-

mit to a physical or mental examination by a suitably licensed or certified examiner or to produce for examination the person in the party's custody or legal control. The order may be made only on motion for good cause shown and upon notice to the person to be examined and to all parties and shall specify the time, place, manner, conditions, and scope of the examination and the person or persons by whom it is to be made.

(b) Report of Examiner.

(1) If requested by the party against whom an order is made under LVPTC 3.50.100(a) or the person examined, the party causing the examination to be made shall deliver to the requesting party a copy of the detailed written report of the examiner setting out the examiner's findings, including results of all tests made, diagnoses and conclusions, together with like reports of all earlier examinations of the same condition. After delivery the party causing the examination shall be entitled upon request to receive from the party against whom the order is made a like report of any examination, previously or thereafter made, of the same condition, unless, in the case of a report of examination of a person not a party, the party shows that the party is unable to obtain it. The court on motion may make an order against a party requiring delivery of a report on such terms as are just, and if an examiner fails or refuses to make a report the court may exclude the examiner's testimony if offered at trial.

(2) By requesting and obtaining a report of the examination so ordered or by taking the deposition of the examiner, the party examined waives any privilege the party may have in that action or any other involving the same controversy, regarding the testimony of every other person who has examined or may thereafter examine the party in respect of the same mental or physical condition.

(3) This subsection applies to examinations made by agreement of the parties, unless the agreement expressly provides otherwise. This subsection does not preclude discovery of a report of an examiner or the taking of a deposition of the examiner in accordance with the provisions of any other section.

Comment: To the extent a civil procedural issue is not addressed by this title, or by Tribal common law, a Tribal Court judge may refer to the Federal Rules of Civil Procedure and cases construing the same; provided, however, that in no event shall reference to such federal rules be interpreted or construed as an explicit adoption of such rules.

[Prior Code § 3-50-100.]

3.50.200 Requests for admission.

(a) Request for Admission. A party may serve upon any other party a written request for the admission, for purposes of the pending action only, of the truth of any matters within the scope of LVPTC 3.50.010(b)(1) set forth in the request that relate to statements or opinions of fact or of the application of law to fact including the genuineness of any documents described in the request. Copies of documents shall be served with the request unless they have been or are otherwise furnished or made available for inspection and copying. Without leave of court or written stipulation, requests for admission may not be served before the time specified in LVPTC 3.50.010(d).

Each matter of which an admission is requested shall be separately set forth. The matter is admitted unless, within 30 days after service of the request, or within such shorter or longer time as the court may allow or as the parties may agree to in writing, subject to LVPTC 3.50.040, the party to whom the request is directed serves upon the party requesting the admission a written answer or objection addressed to the matter, signed by the party or by the party's attorney. If objection is made, the reasons therefor shall be stated. The answer shall specifically deny the matter or set forth in detail the reasons why the answering party cannot truthfully admit or deny the matter. A denial shall fairly meet the substance of the requested admission, and when good faith requires that a party qualify an answer or deny only a part of the matter of which an admission is requested, the party shall specify so much of it as is true and qualify or

deny the remainder. An answering party may not give lack of information or knowledge as a reason for failure to admit or deny unless the party states that the party has made reasonable inquiry and that the information known or readily obtainable by the party is insufficient to enable the party to admit or deny. A party who considers that a matter of which an admission has been requested presents a genuine issue for trial may not, on that ground alone, object to the request; the party may, subject to the provisions of LVPTC 3.50.300(c), deny the matter or set forth reasons why the party cannot admit or deny it.

The party who has requested the admissions may move to determine the sufficiency of the answers or objections. Unless the court determines that an objection is justified, it shall order that an answer be served. If the court determines that an answer does not comply with the requirements of this section, it may order either that the matter is admitted or that an amended answer be served. The court may, in lieu of these orders, determine that final disposition of the request be made at a pretrial conference or at a designated time prior to trial. The provisions of LVPTC 3.50.300(a) apply to the award of expenses incurred in relation to the motion.

(b) Effect of Admission. Any matter admitted under this section is conclusively established unless the court on motion permits withdrawal or amendment of the admission. Subject to the provision of LVPTC 3.30.100 governing amendment of a pretrial order, the court may permit withdrawal or amendment when the presentation of the merits of the action will be subserved thereby and the party who obtained the admission fails to satisfy the court that withdrawal or amendment will prejudice that party in maintaining the action or defense on the merits. Any admission made by a party under this section is for the purpose of the pending action only and is not an admission for any other purpose nor may it be used against the party in any other proceeding.

Comment: To the extent a civil procedural issue is not addressed by this title, or by Tribal common law, a Tribal Court judge may refer to the Federal Rules of Civil Procedure and cases construing the same; provided, however, that in no event shall reference to such federal rules be interpreted or construed as an explicit adoption of such rules.

[Prior Code § 3-50-200.]

3.50.300 Failure to make disclosure or cooperate in discovery – Sanctions.

(a) Motion for Order Compelling Discovery. A party, upon reasonable notice to other parties and all persons affected thereby, may apply for an order compelling discovery as follows:

(1) Motion.

(A) If a party fails to make a disclosure required by LVPTC 3.50.010(a), any other party may move to compel disclosure and for appropriate sanctions. The motion must include a certification that the movant has in good faith conferred or attempted to confer with the party not making the disclosure in an effort to secure the disclosure without court action.

(B) If a deponent fails to answer a question properly propounded or submitted under LVPTC 3.50.050 or 3.50.060, or a corporation or other entity fails to make a designation under LVPTC 3.50.050(b)(6) or 3.50.060(a), or a party fails to answer an interrogatory submitted under LVPTC 3.50.080, or if a party, in response to a request for inspection submitted under LVPTC 3.50.090, fails to respond that inspection will be permitted as requested or fails to permit inspection as requested, the discovering party may move for an order compelling an answer, or a designation, or an order compelling inspection in accordance with the request. The motion must include a certification that the movant has in good faith conferred or attempted to confer with the person or party failing to make the discovery in an effort to secure the information or material without court action. When taking a deposition on oral examination, the proponent of the question may complete or adjourn the examination before applying for an order.

(2) Evasive or Incomplete Answer. For purposes of this subsection an evasive or in-

complete disclosure, answer, or response is to be treated as a failure to disclose, answer, or respond.

(3) Expenses and Sanctions.

(A) If the motion is granted or if the disclosure or requested discovery is provided after the motion was filed, the court shall, after affording an opportunity to be heard, require the party or deponent whose conduct necessitated the motion or the party or attorney advising such conduct or both of them to pay to the moving party the reasonable expenses incurred in obtaining the order, including attorneys' fees, unless the court finds that the motion was filed without the movant's first making a good faith effort to obtain the disclosure or discovery without court action, or that the opposing party's nondisclosure, response, or objection was substantially justified or that other circumstances make an award of expenses unjust.

(B) If the motion is denied, the court may enter any protective order authorized under LVPTC 3.50.010(c) and shall, after opportunity to be heard, require the moving party or the attorney advising the motion or both of them to pay to the party or deponent who opposed the motion the reasonable expenses incurred in opposing the motion, including attorneys' fees, unless the court finds that the making of the motion was substantially justified or that other circumstances make an award of expenses unjust.

(C) If the motion is granted in part and denied in part, the court may enter any protective order authorized under LVPTC 3.50.010(c) and may, after affording an opportunity to be heard, apportion the reasonable expenses incurred in relation to the motion among the parties and persons in a just manner.

(b) Failure to Comply With Order.

(1) Sanctions by Court. If a deponent fails to be sworn or to answer a question after being directed to do so by the court, the failure may be considered a civil contempt of court and may subject the relevant party to sanctions by the court including, but not limited to, fines and incarceration.

(2) Sanctions by Court. If a party or an officer, director, or managing agent of a party or a person designated under LVPTC 3.50.050(b)(6) or LVPTC 3.50.060 to testify on behalf of a party fails to obey an order to provide or permit discovery, including an order made under subsection (a) of this section or LVPTC 3.50.100, or if a party fails to obey an order entered under LVPTC 3.50.010(f), the court may make such orders in regard to the failure as are just, and among others the following:

(A) An order that the matters regarding which the order was made or any other designated facts shall be taken to be established for the purposes of the action in accordance with the claim of the party obtaining the order;

(B) An order refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting that party from introducing designated matters in evidence;

(C) An order striking out pleadings or parts thereof, or staying further proceedings until the order is obeyed, or dismissing the action or proceeding or any part thereof, or rendering a judgment by default against the disobedient party;

(D) In lieu of any of the foregoing orders or in addition thereto, an order treating as a contempt of court the failure to obey any orders except an order to submit to a physical or mental examination;

(E) Where a party has failed to comply with an order under LVPTC 3.50.100(a) requiring that party to produce another for examination, such orders as are listed in subsections (b)(2)(A), (B), and (C) of this section, unless the party failing to comply shows that that party is unable to produce such person for examination.

(3) In lieu of any of the foregoing orders or in addition thereto, the court shall require the party failing to obey the order or the representative advising that party or both to pay the reasonable expenses, including attorneys' fees, caused by the failure, unless the court finds that the failure was substantially justified

or that other circumstances make an award of expenses unjust.

(c) Failure to Disclose – False or Misleading Disclosure – Refusal to Admit.

(1) A party that without substantial justification fails to disclose information required by LVPTC 3.50.010(a) or (e)(1) shall not, unless such failure is harmless, be permitted to use as evidence at trial, at a hearing, or on a motion any witness or information not so disclosed. In addition to or in lieu of this sanction, the court, on motion and after affording an opportunity to be heard, may impose other appropriate sanctions. In addition to requiring payment of reasonable expenses, including attorneys' fees, caused by the failure, these sanctions may include any of the actions authorized under subsections (b)(2)(A), (B), and (C) of this section and may include informing the jury of the failure to make the disclosure.

(2) If a party fails to admit the genuineness of any document or the truth of any matter as requested under LVPTC 3.50.200, and if the party requesting the admissions thereafter proves the genuineness of the document or the truth of the matter, the requesting party may apply to the court for an order requiring the other party to pay the reasonable expenses incurred in making that proof, including reasonable attorneys' fees. The court shall make the order unless it finds that (A) the request was held objectionable pursuant to LVPTC 3.50.200(a), or (B) the admission sought was of no substantial importance, or (C) the party failing to admit had reasonable ground to believe that the party might prevail on the matter, or (D) there was other good reason for the failure to admit.

(d) Failure of Party to Attend at Own Deposition or Serve Answers to Interrogatories or Respond to Request for Inspection. If a party or an officer, director, or managing agent of a party or a person designated under LVPTC 3.50.050(b)(6) or 3.50.060 to testify on behalf of a party fails (1) to appear before the officer who is to take the deposition, after being served with a proper notice, or (2) to serve answers or objections to interrogatories submitted under LVPTC 3.50.080, after proper service of the interrogatories, or (3) to serve a written response to a request for inspection submitted under LVPTC 3.50.090, after proper service of the request, the court on motion may make such orders in regard to the failure as are just, and among others it may take any action authorized under subsections (b)(2)(A), (B), and (C) of this section. Any motion specifying a failure under subsection (b)(2) or (3) of this section shall include a certification that the movant has in good faith conferred or attempted to confer with the party failing to answer or respond in an effort to obtain such answer or response without court action. In lieu of any order or in addition thereto, the court shall require the party failing to act or the representative advising that party or both to pay the reasonable expenses, including attorneys' fees, caused by the failure, unless the court finds that the failure was substantially justified or that other circumstances make an award of expenses unjust.

The failure to act described in this subsection may not be excused on the ground that the discovery sought is objectionable unless the party failing to act has applied for a protective order as provided by LVPTC 3.50.010(c).

(e) Failure to Participate in the Framing of a Discovery Plan. If a party or a party's representative fails to participate in good faith in the framing of a discovery plan by agreement as is required by LVPTC 3.50.010(f), the court may, after opportunity for hearing, require such party or representative to pay to any other party the reasonable expenses, including attorneys' fees, caused by the failure.

Comment: To the extent a civil procedural issue is not addressed by this title, or by Tribal common law, a Tribal Court judge may refer to the Federal Rules of Civil Procedure and cases construing the same; provided, however, that in no event shall reference to such federal rules be interpreted or construed as an explicit adoption of such rules.

[Prior Code § 3-50-300.]

Chapter 3.60

TRIALS

Sections:

3.60.010 Assignment of cases for trial.
3.60.020 Dismissal of actions.
3.60.030 Consolidation – Separate trials.
3.60.040 Taking of testimony.
3.60.050 Proof of official record.
3.60.060 Subpoena.
3.60.070 Exceptions unnecessary.
3.60.080 Findings by the court – Judgment on partial findings.

3.60.010 Assignment of cases for trial.

The court shall place civil actions upon its trial calendar (a) without request of the parties or (b) upon request of a party and notice to the other parties or (c) in such other manner as the court deems expedient.

Comment: To the extent a civil procedural issue is not addressed by this title, or by Tribal common law, a Tribal Court judge may refer to the Federal Rules of Civil Procedure and cases construing the same; provided, however, that in no event shall reference to such federal rules be interpreted or construed as an explicit adoption of such rules.

[Prior Code § 3-60-010.]

3.60.020 Dismissal of actions.

(a) Voluntary Dismissal – Effect Thereof.

(1) By Plaintiff – By Stipulation. A civil action may be dismissed by the plaintiff without order of court (A) by filing a notice of dismissal at any time before service by the adverse party of an answer or of a motion for summary judgment, whichever first occurs, or (B) by filing a stipulation of dismissal signed by all parties who have appeared in the action. Unless otherwise stated in the notice of dismissal or stipulation, the dismissal is without prejudice, except that a notice of dismissal operates as an adjudication upon the merits when filed by a plaintiff who has once dismissed in the court an action based on or including the same claim.

(2) By Order of Court. Except as provided in subsection (a)(1) of this section, an action shall not be dismissed at the plaintiff's instance save upon order of the court and upon such terms and conditions as the court deems proper. If a counterclaim has been pleaded by a defendant prior to the service upon the defendant of the plaintiff's motion to dismiss, the action shall not be dismissed against the defendant's objection unless the counterclaim can remain pending for independent adjudication by the court. Unless otherwise specified in the order, a dismissal under this subsection is without prejudice.

(b) Involuntary Dismissal – Effect Thereof. For failure of the plaintiff to prosecute or to comply with these rules or any order of court, a defendant may move for dismissal of an action or of any claim against the defendant. Unless the court in its order for dismissal otherwise specifies, a dismissal under this subsection and any dismissal not provided for in this section, other than a dismissal for lack of jurisdiction, for improper venue, or for failure to join a party under LVPTC 3.40.030, operates as an adjudication upon the merits.

(c) Dismissal of Counterclaim, Cross-Claim, or Third-Party Claim. The provisions of this section apply to the dismissal of any counterclaim, cross-claim, or third-party claim. A voluntary dismissal by the claimant alone pursuant to subsection (a)(1) of this section shall be made before a responsive pleading is served or, if there is none, before the introduction of evidence at the trial or hearing.

(d) Costs of Previously Dismissed Action. If a plaintiff who has once dismissed an action in court commences an action based upon or including the same claim against the same defendant, the court may make such order for the payment of costs of the action previously dismissed as it may deem proper and may stay the proceedings in the action until the plaintiff has complied with the order.

Comment: To the extent a civil procedural issue is not addressed by this title, or by Tribal common law, a Tribal Court judge may refer to the Federal Rules of Civil Procedure and cases construing the same; provided, however, that in no event shall reference to such federal rules be interpreted or construed as an explicit adoption of such rules.

[Prior Code § 3-60-020.]

3.60.030 Consolidation – Separate trials.

(a) Consolidation. When actions involving a common question of law or fact are pending before the court, it may order a joint hearing or trial of any or all the matters in issue in the actions; it may order all the actions consolidated; and it may make such orders concerning proceedings therein as may tend to avoid unnecessary costs or delay.

(b) Separate Trials. The court, in furtherance of convenience or to avoid prejudice, or when separate trials will be conducive to expedition and economy, may order a separate trial of any claim, cross-claim, counterclaim, or third-party claim, or of any separate issue or of any number of claims, cross-claims, counterclaims, third-party claims, or issues.

Comment: To the extent a civil procedural issue is not addressed by this title, or by Tribal common law, a Tribal Court judge may refer to the Federal Rules of Civil Procedure and cases construing the same; provided, however, that in no event shall reference to such federal rules be interpreted or construed as an explicit adoption of such rules.

[Prior Code § 3-60-030.]

3.60.040 Taking of testimony.

(a) Form. In all trials the testimony of witnesses shall be taken orally in open court, unless otherwise provided by resolution or ordinance of the Las Vegas Paiute Tribe, or by these rules or other rules adopted by the Las Vegas Paiute Tribe.

(b) Affirmation in Lieu of Oath. Whenever under these rules an oath is required to be taken, a solemn affirmation may be accepted in lieu thereof.

(c) Evidence on Motions. When a motion is based on facts not appearing of record the court may hear the matter on affidavits presented by the respective parties, but the court may direct that the matter be heard wholly or partly on oral testimony or deposition.

(d) Interpreters. The court may appoint an interpreter of its own selection and may fix the interpreter's reasonable compensation. The compensation shall be paid by one or more of the parties as the court may direct, and may be taxed ultimately as costs, in the discretion of the court.

Comment: To the extent a civil procedural issue is not addressed by this title, or by Tribal common law, a Tribal Court judge may refer to the Federal Rules of Civil Procedure and cases construing the same; provided, however, that in no event shall reference to such federal rules be interpreted or construed as an explicit adoption of such rules.

[Prior Code § 3-60-040.]

3.60.050 Proof of official record.

(a) Authentication.

(1) Domestic. An official record kept within the United States, or any tribe, state, district, or commonwealth, or within a territory subject to the administrative or judicial jurisdiction of the United States, or an entry therein, when admissible for any purpose, may be evidenced by an official publication thereof or by a copy attested by the officer having the legal custody of the record, or by the officer's deputy, and accompanied by a certificate that such officer has the custody. The certificate may be made by a judge of a court of record of the district or political subdivision in which the record is kept, authenticated by the seal of the court, or may be made by any public officer having a seal of office and having official duties in the district or political subdivision in which the record is kept, authenticated by the seal of the officer's office.

(2) Foreign. A foreign official record, or an entry therein, when admissible for any purpose, may be evidenced by an official publication thereof; or a copy thereof, attested by a person authorized to make the attestation, and accompanied by a final certification as to the genuineness of the signature and official position (A) of the attesting person, or

(B) of any foreign official whose certificate of genuineness of signature and official position relates to the attestation or is in a chain of certificates of genuineness of signature and official position relating to the attestation. A final certification may be made by a secretary of embassy or legation, consul general, vice consul, or consular agent of the United States, or a diplomatic or consular official of the foreign country assigned or accredited to the United States.

If reasonable opportunity has been given to all parties to investigate the authenticity and accuracy of the documents, the court may, for good cause shown, (A) admit an attested copy without final certification or (B) permit the foreign official record to be evidenced by an attested summary with or without a final certification. The final certification is unnecessary if the record and the attestation are certified as provided in a treaty or convention to which the United States and the foreign country in which the official record is located are parties.

(b) Lack of Record. A written statement that after diligent search no record or entry of a specified tenor is found to exist in the records designated by the statement, authenticated as provided in subsection (a)(1) of this section in the case of a domestic record; or complying with the requirements of subsection (a)(2) of this section for a summary in the case of a foreign record, is admissible as evidence that the records contain no such record or entry.

(c) Other Proof. This section does not prevent the proof of official records or of entry or lack of entry therein by any other method authorized by law.

Comment: To the extent a civil procedural issue is not addressed by this title, or by Tribal common law, a Tribal Court judge may refer to the Federal Rules of Civil Procedure and cases construing the same; provided, however, that in no event shall reference to such federal rules be interpreted or construed as an explicit adoption of such rules.

[Prior Code § 3-60-050.]

3.60.060 Subpoena.

(a) Form – Issuance.

(1) Every subpoena shall:

(A) State the name of the court from which it is issued; and

(B) State the title of the action, the name of the court in which it is pending, and its civil action number; and

(C) Command each person to whom it is directed to attend and give testimony or to produce and permit inspection and copying of designated books, documents or tangible things in the possession, custody or control of that person, or to permit inspection of premises, at a time and place therein specified; and

(D) Set forth the text of subsections (c) and (d) of this section.

A command to produce evidence or to permit inspection may be joined with a command to appear at trial or hearing or at deposition, or may be issued separately.

(2) A subpoena commanding attendance at a trial or hearing shall issue from the court. A subpoena for attendance at a deposition shall issue from the court. If separate from a subpoena commanding the attendance of a person, a subpoena for production or inspection shall issue from the court.

(3) The Clerk shall issue a subpoena, signed but otherwise in blank, to a party requesting it, who shall complete it before service. An attorney as officer of the court may also issue and sign a subpoena on behalf of the court if the attorney is authorized to practice therein.

(b) Service.

(1) A subpoena may be served by any person who is not a party and is not less than 18 years of age. Service of a subpoena upon a person named therein shall be made by delivering a copy thereof to such person and, if the person's attendance is commanded, by tendering to that person the fees for one day's attendance and the mileage allowed by law. Prior notice of any commanded production of documents and things or inspection of premises before trial shall be served on each

party in the manner prescribed by LVPTC 3.20.030(b).

(2) Subject to the provisions of subsection (c)(3)(A)(ii) of this section, a subpoena may be served at any place where process may be served pursuant to LVPTC 3.20.020.

(3) Proof of service when necessary shall be made by filing with the Clerk of the Court a statement of the date and manner of service and of the names of the persons served, certified by the person who made the service.

(c) Protection of Persons Subject to Subpoenas.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorneys' fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to subsection (d)(2) of this section, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or representative designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court shall quash or modify the subpoena if it:

(i) Fails to allow reasonable time for compliance;

(ii) Requires disclosure of privileged or other protected matter and no exception or waiver applies; or

(iii) Subjects a person to undue burden.

(B) If a subpoena:

(i) Requires disclosure of a trade secret or other confidential research, development, or commercial information; or

(ii) Requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party; or

(iii) Requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial.

The court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) Duties in Responding to Subpoena.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is

sufficient to enable the demanding party to contest the claim.

(e) Contempt. Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed to be civil contempt of the court.

Comment: To the extent a civil procedural issue is not addressed by this title, or by Tribal common law, a Tribal Court judge may refer to the Federal Rules of Civil Procedure and cases construing the same; provided, however, that in no event shall reference to such federal rules be interpreted or construed as an explicit adoption of such rules.

[Prior Code § 3-60-060.]

3.60.070 Exceptions unnecessary.

Formal exceptions to rulings or orders of the court are unnecessary; but for all purposes for which an exception has heretofore been necessary it is sufficient that a party, at the time the ruling or order of the court is made or sought, makes known to the court the action which the party desires the court to take or the party's objection to the action of the court and the grounds therefor; and, if a party has no opportunity to object to a ruling or order at the time it is made, the absence of an objection does not thereafter prejudice the party.

Comment: To the extent a civil procedural issue is not addressed by this title, or by Tribal common law, a Tribal Court judge may refer to the Federal Rules of Civil Procedure and cases construing the same; provided, however, that in no event shall reference to such federal rules be interpreted or construed as an explicit adoption of such rules.

[Prior Code § 3-60-070.]

3.60.080 Findings by the court – Judgment on partial findings.

(a) Effect. In all actions, the court shall find the facts specially and state its conclusions of law thereon, and judgment shall be entered pursuant to LVPTC 3.70.050; and in granting or refusing interlocutory injunctions the court shall similarly set forth the findings of fact and conclusions of law which constitute the grounds of its action. Requests for findings are not necessary for purposes of review. Findings of fact, whether based on oral or documentary evidence, shall not be set aside unless clearly erroneous, and due regard shall be given to the opportunity of the trial court to judge of the credibility of the witnesses. It will be sufficient if the findings of fact and conclusions of law are stated orally and recorded in open court following the close of the evidence or appear in an opinion or memorandum of decision filed by the court. Findings of fact and conclusions of law are unnecessary on decisions of motions under LVPTC 3.30.060 or 3.70.030 or any other motion except as provided in subsection (c) of this section.

(b) Amendment. Upon motion of a party made not later than 10 days after entry of judgment the court may amend its findings or make additional findings and may amend the judgment accordingly. The motion may be made with a motion for a new trial pursuant to LVPTC 3.70.060.

(c) Judgment on Partial Findings. If during a trial a party has been fully heard on an issue and the court finds against the party on that issue, the court may enter judgment as a matter of law against that party with respect to a claim or defense that cannot under the controlling law be maintained or defeated without a favorable finding on that issue, or the court may decline to render any judgment until the close of all the evidence. Such a judgment shall be supported by findings of fact and conclusions of law as required by subsection (a) of this section.

Comment: To the extent a civil procedural issue is not addressed by this title, or by Tribal common law, a Tribal Court judge may refer to the Federal Rules of Civil Procedure and cases construing the same; provided, however, that in no event shall reference to such federal rules be interpreted or construed as an explicit adoption of such rules.

[Prior Code § 3-60-080.]

Chapter 3.70

JUDGMENT

Sections:

3.70.010 Judgments – Costs.
3.70.020 Default.
3.70.030 Summary judgment.
3.70.040 Declaratory judgments.
3.70.050 Entry of judgment.
3.70.060 New trials – Amendment of judgments.
3.70.070 Relief from judgment or order.
3.70.080 Harmless error.
3.70.090 Stay of proceedings to enforce a judgment.
3.70.100 Inability of a judge to proceed.

3.70.010 Judgments – Costs.

(a) Definition – Form. "Judgment" as used in these sections includes a decree and any order from which an appeal lies. A judgment shall not contain a recital of pleadings or the record of prior proceedings.

(b) Judgment Upon Multiple Claims or Involving Multiple Parties. When more than one claim for relief is presented in an action, whether as a claim, counterclaim, cross-claim, or third-party claim, or when multiple parties are involved, the court may direct the entry of a final judgment as to one or more but fewer than all of the claims or parties only upon an express determination that there is no just reason for delay and upon an express direction for the entry of judgment. In the absence of such determination and direction, any order or other form of decision, however designated, which adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties shall not terminate the action as to any of the claims or parties, and the order or other form of decision is subject to revision at any time before the entry of judgment adjudicating all the claims and the rights and liabilities of all the parties.

(c) Demand for Judgment. A judgment by default shall not be different in kind from or exceed in amount that prayed for in the demand for judgment. Except as to a party against whom a judgment is entered by default, every final judgment shall grant the relief to which the party in whose favor it is rendered is entitled, even if the party has not demanded such relief in the party's pleadings.

(d) Costs – Attorneys' Fees.

(1) Except when express provision therefor is made either in these sections or by any other applicable law of the Las Vegas Paiute Tribe, costs other than attorneys' fees shall be allowed as of course to the prevailing party unless the court otherwise directs; but costs against the Las Vegas Paiute Tribe, its officers, and agencies shall be imposed only to the extent expressly permitted by law. Costs may be taxed by the Clerk on one day's notice. On motion served within five days thereafter, the action of the Clerk may be reviewed by the court.

(2) Attorneys' Fees.

(A) Claims for attorneys' fees and related nontaxable expenses shall be made by motion unless the substantive law governing the action provides for the recovery of such fees as an element of damages to be proved at trial.

(B) Unless otherwise provided by statute or order of the court, the motion must be filed and served no later than 14 days after entry of judgment; must specify the judgment and the statute, rule, or other grounds entitling the moving party to the award; and must state the amount or provide a fair estimate of the amount sought. If directed by the court, the motion shall also disclose the terms of any agreement with respect to fees to be paid for the services for which claim is made.

(C) On request of a party, the court shall afford an opportunity for adversary submissions with respect to the motion in accordance with LVPTC 3.60.040. The court may determine issues of liability for fees before receiving submissions bearing on the issues of evaluation of services for which liability is imposed by the court. The court shall find the facts and state its conclusions of law as provided in LVPTC 3.60.080(a), and a judgment shall be set forth in a separate document as provided in LVPTC 3.70.050.

(D) The court may establish special procedures by which issues relating to such fees may be resolved without extensive evidentiary hearings.

Comment: To the extent a civil procedural issue is not addressed by this title, or by Tribal common law, a Tribal Court judge may refer to the Federal Rules of Civil Procedure and cases construing the same; provided, however, that in no event shall reference to such federal rules be interpreted or construed as an explicit adoption of such rules.

[Prior Code § 3-70-010.]

3.70.020 Default.

(a) Entry. When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend as provided by these sections and that fact is made to appear by affidavit or otherwise, the Clerk shall enter the party's default.

(b) Judgment. Judgment by default may be entered as follows:

(1) By the Clerk. When the plaintiff's claim against a defendant is for a sum certain or for a sum which can by computation be made certain, the Clerk upon request of the plaintiff and upon affidavit of the amount due shall enter judgment for that amount and costs against the defendant, if the defendant has been defaulted for failure to appear and if he is not an infant or incompetent person.

(2) By the Court. In all other cases the party entitled to a judgment by default shall apply to the court therefor; but no judgment by default shall be entered against an infant or incompetent person unless represented in the action by a general guardian, committee, conservator, or other such representative who has appeared therein. If the party against whom judgment by default is sought has appeared in the action, the party (or, if appearing by representative, the party's representative) shall be served with written notice of the application for judgment at least three days prior to the hearing on such application. If, in order to enable the court to enter judgment or to carry it into effect, it is necessary to take an account or to determine the amount of damages or to establish the truth of any claim by evidence or to make an investigation of any other matter, the court may conduct such hearings or order such references as it deems necessary and proper.

(c) Setting Aside Default. For good cause shown the court may set aside an entry of default and, if a judgment by default has been entered, may likewise set it aside in accordance with LVPTC 3.70.070(b).

(d) Plaintiffs, Counterclaimants, Cross-Claimants. The provisions of this section apply whether the party entitled to the judgment by default is a plaintiff, a third-party plaintiff, or a party who has pleaded a cross-claim or counterclaim. In all cases a judgment by default is subject to the limitations of LVPTC 3.70.010(c).

(e) Judgment Against the Las Vegas Paiute Tribe. No judgment by default shall be entered in any case against the Las Vegas Paiute Tribe or any agency or instrumentality thereof.

Comment: To the extent a civil procedural issue is not addressed by this title, or by Tribal common law, a Tribal Court judge may refer to the Federal Rules of Civil Procedure and cases construing the same; provided, however, that in no event shall reference to such federal rules be interpreted or construed as an explicit adoption of such rules.

[Prior Code § 3-70-020.]

3.70.030 Summary judgment.

(a) For Claimant. A party seeking to recover upon a claim, counterclaim, or cross-claim or to obtain a declaratory judgment may, at any time after the expiration of 20 days from the commencement of the action or after service of a motion for summary judgment by the adverse party, move with or without supporting affidavits for a summary judgment in the party's favor upon all or any part thereof.

(b) For Defending Party. A party against whom a claim, counterclaim, or cross-claim is asserted or a declaratory judgment is sought may, at any time, move with or without supporting affidavits for a summary judgment in the party's favor as to all or any part thereof.

(c) Motion and Proceedings Thereon. The motion shall be served at least 10 days before

the time fixed for the hearing. The adverse party prior to the day of hearing may serve opposing affidavits. The judgment sought shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. A summary judgment, interlocutory in character, may be rendered on the issue of liability alone although there is a genuine issue as to the amount of damages.

(d) Case Not Fully Adjudicated on Motion. If on motion under this section judgment is not rendered upon the whole case or for all the relief asked and a trial is necessary, the court at the hearing of the motion, by examining the pleadings and the evidence before it and by interrogating counsel, shall if practicable ascertain what material facts exist without substantial controversy and what material facts are actually and in good faith controverted. It shall thereupon make an order specifying the facts that appear without substantial controversy, including the extent to which the amount of damages or other relief is not in controversy, and directing such further proceedings in the action as are just. Upon the trial of the action the facts so specified shall be deemed established, and the trial shall be conducted accordingly.

(e) Form of Affidavits – Further Testimony – Defense Required. Supporting and opposing affidavits shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein. Sworn or certified copies of all papers or parts thereof referred to in an affidavit shall be attached thereto or served therewith. The court may permit affidavits to be supplemented or opposed by depositions, answers to interrogatories, or further affidavits. When a motion for summary judgment is made and supported as provided in this section, an adverse party may not rest upon the mere allegations or denials of the adverse party's pleading, but the adverse party's response, by affidavits or as otherwise provided in this section, must set forth specific facts showing that there is a genuine issue for trial. If the adverse party does not so respond, summary judgment, if appropriate, shall be entered against the adverse party.

(f) When Affidavits Are Unavailable. Should it appear from the affidavits of a party opposing the motion that the party cannot for reasons stated present by affidavit facts essential to justify the party's opposition, the court may refuse the application for judgment or may order a continuance to permit affidavits to be obtained or depositions to be taken or discovery to be had or may make such other order as is just.

(g) Affidavits Made in Bad Faith. Should it appear to the satisfaction of the court at any time that any of the affidavits presented pursuant to this section are presented in bad faith or solely for the purpose of delay, the court shall forthwith order the party employing them to pay to the other party the amount of the reasonable expenses which the filing of the affidavits caused the other party to incur, including reasonable representative's fees, and any offending party or representative may be adjudged guilty of contempt.

Comment: To the extent a civil procedural issue is not addressed by this title, or by Tribal common law, a Tribal Court judge may refer to the Federal Rules of Civil Procedure and cases construing the same; provided, however, that in no event shall reference to such federal rules be interpreted or construed as an explicit adoption of such rules.

[Prior Code § 3-70-030.]

3.70.040 Declaratory judgments.

The existence of another adequate remedy does not preclude a judgment for declaratory relief in cases where it is appropriate. The court may order a speedy hearing of an action for a declaratory judgment and may advance it on the calendar.

Comment: To the extent a civil procedural issue is not addressed by this title, or by Tribal common law, a Tribal Court judge may refer to the Federal Rules of Civil Procedure and cases construing the

same; provided, however, that in no event shall reference to such federal rules be interpreted or construed as an explicit adoption of such rules.

[Prior Code § 3-70-040.]

3.70.050 Entry of judgment.

Subject to the provisions of LVPTC 3.70.010(b): (a) upon a decision by the court that a party shall recover only a sum certain or costs or that all relief shall be denied, the Clerk, unless the court otherwise orders, shall forthwith prepare, sign, and enter the judgment without awaiting any direction by the court; (b) upon a decision by the court granting other relief, the court shall promptly approve the form of the judgment, and the Clerk shall thereupon enter it. Every judgment shall be set forth on a separate document. Entry of the judgment shall not be delayed nor the time for appeal extended, in order to tax costs or award fees, except that, when a timely motion for attorneys' fees is made under LVPTC 3.70.010(d)(2), the court, before a notice of appeal has been filed and has become effective, may order that the motion have the same effect under LVPTC 3.20.020 as a timely motion under LVPTC 3.70.060. Attorneys shall not submit forms of judgment except upon direction of the court, and these directions shall not be given as a matter of course.

Comment: To the extent a civil procedural issue is not addressed by this title, or by Tribal common law, a Tribal Court judge may refer to the Federal Rules of Civil Procedure and cases construing the same; provided, however, that in no event shall reference to such federal rules be interpreted or construed as an explicit adoption of such rules.

[Prior Code § 3-70-050.]

3.70.060 New trials – Amendment of judgments.

(a) Grounds. A new trial may be granted to all or any of the parties and on all or part of the issues for any of the reasons for which rehearings have heretofore been granted by the courts in the federal courts of the United States. On a motion for a new trial, the court may open the judgment if one has been entered, take additional testimony, amend findings of fact and conclusions of law or make new findings and conclusions, and direct the entry of a new judgment.

(b) Time for Motion. A motion for a new trial shall be served not later than 10 days after the entry of the judgment.

(c) Time for Serving Affidavits. When a motion for new trial is based upon affidavits they shall be served with the motion. The opposing party has 10 days after such service within which to serve opposing affidavits, which period may be extended for an additional period not exceeding 20 days either by the court for good cause shown or by the parties by written stipulation. The court may permit reply affidavits.

(d) On Initiative of Court. Not later than 10 days after entry of judgment the court of its own initiative may order a new trial for any reason for which it might have granted a new trial on motion of a party. After giving the parties notice and an opportunity to be heard on the matter, the court may grant a motion for a new trial, timely served, for a reason not stated in the motion. In either case, the court shall specify in the order the grounds therefor.

(e) Motion to Alter or Amend a Judgment. A motion to alter or amend the judgment shall be served not later than 10 days after entry of the judgment.

Comment: To the extent a civil procedural issue is not addressed by this title, or by Tribal common law, a Tribal Court judge may refer to the Federal Rules of Civil Procedure and cases construing the same; provided, however, that in no event shall reference to such federal rules be interpreted or construed as an explicit adoption of such rules.

[Prior Code § 3-70-060.]

3.70.070 Relief from judgment or order.

(a) Clerical Mistakes. Clerical mistakes in judgments, orders or other parts of the record and errors therein arising from oversight or omission may be corrected by the court at any time of its own initiative or on the motion of any party and after such notice, if any, as the court orders. During the pendency of an appeal, such mistakes may be so corrected before the appeal is docketed in the Court of

Appeals, and thereafter while the appeal is pending may be so corrected with leave of the Court of Appeals.

(b) Mistakes – Inadvertence – Excusable Neglect – Newly Discovered Evidence – Fraud, Etc. On motion and upon such terms as are just, the court may relieve a party or a party's legal representative from a final judgment, order, or proceeding for the following reasons: (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under LVPTC 3.70.060(b); (3) fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party; (4) the judgment is void; (5) the judgment has been satisfied, released, or discharged, or a prior judgment upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment should have prospective application; or (6) any other reason justifying relief from the operation of the judgment. The motion shall be made within a reasonable time, and for reasons (1), (2), and (3) not more than one year after the judgment, order, or proceeding was entered or taken. A motion under this subsection does not affect the finality of a judgment or suspend its operation. This section does not limit the power of the court to entertain an independent action to relieve a party from a judgment, order, or proceeding, or to grant relief to a defendant not actually personally notified or to set aside a judgment for fraud upon the court.

Comment: To the extent a civil procedural issue is not addressed by this title, or by Tribal common law, a Tribal Court judge may refer to the Federal Rules of Civil Procedure and cases construing the same; provided, however, that in no event shall reference to such federal rules be interpreted or construed as an explicit adoption of such rules.

[Prior Code § 3-70-070.]

3.70.080 Harmless error.

No error in either the admission or the exclusion of evidence and no error or defect in any ruling or order or in anything done or omitted by the court or by any of the parties is ground for granting a new trial or for setting aside a verdict or for vacating, modifying or otherwise disturbing a judgment or order, unless refusal to take such action appears to the court inconsistent with substantial justice. The court at every stage of the proceeding must disregard any error or defect in the proceeding which does not affect the substantial rights of the parties.

Comment: To the extent a civil procedural issue is not addressed by this title, or by Tribal common law, a Tribal Court judge may refer to the Federal Rules of Civil Procedure and cases construing the same; provided, however, that in no event shall reference to such federal rules be interpreted or construed as an explicit adoption of such rules.

[Prior Code § 3-70-080.]

3.70.090 Stay of proceedings to enforce a judgment.

(a) Automatic Stay – Exceptions – Injunctions, Receiverships, and Patent Accountings. Except as stated herein, no execution shall issue upon a judgment nor shall proceedings be taken for its enforcement until the expiration of 10 days after its entry. Unless otherwise ordered by the court, an interlocutory or final judgment in an action for an injunction or in a receivership action, or a judgment or order directing an accounting in an action for infringement of letters patent, shall not be stayed during the period after its entry and until an appeal is taken or during the pendency of an appeal. The provisions of subsection (c) of this section govern the suspending, modifying, restoring, or granting of an injunction during the pendency of an appeal.

(b) Stay on Motion for New Trial or for Judgment. In its discretion and on such conditions for the security of the adverse party as are proper, the court may stay the execution of or any proceedings to enforce a judgment pending the disposition of a motion for a new trial or to alter or amend a judgment made pursuant to LVPTC 3.70.060, or of a motion for relief from a judgment or order made pursuant to LVPTC 3.70.070, or of a motion for

amendment to the findings or for additional findings made pursuant to LVPTC 3.60.080.

(c) Injunction Pending Appeal. When an appeal is taken from an interlocutory or final judgment granting, dissolving, or denying an injunction, the court in its discretion may suspend, modify, restore, or grant an injunction during the pendency of the appeal upon such terms as to bond or otherwise as it considers proper for the security of the rights of the adverse party.

(d) Stay Upon Appeal. When an appeal is taken the appellant, by giving a supersedeas bond, may obtain a stay subject to the exceptions contained in subsection (a) of this section. The bond may be given at or after the time of filing the notice of appeal or of procuring the order allowing the appeal, as the case may be. The stay is effective when the supersedeas bond is approved by the court.

(e) Stay in Favor of the Las Vegas Paiute Tribe or Agency Thereof. When an appeal is taken by the Las Vegas Paiute Tribe or an officer or agency therefor by direction of any department of the Las Vegas Paiute Tribe and the operation or enforcement of the judgment is stayed, no bond, obligation, or other security shall be required from the appellant.

(f) Power of Court of Appeals Not Limited. The provisions in this section do not limit any power of the Court of Appeals or of a judge thereof to stay proceedings during the pendency of an appeal or to suspend, modify, restore, or grant an injunction during the pendency of an appeal or to make any order appropriate to preserve the status quo or the effectiveness of the judgment subsequently to be entered.

(g) Stay of Judgment as to Multiple Claims or Multiple Parties. When a court has ordered a final judgment under the conditions stated in LVPTC 3.70.010(b), the court may stay enforcement of that judgment until the entering of a subsequent judgment or judgments and may prescribe such conditions as are necessary to secure the benefit thereof to the party in whose favor the judgment is entered.

Comment: To the extent a civil procedural issue is not addressed by this title, or by Tribal common law, a Tribal Court judge may refer to the Federal Rules of Civil Procedure and cases construing the same; provided, however, that in no event shall reference to such federal rules be interpreted or construed as an explicit adoption of such rules.

[Prior Code § 3-70-090.]

3.70.100 Inability of a judge to proceed.

If a trial or hearing has been commenced and the judge is unable to proceed, any other qualified court judge may proceed with it upon certifying familiarity with the record and determining that the proceedings in the case may be completed without prejudice to the parties. The successor judge shall at the request of a party recall any witness whose testimony is material and disputed and who is available to testify again without undue burden. The successor judge may also recall any other witness.

Comment: To the extent a civil procedural issue is not addressed by this title, or by Tribal common law, a Tribal Court judge may refer to the Federal Rules of Civil Procedure and cases construing the same; provided, however, that in no event shall reference to such federal rules be interpreted or construed as an explicit adoption of such rules.

[Prior Code § 3-70-100.]

Chapter 3.80

PROVISIONAL AND FINAL REMEDIES

Sections:

3.80.010 Seizure of person or property.
3.80.020 Injunctions.
3.80.025 Security – Proceedings against sureties.
3.80.026 Offer of judgment.
3.80.030 Execution.
3.80.040 Judgment for specific acts – Vesting title.
3.80.050 Process in behalf of and against persons not parties.

3.80.010 Seizure of person or property.

At the commencement of and during the course of an action, all remedies providing for seizure of person or property for the purpose of securing satisfaction of the judgment ultimately to be entered in the action are available, subject to the following qualifications: (a) any ordinance or resolution of the Las Vegas Paiute Tribe governs the extent to which it is applicable; (b) the action in which any of the foregoing remedies is used shall be commenced and prosecuted pursuant to these rules. The remedies thus available include arrest, attachment, garnishment, replevin, sequestration, and other corresponding or equivalent remedies, however designated and regardless of whether the remedy is ancillary to an action or must be obtained by an independent action.

Comment: To the extent a civil procedural issue is not addressed by this title, or by Tribal common law, a Tribal Court judge may refer to the Federal Rules of Civil Procedure and cases construing the same; provided, however, that in no event shall reference to such federal rules be interpreted or construed as an explicit adoption of such rules.

[Prior Code § 3-80-010.]

3.80.020 Injunctions.

(a) Preliminary Injunction.

(1) Notice. No preliminary injunction shall be issued without notice to the adverse party.

(2) Consolidation of Hearing with Trial on Merits. Before or after the commencement of the hearing of an application for a preliminary injunction, the court may order the trial of the action on the merits to be advanced and consolidated with the hearing of the application. Even when this consolidation is not ordered, any evidence received upon an application for a preliminary injunction which would be admissible upon the trial on the merits becomes part of the record on the trial and need not be repeated upon the trial.

(b) Temporary Restraining Order – Notice – Hearing – Duration. A temporary restraining order may be granted without written or oral notice to the adverse party or that party's attorney only if (1) it clearly appears from specific facts shown by affidavit or by the verified complaint that immediate and irreparable injury, loss, or damage will result to the applicant before the adverse party or that party's attorney can be heard in opposition, and (2) the applicant's attorney certifies to the court in writing the efforts, if any, which have been made to give the notice and the reasons supporting the claim that notice should not be required. Every temporary restraining order granted without notice shall be indorsed with the date and hour of issuance; shall be filed forth within the Clerk's office and entered of record; shall define the injury and state why it is irreparable and why the order was granted without notice; and shall expire by its terms within such time after entry, not to exceed 10 days, as the court fixes, unless within the time so fixed the order, for good cause shown, is extended for a like period or unless the party against whom the order is directed consents that it may be extended for a longer period. The reasons for the extension shall be entered of record. In case a temporary restraining order is granted without notice, the motion for a preliminary injunction shall be set down for hearing at the earliest possible time and takes precedence of all matters except older matters of the same character; and when the motion comes on for hearing the party who obtained the temporary restraining order shall proceed with the application for a preliminary

injunction and, if the party does not do so, the court shall dissolve the temporary restraining order. On two days' notice to the party who obtained the temporary restraining order without notice or on such shorter notice to that party as the court may prescribe, the adverse party may appear and move its dissolution or modification and in that event the court shall proceed to hear and determine such motion as expeditiously as the ends of justice require.

(c) Security. No restraining order or preliminary injunction shall issue except upon the giving of security by the applicant, in such sum as the court deems proper, for the payment of such costs and damages as may be incurred or suffered by any party who is found to have been wrongfully enjoined or restrained. No such security shall be required of the Las Vegas Paiute Tribe or of an officer or agency thereof.

(d) Form and Scope of Injunction or Restraining Order. Every order granting an injunction and every restraining order shall set forth the reasons for its issuance; shall be specific in terms; shall describe in reasonable detail, and not by reference to the complaint or other document, the act or acts sought to be restrained; and is binding only upon the parties to the action, their officers, agents, servants, employees, and representatives, and upon those persons in active concert or participation with them who receive actual notice of the order by personal service or otherwise.

Comment: To the extent a civil procedural issue is not addressed by this title, or by Tribal common law, a Tribal Court judge may refer to the Federal Rules of Civil Procedure and cases construing the same; provided, however, that in no event shall reference to such federal rules be interpreted or construed as an explicit adoption of such rules.

[Prior Code § 3-80-020.]

3.80.025 Security – Proceedings against sureties.

Whenever these sections require or permit the giving of security by a party, and security is given in the form of a bond or stipulation or other undertaking with one or more sureties, each surety submits to the jurisdiction of the court and irrevocably appoints the Clerk of the Court as the surety's agent upon whom any papers affecting the surety's liability on the bond or undertaking may be served. The surety's liability may be enforced on motion without the necessity of an independent action. The motion and such notice of the motion as the court prescribes may be served on the Clerk of the Court, who shall forthwith mail copies to the sureties if their addresses are known.

Comment: To the extent a civil procedural issue is not addressed by this title, or by Tribal common law, a Tribal Court judge may refer to the Federal Rules of Civil Procedure and cases construing the same; provided, however, that in no event shall reference to such federal rules be interpreted or construed as an explicit adoption of such rules.

[Prior Code § 3-80-025.]

3.80.026 Offer of judgment.

At any time more than 10 days before the trial begins, a party defending against a claim may serve upon the adverse party an offer to allow judgment to be taken against the defending party for the money or property or to the effect specified in the offer, with costs then accrued. If within 10 days after the service of the offer the adverse party serves written notice that the offer is accepted, either party may then file the offer and notice of acceptance together with proof of service thereof and thereupon the Clerk shall enter judgment. An offer not accepted shall be deemed withdrawn and evidence thereof is not admissible except in a proceeding to determine costs. If the judgment finally obtained by the offeree is not more favorable than the offer, the offeree must pay the costs incurred after the making of the offer. The fact that an offer is made but not accepted does not preclude a subsequent offer. When the liability of one party to another has been determined by verdict or order or judgment, but the amount or extent of the liability remains to be determined by further proceedings, the party adjudged liable may make an offer of judgment, which shall have the same effect as an offer made before trial

if it is served within a reasonable time not less than 10 days prior to the commencement of hearings to determine the amount or extent of liability. [Prior Code § 3-80-026.]

3.80.030 Execution.

Process to enforce a judgment for the payment of money shall be a writ of execution, unless the court directs otherwise. The procedure on execution, in proceedings supplementary to and in aid of a judgment, and in proceedings on and in aid of execution shall be in accordance with the practice and procedure of the Las Vegas Paiute Tribe existing at the time the remedy is sought. In aid of the judgment or execution, the judgment creditor or a successor in interest when that interest appears of record, may obtain discovery from any person, including the judgment debtor, in the manner provided in these sections.

Comment: To the extent a civil procedural issue is not addressed by this title, or by Tribal common law, a Tribal Court judge may refer to the Federal Rules of Civil Procedure and cases construing the same; provided, however, that in no event shall reference to such federal rules be interpreted or construed as an explicit adoption of such rules.

[Prior Code § 3-80-030.]

3.80.040 Judgment for specific acts – Vesting title.

If a judgment directs a party to execute a conveyance of land or to deliver deeds or other documents or to perform any other specific act and the party fails to comply within the time specified, the court may direct the act to be done at the cost of the disobedient party by some other person appointed by the court and the act when so done has like effect as if done by the party. On application of the party entitled to performance, the Clerk shall issue a writ of attachment or sequestration against the property of the disobedient party to compel obedience to the judgment. The court may also in proper cases adjudge the party in contempt. If real or personal property is within the territorial jurisdiction of the court in lieu of directing a conveyance thereof the court may enter a judgment divesting the title of any party and vesting it in others and such judgment has the effect of a conveyance executed in due form of law. When any order or judgment is for the delivery of possession, the party in whose favor it is entered is entitled to a writ of execution or assistance upon application to the Clerk.

Comment: To the extent a civil procedural issue is not addressed by this title, or by Tribal common law, a Tribal Court judge may refer to the Federal Rules of Civil Procedure and cases construing the same; provided, however, that in no event shall reference to such federal rules be interpreted or construed as an explicit adoption of such rules.

[Prior Code § 3-80-040.]

3.80.050 Process in behalf of and against persons not parties.

When an order is made in favor of a person who is not a party to the action, that person may enforce obedience to the order by the same process as if a party; and, when obedience to an order may be lawfully enforced against a person who is not a party, that person is liable to the same process for enforcing obedience to the order as if a party.

Comment: To the extent a civil procedural issue is not addressed by this title, or by Tribal common law, a Tribal Court judge may refer to the Federal Rules of Civil Procedure and cases construing the same; provided, however, that in no event shall reference to such federal rules be interpreted or construed as an explicit adoption of such rules.

[Prior Code § 3-80-050.]

Chapter 3.90

COURTS AND CLERKS

Sections:

3.90.010 Courts and clerks.

3.90.010 Courts and clerks.

(a) Courts Always Open. The courts shall be deemed always open for the purpose of filing any pleading or other proper paper, of issuing and returning mesne and final process, and of making and directing all interlocutory motions, orders, and rules.

(b) Trials and Hearings – Orders in Chambers. All trials upon the merits shall be conducted in open court and so far as convenient in a regular courtroom. All other acts or proceedings may be done or conducted by a judge in chambers, without the attendance of the Clerk or other court officials and at any place either within or without the territorial jurisdiction of the court; but no hearing, other than one ex parte, shall be conducted outside the territorial jurisdiction of the court without the consent of all parties affected thereby.

(c) Notice of Orders or Judgments. Immediately upon the entry of an order or judgment the Clerk shall serve a notice of the entry by mail in the manner provided for in LVPTC 3.20.030 upon each party who is not in default for failure to appear, and shall make a note in the docket of the mailing. Any party may in addition serve a notice of such entry in the manner provided in LVPTC 3.20.030 for the service of papers.

Comment: To the extent a civil procedural issue is not addressed by this title, or by Tribal common law, a Tribal Court judge may refer to the Federal Rules of Civil Procedure and cases construing the same; provided, however, that in no event shall reference to such federal rules be interpreted or construed as an explicit adoption of such rules.

[Prior Code § 3-90-010.]

Chapter 3.100

GENERAL PROVISIONS

Sections:

3.100.010 Jurisdiction and Tribal sovereign immunity.
3.100.020 Rules of court.
3.100.030 Title.

3.100.010 Jurisdiction and Tribal sovereign immunity.

These sections shall not be construed to limit the jurisdiction of the court and nothing in these sections shall limit or constitute a waiver of sovereign immunity of the Las Vegas Paiute Tribe or its officers and instrumentalities.

Comment: To the extent a civil procedural issue is not addressed by this title, or by Tribal common law, a Tribal Court judge may refer to the Federal Rules of Civil Procedure and cases construing the same; provided, however, that in no event shall reference to such federal rules be interpreted or construed as an explicit adoption of such rules.

[Prior Code § 3-100-010.]

3.100.020 Rules of court.

The court by action of a majority of its judges, may from time to time make and amend supplementary rules governing its practice; provided, however, that such supplementary rules as are adopted by the court pursuant to this section are not inconsistent with this title and are approved by the Board of Directors of the Las Vegas Paiute Tribe.

Comment: To the extent a civil procedural issue is not addressed by this title, or by Tribal common law, a Tribal Court judge may refer to the Federal Rules of Civil Procedure and cases construing the same; provided, however, that in no event shall reference to such federal rules be interpreted or construed as an explicit adoption of such rules.

[Prior Code § 3-100-020.]

3.100.030 Title.

These sections may be known and cited as the Las Vegas Paiute Tribe Rules of Civil Procedure.

Comment: To the extent a civil procedural issue is not addressed by this title, or by Tribal common law, a Tribal Court judge may refer to the Federal Rules of Civil Procedure and cases construing the same; provided, however, that in no event shall reference to such federal rules be interpreted or construed as an explicit adoption of such rules.

[Prior Code § 3-100-030.]

Title 4

CRIMINAL PROCEDURE

Chapters:

4.10	**General Provisions**
4.20	**Complaints and Initiation of Prosecution**
4.30	**Arrests, Summons, and Citations**
4.40	**Searches and Seizures**
4.50	**Procedure Before Trial**
4.60	**Trials**
4.70	**Procedure After a Verdict or After Trial**

Chapter 4.10

GENERAL PROVISIONS

Sections:

4.10.010 Definitions.
4.10.020 Time limit for commencing criminal prosecution.
4.10.030 Rights of a defendant.
4.10.040 Habeas corpus.
4.10.050 Multiple offenses and defendants.

4.10.010 Definitions.

"Accused" means a defendant, or any other person suspected of the commission of an offense.

"Arrest" means the taking into custody of a person so that he may be charged with an offense.

"Defendant" means a person charged with the commission of an offense, at any stage of the proceedings after a judge has issued a summons or warrant upon a sworn complaint.

"Evidence" means anything tending to show that an offense was or was not committed, or tending to prove or disprove some fact relevant to the commission of an offense.

"Felony" means any crime punishable by a fine of more than $500.00 or imprisonment for more than six months or both, established by some jurisdiction other than the Tribe.

"Fruit of an offense" means anything the possession of which relates to an offense, such as stolen goods, money or proceeds from the sale of stolen goods or items purchased with stolen money.

"Instrumentality" means anything used to commit or aid in the commission of an offense.

"Motion" means an oral or written request of the court for an order, stating the grounds upon which it is made, setting forth the relief or order sought, and if necessary, supported by sworn written statements.

"Offense" means any act or failure to act which is prohibited by this Code and which is punishable by fine, imprisonment, or both.

"Party" means the defendant or defendants, or the prosecutor.

"Probable cause" means reasonably reliable prior knowledge of facts and circumstances which would justify a careful and curious person in his beliefs or actions.

"Prosecutor" means any person who represents the case against the defendant. The prosecutor may be any person designated by the Council or Chief Tribal Judge, including a complaining witness or a Tribal judge, including a complaining witness or a Tribal police officer who is a complaining witness. The prosecutor shall be considered to be acting on behalf of the Tribe in prosecuting the case against the defendant. No Tribal judge shall act as prosecutor.

"Representative" means any person with authority to speak or act on behalf of another pursuant to LVPTC 1.80.010.

"Tribal police officer" means any person commissioned by resolution of the Tribal Council to enforce all of the Tribal laws. This does not include persons holding limited commissions from the Tribal Council to enforce only portions of the Tribe's laws; such persons shall have all powers of a Tribal police officer only when enforcing laws within the scope of their commission.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 4-10-010.]

4.10.020 Time limit for commencing criminal prosecution.

No prosecution for an offense under this Code shall be maintained unless the arraignment of the accused occurs within one year after the commission of the offense. Time during which the accused is outside the jurisdiction of the court, for whatever reason, shall not be included in this one-year time limit.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 4-10-020.]

4.10.030 Rights of a defendant.

(a) In addition to rights set forth elsewhere in this Code, every defendant in a criminal proceeding shall have the following rights:

(1) To receive, at or prior to arraignment, written notice of the offense charged, including the section number and heading of the Code provision allegedly violated, a brief summary of the facts constituting the alleged offense, and a statement of the place and time the offense is alleged to have occurred.

(2) To receive written notice of the place and time when his case will be heard.

(3) To appear and present a defense, in person or by a representative, except that the defendant shall not have a right to an appointed representative at the Tribe's expense. However, the Tribal Court may prepare a list of volunteer representatives, and upon request by the defendant or his own motion may appoint a volunteer representative in any case where the defendant has no representative of his choice.

(4) To testify in his own behalf, or refuse to testify regarding the charge against him; provided, however, that once a defendant testifies on any matter relevant to the immediate proceeding against him, he shall be deemed to have waived all right to refuse to testify on all matters relevant to the immediate charges against him at trial and at later proceedings in that case. Testimony by a defendant on a motion to suppress evidence does not affect his right to refuse to testify at trial.

(5) To present evidence on his own behalf, in accord with the rules of evidence contained in LVPTC Title 6.

(6) To use subpoenas to compel the attendance of witnesses on his own behalf, where such witnesses are within the jurisdiction of the court.

(7) To confront and cross examine all witnesses against him.

(8) To have a speedy public trial by an impartial judge or jury.

(9) To appeal the decision of the trial court and to have such an appeal heard within four months of the date of the appeal.

(10) Not to be twice put in jeopardy for the same offense. Jeopardy, or the danger of conviction, arises at the beginning of trial, at the earliest occurrence of any of the following events:

(A) The swearing of the jury (LVPTC 4.60.020(f)).

(B) The first word of the prosecution's opening statement (LVPTC 4.60.050(b)); or

(C) Hearing of the first word of evidence at trial (LVPTC 4.60.050(c)).

(b) Remedies. If any of the rights of a defendant listed in subsection (a) of this section are denied or violated, the case against the defendant must be dismissed, and cannot thereafter be renewed. A defendant may assert a violation of these rights in any or all of the following procedures: a motion to dismiss (LVPTC 4.50.060); a writ of habeas corpus (LVPTC 4.10.040); or an appeal (LVPTC 1.90.020 or this section).

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 4-10-030.]

4.10.040 Habeas corpus.

(a) Right to a Writ of Habeas Corpus. A petition for a writ of habeas corpus may be filed by any person who believes that he or another is wrongfully imprisoned, held, or in any way restrained of liberty by the Tribal Court, a Tribal police officer, or any other person, in violation of the rights of the person under any applicable law. A petition may be filed by a person on his own behalf or on behalf of another person believed to be wrongfully restrained of liberty.

(b) Contents of Petition. Any person wishing to exercise the right to writ of habeas corpus shall file with the court a simple pleading stating:

(1) The name of the person held or restrained of liberty;

(2) The name of the individual or institution holding or restraining the liberty of the person held;

(3) The reasons the holding or restraining of liberty is felt to be unlawful, including, if possible, references to sections of this Code alleged to be violated;

(4) The name and signature of the person filing the petition as petitioner.

(c) Issuance of a Writ of Habeas Corpus. If a petition for a writ of habeas corpus fulfills the requirements of subsection (b) of this section, the Tribal judge shall issue a writ of habeas corpus. The writ shall direct the individual or institution restraining the liberty of the person held to appear at a hearing before the court, with the person held.

(d) Hearing on a Writ of Habeas Corpus. The hearing on writ of habeas corpus shall consider evidence on the unlawfulness of the restraint of the person held. The petitioner shall first present his evidence on behalf of the person being held, and shall have the burden of proving by a preponderance of the evidence that the restraint is unlawful.

(e) Order of Freedom. If the judge determines that the restraint of liberty is unlawful, the judge shall issue an order of freedom, ordering the release of the person held.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 4-10-040.]

4.10.050 Multiple offenses and defendants.

(a) Two or more offenses may be charged in the same complaint, if the Code provision section number and heading for each offense is separately listed, and if all such offenses are based on the same acts or transactions or constitute parts of a common scheme or plan.

(b) Two or more defendants may be charged in the same complaint if they are alleged to have participated in the same acts or transactions constituting an offense or offenses. Such defendants may be charged with one or more offenses together or separately, and all of the defendants need not be charged with each offense.

(c) Defendants or offenses may be joined where one defendant is charged with an offense against another.

(d) The court may order two or more defendants tried together if they could have been joined in a single complaint, or may order a single defendant tried on more than one complaint at a single trial.

(e) If it would be unfair to any party for any reason to join offenses or defendants, the judge shall order separate complaints and may order separate trials to provide such other relief as justice requires. The judge may take such actions on his own motion or upon motion of a party.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 4-10-050.]

Chapter 4.20

COMPLAINTS AND INITIATION OF PROSECUTION

Sections:

4.20.010 Complaint required.
4.20.020 Complaint defined.
4.20.030 Contents of complaint.
4.20.040 Assistance in preparing complaint.
4.20.050 Filing complaint.
4.20.060 Probable cause to arrest upon complaint, warrant or summons.
4.20.070 Filing complaint after arrest.

4.20.010 Complaint required.

All criminal prosecutions for violation of this Code shall be initiated by a complaint.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 4-20-010.]

4.20.020 Complaint defined.

A complaint is a written statement, sworn to by the complaining witness as required by LVPTC 4.20.030(d), charging that a named or described person or persons have committed a particular offense.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 4-20-020.]

4.20.030 Contents of complaint.

A complaint shall contain:

(a) The name or description of the person or persons alleged to have committed the offense; and

(b) A written statement describing in ordinary language the facts constituting the offense, including the time and place as nearly as is known; and

(c) The section number and heading of the Code provision allegedly violated; and

(d) The oath and signature of the complaining witness, sworn before a Tribal judge, the Court Clerk, a Tribal police officer, or a person designated by a Tribal judge. The complaining witness may be a Tribal police officer or any other person. The oath shall state that, under penalties of perjury, the complaining witness knows or believes the truth of the complaint.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 4-20-030.]

4.20.040 Assistance in preparing complaint.

The Chief Judge of the Tribal Court may designate by court order the Court Clerk or other persons who shall be available to assist persons in drawing up complaints.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 4-20-040.]

4.20.050 Filing complaint.

Complaints shall be filed and submitted without unnecessary delay to a Tribal judge to determine whether a warrant or summons should be issued.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 4-20-050.]

4.20.060 Probable cause to arrest upon complaint, warrant or summons.

If the complaint, or the complaint together with other sworn statements, is sufficient to establish probable cause to believe that an offense has been committed by the person charged, the Tribal judge shall either:

(a) Issue an arrest warrant instructing the Tribal police to arrest the named accused; or

(b) Issue, for service upon the accused, a summons commanding the accused to appear before the court at a specified time and place to answer to the charge.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 4-20-060.]

4.20.070 Filing complaint after arrest.

When an accused has been arrested without a warrant, a complaint shall be filed with the court immediately, for review as to whether there is probable cause to hold the accused. Failure to file a complaint at or prior to arraignment shall require an immediate dismissal of the case at arraignment. A case so dismissed may be renewed by filing a complaint in the manner set forth in this chapter.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 4-20-070.]

Chapter 4.30

ARRESTS, SUMMONS, AND CITATIONS

Sections:

4.30.010 Arrest by Tribal police officer.
4.30.020 Arrest by private citizen.
4.30.030 Fresh pursuit.
4.30.040 Arrest warrants.
4.30.050 Return of warrant.
4.30.060 Rights at time of arrest.
4.30.070 Telephone calls.
4.30.080 Summons instead of arrest warrants.
4.30.090 Citations.
4.30.100 Extradition.

4.30.010 Arrest by Tribal police officer.

A Tribal police officer may arrest a person for an offense when:

(a) The officer has a warrant signed by a Tribal judge commanding the arrest of a person, or the officer knows for a certainty that a warrant has been issued and is outstanding; or

(b) The offense is committed in the presence of the arresting officer; or

(c) The officer knows for a certainty that an offense has been committed and has probable cause to believe the person to be arrested has committed the offense, and obtaining a warrant would involve a dangerous delay, considering the likelihood of a breach of the peace, injury to persons or property, or escape of the accused.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 4-30-010.]

4.30.020 Arrest by private citizen.

A private citizen may arrest any person when:

(a) He has probable cause to believe that an offense is being committed or attempted in his presence by the person to be arrested; or

(b) When a felony in another jurisdiction has in fact been committed and he has prob-

able cause to believe that the person to be arrested has committed it.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 4-30-020.]

4.30.030 Fresh pursuit.

(a) Defined. The effort made to capture a person suspected of committing an offense, immediately or without unreasonable delay after the commission of the offense.

(b) By Tribal Police Officer. A Tribal police officer may leave the Tribe's jurisdiction in fresh pursuit of a person suspected of committing a Class A or B offense.

(c) Fresh Pursuit by Outside Officers. *Choice 1.*

Any officer of a state, county, municipal, federal, or tribal law enforcement organization who enters the Tribe's jurisdiction in fresh pursuit of a person in order to arrest him on the ground that he is believed to have committed a felony in another jurisdiction, shall have the same authority to arrest and hold such person in custody as the officer had in his own jurisdiction. The suspect need not be held within the Reservation boundaries but the arresting officer immediately shall advise a Tribal police officer of the arrest. The Tribal police officer shall make a written record and shall inform the Tribal Court.

(c) Fresh Pursuit by Outside Officers Not Allowed. *Choice 2.*

No officer of a state, county, municipal, federal, or other tribal law enforcement organization may enter the Tribe's jurisdiction in fresh pursuit of a person in order to arrest him on the ground that he is believed to have committed any crime, felony or otherwise, in another jurisdiction.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 4-30-030.]

4.30.040 Arrest warrants.

(a) Power to Issue Arrest Warrants. Every Tribal Court judge has authority to issue warrants to arrest. An arrest warrant shall be issued only upon showing of probable cause in a complaint meeting the requirements of LVPTC 4.20.030.

(b) Contents of Warrant. The arrest warrant shall contain the following information:

(1) The name, if known, or description of the person to be arrested, and his address, if known.

(2) The date of issuance of the warrant.

(3) The section number and heading of the Code provision allegedly violated.

(4) The place and time the offense is alleged to have occurred.

(5) The signature of the issuing judge.

(c) Length of Time Warrant Is Valid. An arrest warrant may be executed only between the hours of 7:00 a.m. and 9:00 p.m., unless the accused is apprehended in a public place or unless the Tribal judge specifies other hours in which the warrant may be executed.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 4-30-040.]

4.30.050 Return of warrant.

The officer who has executed the warrant shall sign the warrant stating the time and place of arrest and return the warrant to the Court Clerk for filing.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 4-30-050.]

4.30.060 Rights at time of arrest.

Upon arrest, the accused shall be advised of the following:

(a) That he has the right to remain silent and make no statements whatsoever.

(b) That, should he make any statement, he retains the right to stop talking at any time.

(c) That any statements made by him may be used against him in court.

(d) That he has the right to obtain a representative at his own expense, and to consult in private with his representative before making any statements or answering any questions.

(e) That if he is unable to obtain a representative of his own choice he may ask the judge to appoint a volunteer representative to assist him, and that if a volunteer representative is appointed, he has the right to consult in private with that representative before making any statements or answering any questions.

(f) That he has the right to make telephone calls.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 4-30-060.]

4.30.070 Telephone calls.

(a) Any person arrested has the right to make at least one completed telephone call to a family member, friend or bail bondsman; and at least one completed call to a representative.

(b) The accused shall be allowed to make telephone calls under subsection (a) of this section immediately after being registered and identified at the jail, or sooner if there is a delay in taking the accused to jail or in processing at the jail. In no event shall the delay from time of arrest to the making of telephone calls be longer than three hours unless it is impossible for the accused to reach a telephone within three hours.

(c) The accused has the right, at appropriate times, to make a reasonable number of telephone calls, including at least two calls per day to make arrangements for his family and business or job.

(d) A denial of the right to call someone under subsection (a) of this section shall be grounds for a dismissal of the case, unless the judge finds there was good reason for the denial. A denial of the right to make calls to arrange the affairs of family and business or job under subsection (c) of this section shall create a civil cause of action for damages against the person responsible. If no actual damage is shown, or if actual damages are less than $200.00, minimum damages of $200.00 shall be awarded.

(e) Telephone calls may be limited to local calls, except that long distance calls may be made by the accused at his own expense.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 4-30-070.]

4.30.080 Summons instead of arrest warrants.

(a) Power to Issue Summons. Whenever authorized to issue an arrest warrant for an accused who has been identified, a Tribal judge instead may issue a summons commanding the accused to appear before the Tribal Court at a stated time and place to answer the charge. In determining whether to issue a summons, the judge may consider the following factors concerning the accused:

(1) Whether detention appears reasonably necessary to prevent injury to property, a breach of the peace, or imminent bodily harm to the accused or another;

(2) His employment, residence, family ties and other relationships to the community;

(3) The nature of the crime charged and his prior criminal record including the record of prior release on recognizance or bail;

(4) Any other factors bearing on the risk of willful failure to appear.

(b) Contents of Summons. A summons shall contain the same information as a warrant, as required by LVPTC 4.30.040(b).

(c) Failure to Answer Summons. If a defendant fails to appear in response to a summons, a warrant for his arrest shall be issued.

(d) Routine Issuance of Summons. The Chief Tribal Judge may prepare a list of offenses for which a summons will routinely be issued instead of an arrest warrant.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 4-30-080.]

4.30.090 Citations.

(a) Power of Judge. In addition to offenses for which this Code specifies that citations may be issued, the Chief Tribal Judge may prepare a list of those offenses for which citations may be issued.

(b) Issuing Citations.

(1) Any Tribal police officer who apprehends a Reservation resident for an offense for which a citation may be issued shall issue a citation to the person and release the person. The officer shall file the citation instead of a complaint.

(2) Any nonresident of the Reservation apprehended for an offense for which a citation may be issued shall be released after he has posted bail with the Court Clerk or other authorized official. The amount of bail posted shall be determined by the bail schedule established pursuant to LVPTC 4.50.030.

(c) Content of Citation. The citation shall contain the sane information as an arrest warrant under LVPTC 4.30.040(b)(1), (2) and (3), the signature of the issuing officer, and such further information as may be required by other Code titles, and shall command the person to either appear before the Tribal Court at a stated time and place to answer the charge or to post and forfeit bail as provided in subsections (d) and (e) of this section.

(d) Bail for Citation. All criminal offenses for which citations may be issued shall be listed on the bail schedule described in LVPTC 4.50.030. Persons issued citations shall be allowed to pay and forfeit the listed bail rather than appear and answer to the charge as directed by the citation.

(e) Failure to Either Pay and Forfeit Bail or Appear.

(1) If bail has been posted and the defendant does not appear, the judge shall enter a judgment of conviction, impose a fine equal to the bail and treat the bail as payment of the fine.

(2) If a person to whom a citation was issued neither pays and forfeits bail nor appears, a warrant shall be issued for his arrest.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 4-30-090.]

4.30.100 Extradition.

(a) Requirement of Tribal Arrest Warrant. Except as otherwise provided by federal law or this Code, no person shall be arrested within jurisdiction of the Tribe for an offense committed outside that jurisdiction, unless a Tribal arrest warrant has been obtained. Law enforcement officers of another jurisdiction who seek to arrest any person within the jurisdiction of the Tribe, or Tribal law enforcement officers wishing to serve an off-Reservation warrant, shall apply for a Tribal arrest warrant in accord with this section.

(b) Application for a Tribal Arrest Warrant.

(1) An application by law enforcement officers of another jurisdiction for a warrant to arrest a person within the Tribal jurisdiction shall be made in a form substantially complying with LVPTC 4.30.040.

(2) If the application and accompanying documents give the Tribal judge probable cause to believe that a felony, gross misdemeanor or misdemeanor has been committed, that the person charged has committed it, and that the court seeking arrest of the person has jurisdiction over the crime, then the judge shall issue a Tribal arrest warrant to be executed and returned as are other Tribal arrest warrants.

(c) Other Tribal Jurisdictional Requests. Notwithstanding the provisions of subsection (b) of this section, applications for extradition by other Tribal jurisdictions may be made under this section for any crime that would be an offense under this Code.

(d) Rights of Extradition Defendant. A person arrested under this section shall have all the rights of a defendant under LVPTC 4.10.030, 4.30.060, and 4.30.070.

(e) Arraignment and Bail of Extradition Defendant.

(1) A person arrested under this section shall be arraigned as provided in LVPTC 4.50.050 and asked if he wishes to waive or oppose extradition.

(2) A person arrested under this section may be admitted to bail under standards appropriate to the offense with which he is charged in the other jurisdiction.

(f) Waiver of Extradition. If a defendant waives extradition he shall be transferred to the custody of law enforcement officers of the other jurisdiction upon their request.

(g) Opposition to Extradition. If a defendant wishes to oppose extradition, the Tribal judge shall hold an extradition hearing as soon as possible, but no more than one month after arraignment.

(h) Extradition Hearing. At the extradition hearing, if representatives of the other jurisdiction prove that it is more likely than not that a felony, gross misdemeanor or misdemeanor has been committed in the other jurisdiction, that there is probable cause to believe the defendant committed it, and that the other jurisdiction has jurisdiction over the crime, then the Tribal judge shall order extradition.

(i) Extradition Appeal. If extradition is ordered, the defendant shall be informed of his right to orally request 10 days to file an appeal. If the defendant does not then immediately request this time to appeal he shall be considered to have waived his right to appeal, and shall be transferred to the custody of law enforcement officers of the other jurisdiction upon their request.

(j) Bail on Extradition Appeal. A defendant who has been ordered to be extradited shall be held in custody until an appeal is filed, but may be readmitted to bail after an appeal is filed. [Res. 04-002, 2004; Res. 10-27-77B, 1977. Prior Code § 4-30-100.]

Chapter 4.40

SEARCHES AND SEIZURES

Sections:

4.40.010 Search warrants.
4.40.020 Search warrants by telephone.
4.40.030 Searches without a warrant.
4.40.040 Disposition of seized property.
4.40.050 Unlawful searches and seizures.
4.40.060 Search warrants for other jurisdictions.

4.40.010 Search warrants.

(a) Issuance of Search Warrants.

(1) Every Tribal judge has the power to issue warrants for the search and seizure of any property, premises or person within the jurisdiction of the court.

(2) No warrant of search and seizure shall be issued except upon a written and sworn application by a Tribal police officer, based upon reliable information from the officer or others, that gives the judge probable cause to believe that an offense has occurred and that a search will discover:

(A) Property that is stolen or otherwise illegal to possess; or

(B) Property which has been or is being used as an instrumentality to commit a crime; or

(C) Evidence or fruits of a crime.

(b) Contents of Search Warrant.

(1) The search warrant shall be directed to a Tribal police officer for execution. It shall:

(A) Give the name of the person(s) whose statements were taken in support therefor;

(B) State the section number and heading of the Code provision allegedly violated;

(C) Specifically name or describe the place or person to be searched and the property to be seized;

(D) Command the police officer to search forthwith the person or place named for the property specified;

(E) Be signed by the issuing judge.

(2) The warrant shall direct that it be served between 7:00 a.m. and 9:00 p.m., un-

less the Tribal judge, upon a showing of good cause therefor, inserts a direction that it be served at some other time.

(3) The warrant shall state that it must be executed within a specified time no more than 10 days after the date of issuance, and shall name the Tribal judge to whom it shall be returned.

(c) Execution and Return of Search Warrant.

(1) Search and seizure warrants shall be executed only by Tribal police officers. The executing officer shall search the place described in the warrant and shall return the warrant to the Tribal Court within the time shown on the face of the warrant, together with items seized in the search, if any, and a written description of the time and place of the search and the items seized.

(2) Warrants not executed within 10 days of issuance, or any shorter time specified by the Tribal judge, shall be void. Any search or seizure under a void warrant shall be unlawful and subject to provisions of LVPTC 4.40.040 relating to unlawful searches and seizures.

(3) In the execution of any search warrant, no persons or places other than those specifically described in the warrant shall be searched, and no property other than that specified in the warrant shall be seized. However, the executing officer may seize other property listed in subsection (a)(2) of this section, if such property is in plain view or otherwise is plainly noticeable to the physical senses of the officer.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 4-40-010.]

4.40.020 Search warrants by telephone.

(a) Availability. Regardless of the provisions of LVPTC 4.40.010(a)(2), a Tribal judge may issue a search warrant based upon the sworn oral testimony of a person who is not in the physical presence of the Tribal judge, when:

(1) It is not practical for the person presenting the testimony to personally appear before the Tribal judge;

(2) The immediate issuance of the search warrant based upon such oral testimony is necessary in order to permit an immediate search; and

(3) There is a significant danger that failure to grant a search warrant by telephone will result in the concealment or destruction of the objects sought.

(b) Procedure.

(1) To obtain a search warrant pursuant to this section, a Tribal police officer or other person shall give sworn oral testimony to a Tribal judge, by telephone or by other electronic means of communication. This testimony shall be recorded and transcribed, and after transcription shall be certified by the Tribal judge and filed with the court.

(2) The issuance of a search warrant may be authorized only if the sworn oral testimony gives the judge probable cause to believe that an offense has occurred and that a search will discover:

(A) Property that is stolen or otherwise illegal to possess; or

(B) Property which has been or is being used as an instrumentality to commit a crime; or

(C) Evidence or fruits of a crime.

(3) The Tribal police officer requesting the warrant shall read to the Tribal judge the language of the proposed warrant. The Tribal judge may direct that the language of the proposed warrant be modified as necessary. The Tribal judge may then approve the warrant and may authorize the Tribal police officer requesting the warrant to sign the judge's name to the warrant. At the same time, the Tribal judge shall prepare a duplicate original warrant, with language identical to the warrant authorized to be issued, shall sign the duplicate original warrant at the same time as he authorizes the signing of the original warrant, and shall indicate on the duplicate original warrant the exact time of issuance.

(4) The original warrant completed by the Tribal police officer shall be a valid search

warrant for all purposes. The duplicate original warrant completed by the Tribal judge shall be filed with the court and shall remain a part of the court record of the case. When the original warrant is returned to the Tribal Court, the person upon whose sworn oral testimony the warrant was based shall sign, under oath, a copy of the transcript of that testimony.

(c) Liability of Police Officers and Others. Any person who gives false or misleading oral testimony in order to obtain a search warrant pursuant to this section shall be criminally liable for the offense of perjury, LVPTC 5.60.050. Any person who knowingly fails to follow the procedures set forth in this section shall be criminally liable for official misconduct, LVPTC 5.60.030.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 4-40-020.]

4.40.030 Searches without a warrant.

(a) Policy Favors Warrant. It is the policy of the Tribe that a search warrant be obtained under LVPTC 4.40.010 or 4.40.020, unless unusual circumstances make it impossible to obtain a search warrant.

(b) Power to Search. A Tribal police officer may conduct a search and seize property without a valid warrant when:

(1) Incident to making a lawful arrest, the search is limited to a search of the person himself and the immediate surrounding area within which the person arrested might find a weapon before the officer could protect himself, or might destroy evidence before the officer could prevent it.

(2) The search is with the consent of the person to be searched or a person with authority over the place to be searched, after that person has been informed of his right to require the officer to obtain a search warrant.

(3) In the absence of arrest, the officer has reason to believe that the person to be searched may be armed and dangerous, but any such search shall be limited to a pat down or frisk of the suspect solely to determine the existence of weapons.

(4) The search is of a vehicle capable of moving on its own power or from which items would probably be taken before a warrant could be obtained, and the officer has probable cause to believe the vehicle contains property which could be seized with a search warrant under LVPTC 4.40.010(a).

(c) Arrest After Pat and Frisk. If, in the course of a pat down or frisk under subsection (b)(3) of this section, the officer gains probable cause to arrest, he may do so.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 4-40-030.]

4.40.040 Disposition of seized property.

(a) Inventory. Tribal police seizing property, by warrant or otherwise, shall make an inventory of all such seized property. A copy of this inventory shall be left with the person from whom the property was taken.

(b) Hearing and Disposition.

(1) After the seizure of property, the Tribal Court shall hold a hearing in accord with subsection (c) of this section, to determine the disposition of such property.

(2) Upon petition by a person claiming ownership, after a hearing and presentation of satisfactory proof, the seized property shall be delivered to the owner, unless the property is being confiscated pursuant to subsection (d) of this section or is to be used as evidence in a still pending case.

(3) Property held as evidence shall be returned to the owner after final judgment, unless it falls under the provisions of subsection (d) of this section.

(4) Property confiscated under subsection (d) of this section shall be either destroyed, sold at public auction with the proceeds retained for the benefit of the Tribe, or otherwise lawfully disposed of as ordered by the court.

(5) The Clerk of the Court shall keep written records of all transfers, sales and

other dispositions of property taken into custody of the Tribal Court and shall issue appropriate certificates of title to new owners.

(c) Time of Hearing. The hearing to determine ownership of seized property may be held at any time after the seizure, but only after at least five days' notice to all persons claiming ownership of the property on which a hearing is to be held, and no more than four months after the criminal trial of the matter.

(d) Confiscation.

(1) The Tribe shall confiscate and take ownership of property that is illegal to possess and may confiscate and take ownership of property that was instrumental in the commission of a crime and used either by the owner or with the owner's knowledge and acquiescence in the use and commission of the crime.

(2) If property was confiscated because it was instrumental in the commission of a Class A offense, the Tribe shall pay to the owner the amount, if any, that the value of property exceeds twice the maximum fine(s) for the offense(s) of which the defendant is convicted, as listed in LVPTC 4.70.070(a).

(3) If the property was confiscated because it was instrumental in the commission of an offense lesser than Class A, the Tribe shall pay the owner the amount, if any, that the value of the property exceeds the maximum fine(s) for the offense(s) of which the defendant is convicted, as listed in LVPTC 4.70.070(a).

(4) If a defendant is also the owner of seized property, the value of any confiscation resulting from the offense shall be separate from and not instead of any sentence imposed upon conviction of the offense.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 4-40-040.]

4.40.050 Unlawful searches and seizures.

(a) Exclusion of Evidence.

(1) Illegally obtained evidence shall not be admissible. After an unlawful search and seizure, whether as a result of an arrest with or without a warrant or as a result of a search with or without a warrant, any person may make a motion for the return of the property and to exclude from use as evidence anything obtained by the unlawful search and seizure.

(2) If the court finds that the evidence was obtained as the result of an illegal search and seizure, the evidence shall not be admissible at any hearing or trial. The evidence shall be returned to the owner or otherwise dealt with as provided in LVPTC 4.40.040.

(b) Basis for Exclusion. Any of the following are a basis for a motion to exclude evidence:

(1) That the property was illegally seized without warrant contrary to LVPTC 4.40.030;

(2) That the warrant was insufficient on its face in that it did not meet the requirements of LVPTC 4.40.010(b)(1);

(3) That there was not probable cause to issue the warrant under LVPTC 4.40.010(a);

(4) That the warrant was illegally executed contrary to LVPTC 4.40.010(c).

(c) Raising Search and Seizure Objections. Objections to the admissibility of any evidence may be made in any of the following ways:

(1) By written motion to suppress illegally seized evidence, such motion to be made at least five days prior to the date set for trial of the offense. Upon proper filing of a motion, a pretrial exclusionary hearing shall be held to determine the admissibility of the suspect evidence and the possible imposition of supplementary sanctions, as provided in subsection (d) of this section;

(2) The Tribal judge may inquire verbally of the parties at arraignment or immediately before trial as to whether there is any seized evidence which will be presented in the case, and if so, whether there is any objection to its admissibility. Argument may be heard on its admissibility at the time of inquiry or at a later date to be determined by the judge;

(3) The trial may proceed until such time as the suspect evidence is offered and objection is made, at which time argument may be heard on its admissibility.

(d) Supplementary Remedies for Illegal Searches and Seizures. Upon a finding of illegal search and seizure, the Tribal judge shall consider the degree of police misconduct and the seriousness of the crime charged and may, in addition to the exclusion of illegally obtained evidence, impose any one or more of the following sanctions:

(1) Recommend to the Tribal Council that the offending officer be suspended from the Tribal police force for a period not to exceed 30 days.

(2) Recommend the removal of the offending officer from the Tribal police force.

(3) Order the filing of criminal trespass or other charges against the offending officer.

(4) Recommend that the defendant file a civil suit for trespass or other damages.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 4-40-050.]

4.40.060 Search warrants for other jurisdictions.

(a) Requirement. Except as otherwise provided by federal law or this Code, no search or seizure of any person or property within the jurisdiction of the Tribe shall take place except pursuant to valid search warrant, issued by the Tribal Court, even though the offense involved may have occurred in another jurisdiction.

(b) Application. An application by law enforcement officers of another jurisdiction for a search warrant within the Tribal jurisdiction may be made in a form substantially complying with LVPTC 4.40.010.

(c) Issuance and Execution. If the application and accompanying documents give the Tribal judge probable cause to believe that a felony has occurred, over which the government requesting the search has jurisdiction, and that the search will discover property which will substantially aid the requesting government and which is stolen, or illegal to possess or it is the instrumentality, evidence, or fruit of a crime, then the judge shall issue a Tribal search warrant to be executed and returned as are other Tribal search warrants.

(d) Other Tribal Jurisdiction Requests. Notwithstanding the provisions of subsection (c) of this section, applications for search warrants by other Tribal jurisdictions may be made under this section for any crime that would be an offense under this Code.

(e) Disposition of Seized Items. Items seized under subsection (c) or (d) of this section may be relinquished by the judge to the custody of the other jurisdiction upon the condition that the other jurisdiction agrees that the items shall be returned to the Tribe when no longer needed for the criminal prosecution. When returned, the items shall be disposed of in accordance with LVPTC 4.40.040.

(f) Reciprocity for Search Warrants. None of the provisions of this section shall apply on behalf of any jurisdiction unless that jurisdiction consents in writing to apply its search warrant procedures on behalf of the Tribe.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 4-40-060.]

Chapter 4.50

PROCEDURE BEFORE TRIAL

Sections:

4.50.010 Confessions.
4.50.020 Presence of the defendant required.
4.50.030 Release prior to trial.
4.50.040 Reserved.
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4.50.010 Confessions.

(a) Illegal Confessions. It shall be illegal to obtain a confession from an accused by means of fraud, force, threats, or a denial of the rights listed in LVPTC 4.10.030 and 4.30.060 and elsewhere within this Code.

(b) Excluding Confessions. Any confession illegally obtained may be excluded from use as evidence by procedures substantially the same as for excluding other evidence under LVPTC 4.40.040(c), and the accused shall have all the rights and remedies of LVPTC 4.40.040(d).

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 4-50-010.]

4.50.020 Presence of the defendant required.

The defendant shall be present at any bail hearing, at the arraignment, at every stage of the trial including the selection of the jury and the return of the verdict, and at the imposition of sentence, unless the court orders the defendant removed for continued misconduct, in which case the proceeding may proceed in the defendant's absence. However, the defendant may, by choice, be absent from any portion of the proceeding other than arraignment and sentencing so long as a representative of the defendant appears and the defendant's absence does not delay or interfere with the orderly progress of the case.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 4-50-020.]

4.50.030 Release prior to trial.

(a) Subject to the discretion of the presiding Tribal judge to modify, limit or deny bail pursuant to this section, bail amounts for classified expenses shall be as follows:

(1) If the offense is a Class A offense, bail shall not exceed $5,000;

(2) If the offense is a Class B offense, bail shall not exceed $4,000;

(3) If the offense is a Class C offense, bail shall not exceed $3,000;

(4) If the offense is a Class D offense, bail shall not exceed $2,000;

(5) If the offense is a Class E offense, bail shall not exceed $1,000.

(b) Bail for Unclassified Offenses. The Chief Judge of the Tribal Court may, on a case-by-case basis, establish a maximum bail to be paid for any offense where specific bail has not been set (i.e., any offense not classified A, B, C, D or E).

(c) Defendants are entitled to a bail hearing within 72 hours after arrest. Additional hearings to review bail may be held at any time. Telephonic or video bail hearings are permissible.

(d) At their bail hearing every defendant may, subject to the discretion of the presiding Tribal judge to limit or deny bail, be eligible for release from custody upon payment of cash bail (in amount determined pursuant to the provisions of this section) or upon personal recognizance and contract to appear, unless the Tribal judge determines that such a release would not reasonably assure the appearance of the defendant at trial.

(e) Factors in Setting Bail. In determining the risk of nonappearance and in setting bail, the Tribal judge shall take into account the following factors concerning the accused:

(1) Whether detention appears reasonably necessary to prevent injury to property, a breach of the peace, or bodily harm to the accused or to another;

(2) His employment, residence, family ties, and other relationships to the community;

(3) The nature of the offense charged and his proper criminal record, including the record of prior release on recognizance or bail;

(4) Any other factors bearing on the risk of willful failure to appear.

(f) Conditions of Release. In addition to or instead of a release on personal recognizance or on money bail, the Tribal judge may release the accused under any one or more of the following conditions, as necessary to assure the appearance of the accused at the required times:

(1) Release to the custody of a designated person or organization agreeing to assure the accused's appearance;

(2) Release with reasonable restrictions on the travel, association, or place of residence of the accused during the period of release;

(3) Release after execution of an agreement by two responsible members of the community to pay and forfeit the accused's bail if he shall fail to appear; and

(4) Release upon any other condition deemed reasonably necessary to assure the appearance of the accused as required.

(g) Denying Bail. If the Tribal judge has substantial reason to believe that no condition of release will reasonably assure the appearance of the accused, or that release of the accused is likely to pose a danger to the community, to the accused, or to any other person, the Tribal judge may order detention of the accused.

(h) Subject to the discretion of the presiding Tribal judge, a defendant unable to pay the full amount of cash bail required or allowed under LVPTC 4.50.030(e) may execute a bond for his appearance (a "bail bond") under the following conditions and restrictions:

(1) The presiding judge may require one or more sureties for any such bail bond and may not allow or accept any such bail bond to be issued in an amount less than the maximum bail amount allowable for the offense with which the defendant is charged, whether such offense is classified under this section or not, and regardless of whether the judge would otherwise allow a lower amount of bail if the defendant were able to post cash bail. For example, if the presiding judge determined to release a Class A defendant on $1,000 cash bail, that defendant must post a bail bond in the amount of $5,000 (the maximum amount of bail allowable for Class A offenses) to be eligible for release on bail by means of posting a bail bond;

(2) Bail bonds must extend for a period of at least one year from the time the offense for which the defendant is charged is first presented to the Tribal Court and must be subject to forfeit of any bonded defendant to appear in Tribal Court for any scheduled hearings or trial; provided, however, that the presiding judge shall have the discretion to accept bail bonds with different duration and forfeiture terms so long as such terms are at least as stringent as those required by Nevada criminal courts;

(3) If an action or proceeding against a defendant who has been released on bail is transferred to another trial court, the applicable bail bond shall be transferred to the clerk of the court to which the action or proceeding has been transferred; and

(4) If the action or proceeding against a defendant who has been released on bail is dismissed, the bail bond shall not be exonerated until a period of 30 days has elapsed from the entry of the order of dismissal. If no formal action or proceeding is instituted against a defendant who has been released on bail, the bail shall not be exonerated until a period of 30 days has elapsed from the day the bail bond is posted.

Comment: This section entirely restates and supersedes its prior versions as originally adopted pursuant to Tribal Council Resolution No. 95-006, dated January 17, 1995, and Tribal Council Resolution No. 10-27-77B, dated October 27, 1977.

[Res. 06-010, 2006; Res. 95-006, 1995. Prior Code § 4-50-030.]

4.50.040 Reserved.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977.

[Res. 95-006, 1995. Prior Code § 4-50-040.]

4.50.050 Arraignment.

(a) Definition. Arraignment is the bringing of an accused before the court, informing him of his rights and of the charge against him, and receiving his plea to the charge.

(b) Time Limits.

(1) Arraignments shall be held within the time limits set forth for bail hearings by LVPTC 4.50.030(c), or at the next regularly scheduled court date. Defendants who post bail or are released on their own recognizance waive the time limits set in LVPTC 4.50.030(c). Telephonic or video arraignments are permissible.

(2) A bail hearing to set or review bail may be held at the same time as arraignment.

(c) Rights of Accused at Arraignment. Before an accused is required to plead to any criminal charge, the judge shall:

(1) Read the complaint and the section of the Tribal Code the defendant is charged with violating, including the maximum authorized penalty.

(2) Determine that the defendant understands the charge against him and the penalty which may be imposed.

(3) Provide the defendant with a copy of the complaint.

(4) Advise the defendant that he has the right to remain silent; the right to a jury trial upon oral or written request not less than five days before the date set for trial; the right to a representative at his own expense; and the right to have the arraignment postponed should he desire to consult with a representative.

(5) If the case is one where a jury trial is permitted under LVPTC 4.60.020(a), specifically ask the defendant if he wishes a jury trial and record his response for the record.

(d) Receipt of Plea at Arraignment.

(1) A defendant may plead either “guilty” or “not guilty.” If the defendant refuses to plead or if the court refuses to accept a plea of “guilty” the court shall enter a plea of “not guilty.”

(2) If the defendant pleads “not guilty” the judge shall set a trial date, and shall establish conditions of bail prior to trial and inform the defendant in writing of those conditions.

(e) Procedures Upon a Guilty Plea. If the defendant pleads “guilty” either at arraignment or at later hearing, the following procedures shall be followed:

(1) The judge shall determine whether the plea of “guilty” is made voluntarily and because the defendant is actually guilty. The judge shall personally address the defendant to assure that no person threatened the defendant, made improper promises, misled him as to the consequence of his plea, or otherwise improperly induced him to plead “guilty.” If coercion or other impropriety exists, the judge shall reject a plea of “guilty” and enter a plea of “not guilty.”

(2) The judge shall determine that the defendant understands the consequences of the plea, including the maximum penalties to which he may be subjected and the waiver of his rights to trial by jury, if any, to confront and cross-examine his accusers, and to avoid self-incrimination.

(3) The judge may impose sentence immediately after a “guilty” plea, or may defer sentencing for a reasonable time in order to obtain any information he deems necessary for the imposition of a just sentence.

(4) Before a sentence is imposed, the defendant shall be allowed to address the court and to present facts relevant to sentencing.

(f) Withdrawal of Guilty Plea.

(1) The judge shall allow the defendant to withdraw a plea of "guilty" as a matter of right at any time before a sentence is imposed.

(2) The judge, in response to a written motion, in his discretion may set aside a conviction upon a plea of "guilty" and allow the defendant to withdraw his plea, when it appears that the interest of justice and fairness would be better served by doing so.

(g) Trial Date – Dismissal for Delay.

(1) The date set for trial, and the actual beginning of trial, shall be within 30 days of arrest unless the case is continued at the request of the defendant or for other very good cause. It is not sufficient for a continuance that the court or the prosecution finds a delay convenient.

(2) Denial of the right to a speedy trial under this subsection (g) shall require dismissal of the case. An order for the dismissal of the action under this subsection (g) is a bar to another prosecution for the same offense based on the same set of facts.

Comment: This section is in its original adopted version.

[Res. 06-010, 2006; Res. 10-27-77B, 1977. Prior Code § 4-50-050.]

4.50.060 Pretrial motions.

(a) Types of Motions. Before a trial, a defendant may make a motion to suppress evidence, a motion to dismiss the case, or any other motion appropriate to meet the ends of justice.

(b) Motions to Be in Writing. A pretrial motion shall be in writing, unless allowed to be made orally by the court or by a specific provision of the Code.

(c) Time for Motions. Motions made prior to trial shall be made no less than five days prior to the date set for trial, except that motions asserting lack of Tribal Court jurisdiction may be made at any time. The judge may permit an untimely motion to be made when good cause for the delay is shown.

(d) Ruling Upon Motions. All pretrial motions shall be heard and ruled upon as soon as possible unless for good cause the judge postpones the hearing and ruling until trial or another time.

(e) Motion to Dismiss the Complaint.

(1) A motion to dismiss the case may be made for a violation of any provision of this title unless some other remedy is specifically provided for the violation.

(1) [Alternate provision]. A motion to dismiss a complaint may be made upon the following grounds:

(A) Failure to arraign within one year, LVPTC 4.10.020.

(B) Denial of a defendant's rights under LVPTC 4.10.030.

(C) A defective complaint, LVPTC 4.10.030.

(D) Failure to file a complaint before or at the time of arraignment, LVPTC 4.20.070.

(E) A finding that the defendant has been charged or arrested without probable cause, LVPTC 4.20.060, 4.30.010, and 4.30.020.

(F) Violation of the fresh pursuit rules, LVPTC 4.30.030.

(G) A defect in the warrant or its service, LVPTC 4.30.040, or the summons, LVPTC 4.30.080, or the citation, LVPTC 4.30.090.

(H) A denial of the defendant's rights at the time of arrest, LVPTC 4.30.060.

(I) A defect in the extradition procedure, LVPTC 4.30.100.

(J) A violation of the bail procedures, LVPTC 4.50.030.

(K) A violation of any other provision of this title.

(2) The decision to grant the motion to dismiss shall be discretionary with the judge, based on the harm the violation has done to the defendant or to his ability to defend his case, unless some other provision of this title absolutely requires the granting of the motion to dismiss.

(3) In addition to absolute requirements of dismissal stated elsewhere in this title, the

complaint must be dismissed in the following situations:

(A) Upon a finding that the complaint does not comply with LVPTC 4.20.030.

(B) Upon a finding that the defendant has been charged or arrested without probable cause.

(C) Upon a finding that the court has no jurisdiction over the person or the offense.

(4) An order dismissing a complaint is not a bar to subsequent prosecution for the same offense unless:

(A) The dismissal is for a violation occurring after jeopardy has attached under LVPTC 4.10.030(a)(10); or

(B) This title specifically provides that dismissal for the particular reason involved shall be a bar; or

(C) The grounds for the dismissal were lack of Tribal Court jurisdiction over the person or the offense, except that the prosecution may be renewed if jurisdiction is later acquired.

(f) Motions to Disqualify a Judge.

(1) Disqualification for Interest in a Case. Upon motion by any party prior to sentencing, a judge shall disqualify himself and shall not hear any portion of a case, when the judge has a blood or marriage relationship as described in LVPTC 1.40.110(a) to either the defendant, the prosecutor, or a complaining witness, unless the conflict is consented to as provided in LVPTC 1.40.110(b).

OPTION-ADDITIONAL PHASE: [...unless the relationship is with the prosecutor or the complaining witness and that person is a Tribally employed prosecutor or a Tribal police officer.]

Denial of the motion shall require reversal on appeal.

(2) Disqualification for Bias.

(A) The defendant may move to disqualify the judge at any stage of the proceeding prior to sentencing if in his opinion he cannot receive a fair and impartial hearing by reason of the bias or prejudice of that judge.

(B) Upon a motion under this subsection (f)(2), the judge shall consider whether granting the motion would be in the best interests of justice. If the motion is granted, the judge shall cease to participate in the case and shall call another judge to hear the matter. An abuse of discretion in the denial of a motion shall require reversal on appeal.

Comment: This section supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977.

[Res. 06-010, 2006; Res. 10-27-77B, 1977. Prior Code § 4-50-060.]

4.50.070 Subpoenas – Requests for evidence outside the jurisdiction.

(a) Subpoenas – Issuance, Contents.

(1) Upon request of any party or upon the Tribal Court's own initiative, the court shall issue subpoenas to compel the testimony of witnesses, the presence of jurors or the production of books, records, documents or any other physical evidence which is relevant to the determination of the case and is not an undue burden on the person possessing the evidence. If empowered by the Tribal judge, the Clerk of the Court may issue subpoenas.

(2) A subpoena shall bear the name of the person or description of the physical evidence being subpoenaed, the name of the person who has custody of and the obligation to deliver the physical evidence, and the title of the proceeding, and the time and place where the person is to appear or the evidence is to be produced.

(b) Subpoenas – Service, Failure to Obey.

(1) A subpoena may be served at any place within the Tribal jurisdiction.

(2) A subpoena may be served by any Tribal police officer or other person appointed by the court for such purpose. Service of a subpoena shall be made by delivering a copy at his place of residence with any person 16 years of age or older who appears to reside there or appears to be a responsible recipient.

(3) Proof of service of the subpoena shall be filed with the Clerk of the Court by noting on the back of the copy of the subpoena the date, time and place that it was served and noting the name of the person to whom it was

delivered. Proof of service shall be signed by the person who was actually served the subpoena.

(4) In the absence of a jurisdiction satisfactory to the court, a person who fails to obey a subpoena served within the Tribal jurisdiction, upon which proof of service has been filed under subsection (b)(3) of this section, may be deemed to be in contempt of court and a bench warrant may be issued for his arrest.

(c) Requests for Evidence Outside the Jurisdiction.

(1) When a subpoena would be proper under subsections (a) and (b) of this section, except that the persons or items desired are outside the jurisdiction of the court, then upon the request of any party or upon the Tribal Court's own initiative, the judge may issue a signed request for evidence.

(2) A request for evidence shall be in substantially the same form as a subpoena and shall be served and returned in the same manner, except that a request for evidence shall state on its face that it is a request only and that there are no sanctions for failure to comply with the request.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 4-50-070.]

4.50.080 Discovery and inspection.

(a) Open Records of Prosecution and Defense. All records relating to statements or confessions of the defendant, or reports of physical, mental, or other scientific tests or examinations relating to or performed on the defendant, when in the possession or control of a party or reasonably obtainable by a party, shall be open to inspection and copying by any party.

(b) List of Witnesses. If requested in writing by any other party, each party shall provide in writing to all other parties, at least five working days before trial, the names of any witnesses upon whom the party intends to rely to provide an alibi or other evidence. Failure to provide a list of witnesses will prevent the use of such witnesses unless it can be shown that no unfairness in the case has resulted, or that other good cause exists. The judge may order the trial delayed or make such other orders as will assure a just determination of the case.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 4-50-080.]

Chapter 4.60

TRIALS

Sections:

4.60.010 Witnesses.
4.60.020 Jury trial.
4.60.030 Misconduct by the prosecutor.
4.60.040 Fees and expenses.
4.60.050 Order of trial.
4.60.060 Burden of proof.
4.60.070 Rules of evidence.
4.60.080 Regulation of conduct in courtroom.
4.60.090 Disability of a judge.

4.60.010 Witnesses.

(a) Who May Be a Witness. Any person who understands his responsibility to tell the truth may be a witness.

(b) Expert Witness and Interpreters.

(1) At any time in the criminal process, if scientific, technical, or other specialized knowledge will assist the judge or jury in understanding the evidence or in determining a fact in issue, a witness qualified as an expert by special knowledge, experience, or training may testify to matters within the scope of that knowledge, experience or training.

(2) At any time in the criminal process, the judge may appoint an interpreter of his own selection and each party may provide its own interpreter at their own expense. An interpreter through whom testimony is communicated shall be put under oath to faithfully and accurately translate and communicate as required by the presiding judge. With the consent of all parties the trial judge or Clerk may act as interpreter.

(c) Immunity of Witness From Prosecution.

(1) In any trial, the judge, on motion of any party or on his own initiative, may order that any witness be released from all liability to prosecution or punishment on account of any testimony or other evidence he may be required to produce.

(2) Such an order of immunity shall forever prohibit prosecution of the witness for any offense shown in whole or in part by such testimony or other evidence, except for perjury committed in giving such testimony.

(3) The judge shall deny the motion under subsection (c)(1) of this section, if it reasonably appears to the judge that such testimony or evidence would subject the witness to prosecution under the laws of another jurisdiction.

(4) Any witness who, having been granted immunity, refuses to testify or produce other evidence is in contempt of court. Any witness who is jailed for such contempt but who believes the motion should have been denied under subsection (c)(3) of this section may challenge the lawfulness of his imprisonment by habeas corpus, in accord with LVPTC 4.10.040.

(d) Fees. Each witness answering a subpoena shall be entitled to a fee of $5.00 for each day his services are required in court. In addition, the judge may order the payment of reasonable travel and living expenses of the witnesses. All fees and expenses shall be paid by the Tribe.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 4-60-010.]

4.60.020 Jury trial.

(a) Right to a Jury. A defendant has a right to a jury trial in all cases where the offense charged is a Class A, B, C, or D offense, unless the judge states before trial that the punishment, if any, shall not include jail time and shall not include a fine or fines totaling in excess of $100.00.

(b) Request for Jury Trial. Unless a defendant claims his right to a jury by oral or written request at arraignment or at least five days before the date set for trial, the case shall be tried by a Tribal judge without a jury.

(c) Size of Jury. A jury shall consist of six persons selected at random from a list of eligible jurors prepared each year by the Tribal Council or other body, as the Council shall direct. When a trial is expected to take more than four days, an alternate juror or jurors

may be selected, who shall replace any juror who is unable to perform his duties.

(d) Eligible Jurors. An eligible juror is any person who resides within the Tribal jurisdiction, is an adult, and has not been convicted of a felony within the last five years.

(e) Examination of Prospective Jurors. Prospective jurors shall be questioned for impartiality and other qualifications, either by the judge or, if the judge allows, by each party.

(f) Challenges to Jurors.

(1) During questioning of the jury, each party shall have the right to challenge an unlimited number of prospective jurors for cause on the basis of lack of eligibility, prejudice, or the demonstration of a likelihood that the prospective juror would not be able to make an impartial decision. Either party may challenge any prospective juror for cause at any time during the examination of prospective jurors. The judge shall decide if a prospective juror is ineligible for cause.

(2) After examination and challenges for cause, when six prospective jurors and the alternates, if any, have been selected, each party shall have the right to a maximum of two peremptory challenges of jurors.

Peremptory challenges are requests to remove a prospective juror for which no reason need be given and which the judge must grant. If alternate jurors are chosen, each party shall have the right to one peremptory challenge of a prospective alternate juror. Neither of the two regular peremptory challenges may be used against a prospective alternate juror.

(3) Peremptory challenges, if used, shall be exercised one at a time, alternating between the prosecution and the defense, the prosecution going first. When all peremptory challenges desired to be used against the first group of prospective jurors have been exercised, replacements for those peremptorily challenged shall be called, who shall be examined for bias under subsection (e) of this section and who may be challenged for cause under subsection (f)(1) of this section.

(4) Any remaining peremptory challenges may be exercised against the new prospective jurors chosen under subsection (f) of this section, and so on until a jury and alternates, if any, are chosen.

(g) Swearing the Jury. After examination of prospective jurors, challenges for cause, and the exercise of peremptory challenges, the judge shall have the six jurors and alternates, if any, swear to fully consider all evidence and to render an impartial verdict, and shall declare them a jury.

(h) Jury Instructions. During the course of jury trial and at the end of trial, the judge shall instruct the jury about the applicable law. The jury shall decide all questions of fact on the basis of that law.

(i) Jury Verdict. The jury shall deliberate in secret and shall return a verdict of “guilty” or “not guilty.” All verdicts shall be by unanimous vote. The judge shall render judgment in accordance with the jury verdict.

(j) Hung Jury. [ALTERNATE ONE: 4.60.020] If the jury is unable to reach a unanimous verdict, the judge shall dismiss the case, and the prosecution may not be renewed.

(j) Hung Jury. [ALTERNATE TWO: 4.60.020].

(1) If the jury is unable to reach a unanimous verdict, the judge shall declare a mistrial and dismiss the jury.

(2) The case may be reset for trial upon an immediate oral motion by the prosecution or upon a written motion made within 15 days, regardless of the provisions against double jeopardy under LVPTC 4.10.030(a)(10).

(3) If a motion to reset for trial is not made immediately, the defendant shall be released from custody and from all conditions of bail except personal recognizance. At the end of 15 days, if the motion to reset has not been filed, the judge shall dismiss the case, and the prosecution may not be renewed.

(k) Jury Fees. Each juror shall be paid by the Tribe the sum of $5.00 for each day of service. In addition, the judge may order the payment by the Tribe of reasonable travel and living expenses to jurors.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 4-60-020.]

4.60.030 Misconduct by the prosecutor.

If the prosecutor purposely does or causes to be done any act of misconduct intended to prejudice the case against the defendant, the court shall dismiss the case upon its own or the defendant's motion and the prosecution may not be renewed.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 4-60-030.]

4.60.040 Fees and expenses.

(a) Payment by Tribe of Defendant.

(1) Fees and expenses established in this title and designated as payable by the Tribe shall be paid by the Tribe upon completion of the trial. However, such expenses, in an amount up to $50.00, may be charged to the defendant as costs, if he is found guilty, and if the judge finds that the imposition of costs is proper.

(2) Costs shall be enforced against a defendant in the same manner as a fine imposed upon conviction. No defendant shall be jailed because of his inability to pay costs immediately. Defendants shall be given a reasonable time to pay costs or shall be allowed to make installment payments.

(b) Payment by Complainant.

(1) If the court, upon its own or the defendant's motion, finds that the complaint was not filed in good faith but was filed with a frivolous or malicious intent, the court may order the complainant to pay the costs of the action, or to give security to pay costs within 30 days.

(2) If the complainant does not comply with such an order of the court, judgment may be entered against him for the amount of costs. Such judgments may be enforced and appealed in the same manner as rendered in a civil action.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 4-60-040.]

4.60.050 Order of trial.

(a) Reading Complaint and Receiving Defendant's Plea. When the jury has been sworn, or if there is no jury, when the judge is ready, the complaint shall be read, the defendant shall be advised of his right to change his plea at any time, and the defendant shall state his plea.

(b) Opening Statements. The prosecution shall present an opening statement. The defendant or his representative may then make an opening statement or may reserve the statement to be made immediately prior to the presentation of evidence on behalf of the defendant.

(c) Presenting Evidence.

(1) The prosecution shall first present its evidence in support of the charge, and when finished shall rest its case.

(2) The defendant then may offer evidence in defense.

(d) Closing Arguments. When all evidence has been presented, the prosecution may make the first closing argument. The defense may then make a closing argument.

(e) Verdict by Judge or Jury. At the end of closing arguments and after any motions the judge allows, the judge shall make his findings and decision, or if there is a jury, the judge shall instruct the jury as to the law, the jury shall deliberate in secret, and shall report its decision to the judge.

(f) Verdict. Upon receiving the decision of the jury, the judge shall enter judgment upon the verdict, if any, or shall proceed as provided in LVPTC 4.60.020(j) if the jury is unable to agree.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 4-60-050.]

4.60.060 Burden of proof.

(a) Proof Beyond a Reasonable Doubt. A defendant in a criminal proceeding is presumed to be innocent, and the charges against him must be proven beyond a reasonable doubt to find him guilty.

(b) Reasonable Doubt Defined. A "reasonable doubt" is one based on reason. It is not mere possible doubt, but is such a doubt as would govern or control a person in the more serious affairs of life. After considering all the evidence, if the jurors have a sincere and lasting belief in the truth of the charge, there is not a reasonable doubt.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 4-60-060.]

4.60.070 Rules of evidence.

In any trial pursuant to this title, the court shall apply the rules of evidence set forth in LVPTC Title 6 as applicable to criminal proceedings.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 4-60-070.]

4.60.080 Regulation of conduct in courtroom.

(a) Disruptive Conduct.

(1) Any person, including the defendant, who repeatedly interferes with the orderly course of a proceeding by disorderly or disruptive conduct, may be ordered removed from the courtroom, or cited for contempt, or both.

(2) No such order or citation shall be issued until after the person has been fully and fairly informed that his conduct is unacceptable and has been warned of the consequences of continued misconduct.

(3) A person who has been removed from the courtroom may return upon his promise of good conduct. If his misconduct continues after his return, the court may proceed as provided in subsections (a)(1) and (2) of this section.

(4) The Tribe and the judge shall be liable for actual damages arising from an abuse of discretion under this subsection (a). If no actual damages can be proven, nominal damages of $50.00 shall be awarded.

(b) News Coverage. The taking of photographs, radio or television broadcasting, in the courtroom during judicial proceedings, shall not be permitted, unless there are special circumstances, all parties consent, and the judge feels that the purposes of justice will not be thwarted.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 4-60-080.]

4.60.090 Disability of a judge.

(a) Trial by Another Judge. If the judge presiding at trial of a criminal action determines on his own motion that he is unable to proceed, or if the Council determines that a judge is unable to proceed with a trial by reason of death, sickness, or other disability, any other Tribal judge may proceed with the trial, upon certifying in writing as part of the record that he has familiarized himself with the record of the trial.

(b) New Trial. If a substitute judge feels that he cannot fairly proceed with the trial, a new trial may be ordered, notwithstanding the provisions of LVPTC 4.10.030(a)(10).

(c) Sentencing. If the only responsibility of the substitute judge is the sentencing of the defendant, a new trial shall not be ordered, but the judge may hold a sentencing hearing at which he will receive and consider evidence relating to sentencing. Any sentence hearing shall comply with all procedural requirements of this title.

(d) Delay. If the disability of the judge and finding a replacement causes a delay in the trial of more than 10 days for a defendant in custody or of more than 30 days for a defendant not in custody, the case shall be dis-

missed, and the prosecution cannot be renewed.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 4-60-090.]

Chapter 4.70

PROCEDURE AFTER A VERDICT OR AFTER TRIAL

Sections:

4.70.010 Sentences for classes of offenses.
4.70.020 Appeal.
4.70.030 Granting of new trial.
4.70.040 Illegal sentences and clerical mistakes.
4.70.050 Effect of irregularities.
4.70.060 Sentencing in general.
4.70.070 Maximum fine and sentences of imprisonment.
4.70.080 Payment of fines and other monies.
4.70.090 Sentencing – Factors to be considered.
4.70.100 Credit for time served.
4.70.110 Probation.
4.70.120 Revocation of probation.
4.70.130 Parole.

4.70.010 Sentences for classes of offenses.

(a) A person convicted of a Class A, B, C, D or E offense may be sentenced as follows:

(1) If the offense is a Class A offense:

(A) To a term of imprisonment not to exceed one year;

(B) To a fine not to exceed $5,000; or

(C) To both such imprisonment and fine.

(2) If the offense is a Class B offense:

(A) To a term of imprisonment not to exceed six months;

(B) To a fine not to exceed $4,000; or

(C) To both such imprisonment and fine.

(3) If the offense is a Class C offense:

(A) To a term of imprisonment not to exceed 60 days;

(B) To a fine not to exceed $3,000; or

(C) To both such imprisonment and fine.

(4) If the offense is a Class D offense:

(A) To a term of imprisonment not to exceed 20 days;

(B) To a fine not to exceed $2,000; or

(C) To both such imprisonment and fine.

(5) If the offense is a Class E offense:

(A) To a fine not to exceed $5,000 without imprisonment.

(B) In addition to the sentences listed in this section, any further punishment or penalty specifically established for a particular offense also may be imposed.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977.

[Res. 94-039, 1994. Prior Code § 4-70-010.]

4.70.020 Appeal.

(a) Right to Appeal – Time For.

(1) Subject to the provisions of LVPTC Title 1, an appeal may be taken by any person convicted upon a plea of "not guilty," or by any person who believes he has a right to appeal under LVPTC 4.70.050(b), who files a written notice of appeal with the Clerk of the Court within 30 days after judgment is filed. An appeal may be filed immediately after a verdict of "guilty." The defendant need not wait for sentencing or judgment.

(2) The time for appeal shall not begin to run against a defendant convicted upon a plea of "not guilty" until a reasonable effort has been made to serve the defendant with a copy of the judgment.

(b) Bail on Appeal. Any person convicted of an offense under this Code, who has filed a timely appeal, shall be considered for release pending hearing of the appeal in accord with the procedures of LVPTC 4.50.030.

(c) Appeal by Prosecution. The prosecution has no right to appeal a judgment of acquittal regardless of the provisions of LVPTC 1.90.020. The prosecution may appeal decisions upon pretrial motions and all other orders of the court that allegedly deny the prosecution its rights under this title and may continue or renew a prosecution when doing so does not place the defendant in double jeopardy under LVPTC 4.10.030(a)(10) and is not otherwise prohibited by this title.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 4-70-020.]

4.70.030 Granting of new trial.

(a) Grounds. The judge may grant a convicted defendant a new trial if justified on the grounds of newly discovered evidence, jury misconduct, or for other good reasons when a new trial will serve the purposes of justice.

(b) Procedure. If the trial was by judge without a jury, the judge may vacate any judgment filed, take additional testimony, and make a new disposition and a new judgment. If the trial was by a jury, a new trial may be held either by judge or jury, as requested by the defendant.

(c) Time. A motion for a new trial based on the grounds of newly discovered evidence may be made before final judgment is filed or within three months after filing of judgment. If appeal is pending, the trial court may not consider a motion for new trial until the case has been returned to it by the appeals court. The three months' time for filing a motion for a new trial shall not run while the case is being appealed.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 4-70-030.]

4.70.040 Illegal sentences and clerical mistakes.

(a) Illegal Sentences. The court may correct a sentence that is in violation of this Code at any time, on its own motion or on the motion of any party.

(b) Clerical Mistakes. Clerical mistakes in judgments, orders or other parts of the record, and errors in the record arising from oversight or omission, may be corrected by the court at any time and after such notice, if any, as the judge orders.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 4-70-040.]

4.70.050 Effect of irregularities.

(a) Insubstantial Mistakes. Neither a failure to follow the rules of this title as to form or content of any pleading or proceeding, nor an error or mistake in the form or content, shall render a pleading or proceeding invalid, unless the defendant has been prejudiced or unless this title requires otherwise.

(b) Denial of Rights and Prejudicial Error. Whenever the court or any person denies to a defendant any right which is absolute under this title, or commits any error, makes any mistake, or denies any right in such a way that is prejudicial to the defendant, the defendant shall have an immediate right of appeal. This right of appeal is in addition to any other remedy for the denial or error provided elsewhere in this title.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 4-70-050.]

4.70.060 Sentencing in general.

(a) General Applicability. A person found guilty of an offense under this Code shall be sentenced in accordance with LVPTC 4.70.070 through 4.70.120.

(b) Applicability to Later Laws. Laws relating to offenses enacted or adopted after the effective date of this Code shall be classified for sentencing purposes in accord with the provisions of LVPTC 4.70.070.

(c) Classes of Offenses. Offenses shall be designated as Class A, B, C, D, or E offenses.

(d) Unclassified Offenses. Any offenses for which no penalty or sentence is specifically designated as a certain class of offense shall be treated for purposes of sentencing and punishment as a Class D offense.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 4-70-060.]

4.70.070 Maximum fine and sentences of imprisonment.

(a) Punishments for Each Class of Offense. A person convicted of an offense may be sentenced as specified for the specific offense and as follows:

(1) If the offense is a Class A offense to a term of imprisonment not to exceed one year or to a fine not to exceed $5,000, or both;

(2) If the offense is a Class B offense, to a term of imprisonment not to exceed six months or to a fine not to exceed $4,000, or both;

(3) If the offense is a Class C offense, to a term of imprisonment not to exceed 60 days, a fine not to exceed $3,000, or both;

(4) If the offense is a Class D offense, to a term of imprisonment not to exceed 20 days or a fine not to exceed $2,000, or both;

(5) If the offense is a Class E offense, to a fine not to exceed $5,000, without imprisonment.

(6) Nothing in this section shall prevent the imposition of a sentence involving exclusion or expulsion, in accord with the provisions of LVPTC Title 17.

(b) Imprisonment Limits Apply to All Restraints of Liberty. The limits on terms of imprisonments listed in subsection (a) of this section apply to imprisonment in the Tribal or any other jail or penitentiary, and also to full or part-time residence or confinement in a medical or rehabilitative facility required as a condition of probation or parole or otherwise ordered by the court.

(c) Additional Costs and Restitution. In addition to the fines listed in subsection (a) of this section, the court may assess costs as provided in LVPTC 4.60.040(a). The court also may order the defendant to make restitution to the victim to compensate the victim for damages from the commission of the offense.

(d) Work for Tribe – Credit Toward Fines and Costs.

(1) The Tribal judge, instead of or in addition to any other sentence that might be imposed, may sentence a defendant to work for the benefit of the Tribe for credit against a fine or imposition of costs. Credit shall be granted at the rate of $5.00 per hour worked. Such a sentence shall be imposed only if appropriate work opportunities exist and if the defendant volunteers for the work.

(2) The credit provided under subsection (d)(1) of this section shall also be granted for any work a defendant performs, other than work for himself, done during and because of his status as a defendant, whether performed while imprisoned or not, whether part of a sentence or not, and whether performed before or after a finding of "guilty."

Comment: This section supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977.

[Res. 06-010, 2006. Prior Code § 4-70-070.]

4.70.080 Payment of fines and other monies.

(a) Cash or Equivalent. Fines shall be paid in cash unless, upon request of the defendant, the judge allows payment by goods of like value, or by other means.

(b) Installments. The judge may, upon request of a defendant or upon his own motion, allow any fines or other required payments to be paid in installments or on conditions tailored to the means of the defendant.

(c) Imprisonment After Failure to Pay. Imprisonment shall not be imposed as an automatic response to default in payment of a fine or other money due. Instead, the court shall examine the reason for the default and may, if the default was willful or if justice requires, impose an additional sentence of imprisonment of no more than one day for each $20.00 of the required money remaining unpaid.

(d) Civil Collection of Fines. Upon order of the court, following a failure to make any required payments, the methods of collection of civil judgments shall be available to collect any unpaid money arising from a sentence.

(e) Canceling Fines. When justice requires, the judge may cancel a fine or any unpaid portion thereof, or any other money required to be paid, or may modify the terms and conditions of the required payment.

(f) Use of Fines. Fines and other monies collected as a result of the commission of criminal offenses under this Code shall go into the general uncommitted funds of the Tribe and shall not be specifically designated for the expenses of law enforcement. This subsection shall not apply to restitution ordered paid to the victims of an offense; restitution shall be paid as ordered by the court, and shall be the property of the recipient.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 4-70-080.]

4.70.090 Sentencing – Factors to be considered.

(a) Factors. The sentence imposed in each case should impose the minimum penalty consistent with the protection of the public, the seriousness of the offense, and the rehabilitative needs of the defendant. In determining the nature and duration of the penalty to be imposed, the court shall take into consideration the previous conduct of the defendant, the circumstances under which the offense was committed, whether the offense was malicious or willful, whether the offender has attempted to make amends, and the state of the offender's mental health at the time of the offense and sentencing. The court shall give due consideration to the extent of the defendant's resources and the needs of his dependents.

(b) Limits on Consecutive Sentences. The court shall not impose consecutive sentences for offenses arising out of a single course of criminal conduct, including solicitation and criminal conspiracy, unless the criminal conduct involved death or serious bodily injury to any victim of the crime or a serious threat of

such, or unless the offense was committed in a willful, malicious, or aggravated manner and involved an offense against the person of the victim or victims.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 4-70-090.]

4.70.100 Credit for time served.

(a) Amount of Credit Earned. Credit against a term of imprisonment imposed following a judgment of guilt shall be given to a defendant as provided in LVPTC 4.50.030(d) and 4.70.010, at the rate of three days for each day spent in custody as a result of the criminal charge for which the sentence is imposed, for time spent in custody prior to trial or pending sentencing.

(b) Credit on Reprosecution. In the case of an imposition of a sentence after a subsequent or continued prosecution for the same offense, or for an offense based on the same conduct for which a defendant has been imprisoned, credit shall be given as provided in subsection (a) of this section for time spent in custody during the prior prosecution.

(c) When Computed. Credit as provided in this section should be computed and considered by the court at the time of sentencing, and at other times as appropriate.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 4-70-100.]

4.70.110 Probation.

(a) Power to Grant Probation. After a judgment of "guilty" has been entered where a sentence of imprisonment has been imposed, the Tribal Court may, in its discretion, suspend the serving of such sentence and release the defendant on probation, on that person's signed pledge of good conduct for the duration of the probation.

(b) Conditions of Probation. The court may attach further and reasonable conditions of probation, including, but not limited to, a requirement that the defendant do one or more of the following:

(1) Serve a lesser period of imprisonment;

(2) Undergo available medical, psychiatric, or other rehabilitative treatment, and enter and remain in a specified institution when required for that purpose, for a period not to exceed the maximum possible imprisonment, as provided in LVPTC 4.70.070(a);

(3) Refrain from all use of intoxicants, narcotics, or drugs unless taken under a doctor's orders;

(4) Report as directed to a probation officer and permit the officer to visit his home;

(5) Remain within the jurisdiction of the court, and to notify the probation officer of any change of address or employment;

(6) Not to have in his possession any firearm or other dangerous weapon unless granted permission by his probation officer;

(7) Satisfy any other conditions reasonably related to the rehabilitation of the defendant and not incompatible with his freedom of conscience or unduly restrictive of his liberty.

(c) Notice of Probation Conditions. The defendant shall be given a written statement of the requirements of his probation, stated with sufficient specificity to enable him to act accordingly.

(d) Length of Probation. The length of the period of probation shall not exceed twice the maximum sentence for the offense involved.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 4-70-110.]

4.70.120 Revocation of probation.

(a) Probation Violators to Serve Sentence. Any person who violates the terms of his probation may be required by the judge to serve the sentence originally imposed or such part of it as the judge determines is suitable, giving due consideration to all circumstances involved.

(b) Arrest for Probation Violation. A defendant may be taken into custody for a violation of probation as follows:

(1) Upon a showing of probable cause that a violation has occurred, the judge may summon the defendant to appear before him or may issue a warrant for his arrest; or

(2) A probation or law enforcement officer, having probable cause to believe that the defendant has failed to comply with a requirement imposed as a condition of probation, or that the defendant has committed another offense, may arrest him without a warrant.

(c) Hearing on Probation Violation. Probation shall not be revoked except after a hearing, held following written notice to the defendant of the grounds on which the revocation is proposed. At the hearing, the defendant shall have the right to confront and cross-examine the witnesses against him, to offer evidence in his defense, and to have a representative pursuant to LVPTC 4.10.030(a)(3).

(d) Time for Hearing. Whenever a defendant is taken into and held in custody for violation of probation conditions, he is entitled to a bail hearing as provided in LVPTC 4.50.030(d), and to a hearing on the revocation of his probation within 10 working days of arrest, unless he requests further time to prepare his defense, or unless he is being held for the commission of another and separate offense.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 4-70-120.]

4.70.130 Parole.

(a) Eligibility for Parole.

(1) Except as otherwise provided in this section, a defendant sentenced to and serving a term of imprisonment more than 60 days shall be eligible to petition the court for release on parole after having served one-half of the time sentenced.

(2) Parole may be granted as provided herein to a defendant who has demonstrated good behavior while imprisoned.

(3) Parole shall not be considered or granted to a defendant who has been convicted of an offense involving death or serious bodily injury of a victim of the offense, unless the defendant has been sentenced to consecutive sentences totaling in excess of one year. In such cases, consideration for parole may be given only after the defendant has served one year under such sentence.

(4) The provisions for parole contained in this section shall apply only to confinement in a jail or penitentiary and shall not apply to confinement ordered in a medical or rehabilitative treatment facility.

(b) Petition for Parole.

(1) Parole may be granted by the judge on his own motion or on the petition of an imprisoned defendant.

(2) Any defendant eligible for parole as set forth in subsection (a) of this section may petition the court for parole. A petition may be made in any written form that will reasonably inform the court of the defendant's desire for parole. Upon request, a defendant shall be allowed an opportunity to contact and meet with a representative of his choice at the jail to aid in the preparation of the petition for parole. The completed petition shall be forwarded without unnecessary delay to the court by the defendant's representative or the jailer.

(c) Consideration of Parole.

(1) Upon receipt of a petition for parole, the judge shall have the Clerk of the Court prepare a report stating the term for which the defendant was sentenced, the offense(s) charged and the time served. The report may include a sworn statement from the appropriate jailer regarding the conduct of the defendant while in jail, and any other information deemed relevant by the court.

(2) Unless the defendant is not eligible for parole under the time requirements of subsections (a)(1) and (3) of this section, the judge shall schedule a hearing within 14 days of receipt of the petition, on the issue of the

defendant's eligibility for parole for good behavior under subsection (a)(1) of this section.

(3) A hearing shall be held at which the defendant shall have the right to present evidence and to be represented pursuant to LVPTC 4.10.030(a). The court may, after consideration of all relevant factors, grant parole to a defendant upon any or all of the conditions set forth in LVPTC 4.70.120(b) for the granting of probation. Parole shall be granted for a period of time no longer than the defendant's remaining sentence.

(4) The judge's decision to grant or refuse parole shall be reviewable only for an abuse of discretion.

(d) Procedures and Conditions of Parole. After parole is granted the defendant shall be subject to the same procedures and conditions as if he were originally placed on probation. The judge shall have the power to modify or revoke the parole as provided in LVPTC 4.70.120 for defendants on probation.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 4-70-130.]

Title 5

CODE OF CRIMINAL OFFENSES

Chapters:

5.10	General Provisions
5.20	Attempt, Conspiracy, and Solicitation
5.30	Offenses Involving Danger to the Person
5.40	Offenses Against Property
5.50	Offenses Against the Family
5.60	Offenses Against the Administration of Government
5.70	Offenses Against Public Order and Decency
5.80	Defenses
5.90	Classes of Offenses and Sentences

Chapter 5.10

GENERAL PROVISIONS

Sections:

5.10.010 Voluntary act.
5.10.020 Required mental states.
5.10.030 Definitions of required mental states.
5.10.040 Prosecution for multiple offenses.
5.10.050 Ignorance or mistake of fact.
5.10.060 Ignorance or mistake of law.
5.10.070 Liability for conduct of another.
5.10.080 Accomplice liability.
5.10.090 Liability for acts of corporations or unincorporated associations.

5.10.010 Voluntary act.

(a) A person is not guilty of an offense unless his guilt is based on conduct which includes a voluntary act, or the omission to perform an act of which he is physically capable.

(b) A reflex or convulsion, a bodily movement during unconsciousness or sleep, conduct during hypnosis, or a bodily movement that is otherwise not the product of the effort or determination of the actor are not voluntary acts within the meaning of this section.

(c) Guilt may not be based on an omission to act unless a duty to perform the omitted act is specifically imposed by this Code.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 5-10-010.]

5.10.020 Required mental states.

(a) A person is not guilty of an offense unless he acted intentionally, recklessly, or negligently, as the law may require, with respect to each element of the offense, or unless his acts constitute an offense involving strict liability.

(b) If negligence is the mental state specified in the definition of an offense, someone may also be convicted if he acts intentionally or recklessly. If recklessness is the mental state specified in the definition of an offense, someone may also be convicted if he acts intentionally.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 5-10-020.]

5.10.030 Definitions of required mental states.

(a) Intentionally. A person acts intentionally if it is his conscious object to act as he is acting, or if he is aware or practically certain that a particular result will be caused by his conduct.

(b) Recklessly. A person acts recklessly when he consciously disregards a substantial and unjustifiable risk that a particular result will be caused by his conduct.

(c) Negligently. A person acts negligently when he should be aware of a substantial and unjustifiable risk that a particular result will be caused by his conduct.

(d) Strict Liability. Strict liability means that no particular mental state is required in the definition of the offense; commission of the act alone is sufficient.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 5-10-030.]

5.10.040 Prosecution for multiple offenses.

When the same conduct of a defendant may establish the commission of more than one offense, the defendant may be prosecuted for each offense. He may not, however, be convicted of more than one offense if:

(a) One offense is included in the other; or

(b) One offense consists only of a conspiracy, solicitation, or an attempt to commit the other; or

(c) Inconsistent findings of fact are required to establish the offenses; or

(d) The offense is defined as a continuing course of conduct and the defendant's course

of conduct was uninterrupted, unless it is provided that specific periods of such conduct constitute separate offenses.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 5-10-040.]

5.10.050 Ignorance or mistake of fact.

Ignorance or mistake as to a matter of fact is a defense only if the ignorance or mistake negates a specific mental state required to establish the offense, or if it is specifically provided that ignorance or mistake is a defense.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 5-10-050.]

5.10.060 Ignorance or mistake of law.

A belief that conduct does not legally constitute an offense is a defense only when the law defining the offense has not been published or reasonably made available prior to the actor's conduct, or if the actor acted in reasonable reliance upon an official statement of law rendered by a Tribal judge.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 5-10-060.]

5.10.070 Liability for conduct of another.

A person is guilty of an offense if it is committed by the conduct of another person for whom he is legally responsible. A person is legally responsible for another if he causes an innocent or irresponsible person to engage in conduct, or if he is an accomplice of such other person in the commission of the offense.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 5-10-070.]

5.10.080 Accomplice liability.

(a) A person is an accomplice of another person in the commission of an offense if, with the purpose of promoting or facilitating the offense, he:

(1) Solicits such other person to commit it;

(2) Aids or agrees or attempts to aid such other person in planning or committing it; or

(3) Having a duty imposed by this Code to prevent the commission of the offense, he fails to make a proper effort to do so.

(b) A person who is legally incapable of committing a particular offense himself may be guilty as an accomplice unless such liability is inconsistent with the purpose of the law under which he is charged.

(c) A person is not an accomplice in an offense if he terminates his participation prior to the commission of the offense, and wholly deprives it of effectiveness, or gives timely warning to the police or otherwise makes a proper effort to prevent the commission of the offense.

(d) An accomplice may be convicted on proof of the commission of an offense and his participation, even though the person who is claimed to have committed the offense has not been prosecuted for, or convicted of, the same or any other offense.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 5-10-080.]

5.10.090 Liability for acts of corporations or unincorporated associations.

A person is legally responsible for any conduct he performs or causes to be performed in the name of the corporation or unincorporated association or on its behalf, to the same extent as if it were performed in his own name or behalf. If a duty to act is imposed by law upon a corporation or unincorporated association, any agent of the corporation or association having primary responsibility for the discharge

of the duty is legally responsible for a negligent omission to perform the required act, to the same extent as if the duty were imposed by law directly upon him.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 5-10-090.]

Chapter 5.20

ATTEMPT, CONSPIRACY, AND SOLICITATION

Sections:

5.20.010 Attempt.
5.20.020 Conspiracy.
5.20.030 Solicitation.

5.20.010 Attempt.

(a) A person is guilty of an attempt to commit an offense if, acting with the kind of mental state otherwise required for the commission of the offense, he engages in conduct constituting a substantial step towards commission of the offense.

(b) It is no defense to the offense of attempt that the consummation of the offense could have been committed had the circumstances been as the actor believed them to be.

(c) Attempt is a Class A offense if the attempted offense was a Class A offense; a Class B offense if the attempted offense was a Class B offense; a Class C offense if the attempted offense was a Class C offense; and is not an offense if the attempted offense was a Class D or E offense.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 5-20-010.]

5.20.020 Conspiracy.

(a) A person is guilty of conspiracy if he agrees with one or more other persons to engage in conduct constituting an offense, and any one of them commits an overt act towards the commission of the agreed offense.

(b) Conspiracy to commit a Class A offense is a Class A offense; conspiracy to commit a Class B offense is a Class B offense; conspiracy to commit a Class C offense is a Class C offense; and conspiracy to commit a Class D or E offense is not an offense.

(c) It is a defense to a prosecution for conspiracy that the actor made an effort to withdraw from the conspiracy as defined in LVPTC 5.10.080(c).

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 5-20-020.]

5.20.030 Solicitation.

A person is guilty of solicitation when he, intending that another person commit an offense, entices, advises, incites, orders, or otherwise encourages such other person to commit an offense. Solicitation to commit a Class A offense is a Class B offense; solicitation to commit a Class B offense is a Class C offense; solicitation to commit a Class C offense is a Class D offense; solicitation to commit a Class D or E offense is not an offense.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 5-20-030.]

Chapter 5.30

OFFENSES INVOLVING DANGER TO THE PERSON

Sections:

5.30.010 Criminal homicide.
5.30.020 Assault.
5.30.030 Unlawful restraint – Kidnapping.
5.30.040 Custodial interference.
5.30.050 Sexual offenses.

5.30.010 Criminal homicide.

A person is guilty of criminal homicide if he intentionally, recklessly or negligently causes the death of another human being. Criminal homicide is a Class A offense. Of the offense found to have been committed intentionally, no suspension of sentence or parole shall be granted, and the maximum fine and imprisonment shall be imposed.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 5-30-010.]

5.30.020 Assault.

(a) A person is guilty of simple assault if he attempts to cause or intentionally or recklessly causes bodily injury to another. Simple assault is a Class B offense unless committed in a fight entered into by mutual consent, in which case it is a Class D offense.

(b) Aggravated assault is a Class A offense and a person is guilty of aggravated assault if he:

(1) Attempts to cause or intentionally or recklessly causes bodily injury to another, with a deadly weapon or under circumstances manifesting extreme indifference to the value of human life; or

(2) Permanently disfigures or renders useless a part of the victim's body.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 5-30-030.]

5.30.030 Unlawful restraint – Kidnapping.

(a) A person is guilty of unlawful restraint if he intentionally:

(1) Restrains another human being so as to interfere with his liberty; or

(2) Without consent, removes another human being from his place of residence or business or place where he would otherwise be found.

(b) Unlawful restraint is a Class A offense if it is done to hold another for ransom or reward; to use another as a shield or hostage; to facilitate commission of any offense or flight thereafter; to interfere with the performance of any Tribal governmental or political function; if the restraint causes serious bodily harm to the victim; or if the restraint exposes the victim to a risk of serious bodily harm.

(c) In all other cases, unlawful restraint is a Class C offense.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 5-30-030.]

5.30.040 Custodial interference.

(a) A person, whether a parent or other person, is guilty of custodial interference if, without good cause, he takes, entices, conceals, or detains a child under the age of 16 years from his parent, guardian, or other lawful custodian, knowing that he has no legal right to do so, and with intent to hold the child for substantially longer than any visitation or custody period previously awarded by a court of competent jurisdiction.

(b) A person is guilty of custodial interference if, having actual physical custody of a child under the age of 16 pursuant to a judicial award of a court of competent jurisdiction which has given another person visitation or custody rights, he detains or conceals the child with intent to deprive the other person of his lawful visitation or custody rights, without good cause to do so.

(c) A person is guilty of custodial interference if, without good cause, he takes, entices, or detains an incompetent or other person who has been committed by authority of law to the custody of another person or institution from the other person or institution, knowing he has no legal right to do so.

(d) Custodial interference is a Class B offense.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 5-30-40.]

5.30.050 Sexual offenses.

(a) Statutory Rape.

(1) A person over the age of 18 years is guilty of statutory rape if he or she has sexual intercourse with a person under the age of 14 years, with such minor's consent. However, the provisions of this subsection (a) shall not apply to conduct between married persons.

(2) It shall be a defense to statutory rape for the actor to prove that he or she reasonably believed the child to be above the age of 14 years.

(3) Statutory rape is a Class C offense.

(b) Sexual Assault.

(1) A person is guilty of sexual assault if he or she has sexual intercourse with another person, male or female, against the will of such person.

(2) Sexual assault is a Class A offense.

(c) Definition of Intercourse. For purposes of this section, "sexual intercourse" means oral, anal, or genital intercourse. Any sexual penetration, however slight, is sufficient to constitute sexual intercourse.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 5-30-050.]

Chapter 5.40

OFFENSES AGAINST PROPERTY

Sections:

5.40.010 Arson and reckless burning.
5.40.020 Criminal mischief.
5.40.030 Burglary.
5.40.040 Trespass.
5.40.050 Robbery.
5.40.060 Theft.
5.40.070 Forgery.
5.40.080 Criminal simulation.
5.40.090 Tampering with records or other documents.
5.40.100 Deceptive business practices.
5.40.110 Rigging a contest.
5.40.120 Defrauding creditors.

5.40.010 Arson and reckless burning.

(a) Arson.

(1) A person is guilty of arson if he starts a fire or causes an explosion with the purpose of destroying a building or occupied structure of another. The term "occupied structure" includes but is not limited to a ship, trailer, sleeping car, airplane, vehicle, building, structure, or place adopted for overnight accommodation of persons or for carrying on business, whether or not a person is actually present.

(2) A person is guilty of arson if he starts a fire or causes an explosion with the purpose of destroying or damaging his own property or the property of another, to collect the insurance for such loss.

(3) Arson is a Class A offense.

(b) Reckless Burning.

(1) A person is guilty of reckless burning if he recklessly starts a fire or causes an explosion that endangers human life or damages the property of another; or having started a fire, whether recklessly or not, and knowing that it is spreading and may endanger the life or property of another, fails to take reasonable measures to put out the fire or give prompt alarm.

(2) Reckless burning is a Class B offense.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 5-40-010.]

5.40.020 Criminal mischief.

(a) A person is guilty of criminal mischief if he:

(1) Damages or destroys his property with the intention of defrauding an insurer in circumstances not amounting to arson; or

(2) Intentionally or recklessly damages, defaces, or destroys the property of another person; or

(3) Intentionally or recklessly shoots or propels any object against a vehicle, airplane, boat, or train, whether moving or standing.

(b) Criminal mischief is a Class B offense, unless the actor's conduct causes a loss of less than $100.00, in which case it is a Class C offense.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 5-40-020.]

5.40.030 Burglary.

A person is guilty of burglary if he, either by day or night, enters or remains in any house, room, apartment, tenement, shop, warehouse, store, mill, barn, outhouse, or other building, tent, vessel, vehicle, vehicle trailer, semi-trailer, house-trailer, or railroad car, with the intent to commit a Class A offense, or an offense defined in LVPTC 5.40.060, unless the premises are at the time open to the public, or the actor has a legal right to enter. Burglary is a Class A offense.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 5-40-030.]

5.40.040 Trespass.

(a) A person is guilty of trespass if he knowingly or recklessly enters or remains on property when notice against entry is given by

personal communication, by fencing or other enclosures, or by the posting of signs. Trespass is a Class D offense.

(b) A person is guilty of aggravated trespass if he knowingly or recklessly enters or remains on the property of another; and accomplishes such entry by an act of force or violence, or if he intends to cause or causes annoyance or injury to any person thereon, or if he intends to commit or commits another offense thereon. Aggravated trespass is a Class C offense.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 5-40-040.]

5.40.050 Robbery.

A person is guilty of robbery if he intentionally takes the property of another by means of force, violence or threat of injury. The threat of injury may be immediate or future, and may be directed toward the victim of the robbery, his property, or any other person in the victim's company at the time of the robbery. The victim must be present during the taking. The force, violence, or threat of injury must be used to obtain or retain possession of the property, or to prevent or overcome resistance to the taking. The degree of force is immaterial. If force is used merely as a means of escape, it does not constitute robbery. Robbery is a Class A offense.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 5-40-050.]

5.40.060 Theft.

(a) A person is guilty of theft if he obtains or exercises unauthorized control over the property of another with the purpose of depriving him thereof. Theft may be accomplished in any of several ways, including, but not limited to:

(1) Physical taking of the property;

(2) Deception;

(3) Extortion;

(4) Misuse of property lost, mislaid, or delivered by mistake;

(5) Failure to make required disposition of funds or property received;

(6) Using a check, knowing or believing that it will not be honored by the bank;

(7) Using a credit card with knowledge that the card has been revoked, canceled, or stolen;

(8) Receiving, retaining, or disposing of the property of another knowing it has been stolen or believing that it has probably been stolen.

(b) Definitions Applicable to Theft Offenses.

(1) Deception. Intentionally or recklessly creating or reinforcing a false impression, preventing another from acquiring information which would affect his judgment of a transaction, or failing to disclose a lien, adverse claim or other legal impediment to the enjoyment of property.

(2) Extortion. Threatening to inflict any harm on another person which would substantially hurt that person with respect to health, safety, business, calling, career, financial condition, reputation, or personal relationship.

(3) Property. Anything of value, including real estate, tangible or intangible personal property, contract right, interest in or claims to wealth, admission or transportation tickets, captured or domestic animals, food and drink, commodities of a public utility such as water, gas or electricity, trade or business secrets, which the owner thereof intends to be available only to persons selected by him, or any other right, object, labor or services valuable to the owner or provider.

(4) Purpose to Deprive. To have a conscious object to withhold property permanently, or for so extended a period that a substantial portion of its value is lost; or to restore the property only upon payment of a reward or other compensation; or to dispose of the property under circumstances that make it unlikely that the owner will recover it unharmed.

(c) Theft of property as provided in this section shall be punishable as follows:

(1) If the value of the property involved is $500.00 or more, the offense shall be a Class A offense.

(2) If the value of the property involved is $100.00 or more, but less than $500.00, the offense shall be a Class B offense.

(3) If the value of the property involved is less than $100.00, the offense shall be a Class C offense.

(4) If no evidence as to the value of the property involved is presented and the value of such is not obvious without presentation of such evidence, and if it otherwise is proven that a theft offense under this section has been committed, the offense shall be a Class C offense.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 5-40-060.]

5.40.070 Forgery.

(a) A person is guilty of forgery if, with the purpose of defrauding or injuring anyone, or with the knowledge that he is helping to defraud or injure anyone, he:

(1) Alters any writing of another without his authority;

(2) Makes, completes, executes, authenticates, issues, or transfers any writing; or

(3) Attempts to circulate or circulates as genuine any writing which he knows to be forged.

(b) Forgery shall be punishable as follows:

(1) If the value of the writing involved or the amount of damage caused by the fraud is $500.00 or more, the offense shall be a Class A offense.

(2) If the value of the writing involved or the amount of damage caused by the fraud is $100.00 or more, but less than $500.00, the offense shall be a Class B offense.

(3) If the value of the writing involved or the amount of damage caused by the fraud is less than $100.00, or no evidence as to the value is presented and the value is not obvious without presentation of such evidence, the offense shall be a Class C offense.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 5-40-070.]

5.40.080 Criminal simulation.

A person is guilty of criminal simulation if, with the intent of defrauding or injuring anyone, or with the knowledge that he is helping to defraud or injure anyone, he makes, alters, attempts to circulate or sell as genuine, or circulates or sells as genuine, any object so that it appears to have value because of antiquity, rarity, source, or authorship which it does not possess. Criminal simulation is a Class C offense.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 5-40-080.]

5.40.090 Tampering with records or other documents.

(a) A person is guilty of tampering with records or other documents if he falsifies, destroys, removes, or conceals any official record, will, deed, mortgage, security agreement or similar document.

(b) A person is guilty of tampering with records or other documents if he knowingly records a false or forged document, with the purpose of deceiving or injuring anyone or to conceal a wrongdoing.

(c) Tampering with records or other documents is a Class B offense.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 5-40-090.]

5.40.100 Deceptive business practices.

(a) A person is guilty of deceptive business practices if he:

(1) Uses or possesses a false weight or measure;

(2) Sells or offers for sale less than the represented quality or quantity of any commodity or service;

(3) Takes or attempts to take more than the represented quantity of any commodity or service when as buyer, he furnishes the weight or measure;

(4) Sells or offers to sell an adulterated product;

(5) As a seller or buyer, does any other act with the intention of defrauding someone.

(b) Deceptive business practices is a Class B offense.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 5-40-100.]

5.40.110 Rigging a contest.

A person is guilty of rigging a contest if he knowingly engages in conduct that will prevent a publicly exhibited contest from being conducted in accordance with the rules and usage purported to govern it. Rigging a contest is a Class C offense.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 5-40-110.]

5.40.120 Defrauding creditors.

(a) A person is guilty of defrauding creditors if he:

(1) Destroys, removes, conceals, encumbers, or otherwise transfers property with the intention of hindering enforcement of a security interest;

(2) Intentionally falsifies any writing or record relating to the property; or

(3) Intentionally misrepresents or refuses to disclose the amount or location of the property to a person entitled to administer said property.

(b) Defrauding creditors is a Class C offense.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 5-40-120.]

Chapter 5.50

OFFENSES AGAINST THE FAMILY

Sections:

5.50.010 Criminal nonsupport.
5.50.020 Criminal child abuse.
5.50.030 Criminal child neglect.
5.50.040 Failure to report child abuse or neglect.

5.50.010 Criminal nonsupport.

(a) A person is guilty of criminal nonsupport if he intentionally fails to provide for the support of his spouse, children under 18, or other dependents when they are in need of such support.

(b) Criminal nonsupport is a Class B offense.

(c) It is a defense to a prosecution under this section that the actor lacks the financial resources to support his dependents due to unemployment, ill health, or other similar reasons.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 5-50-010.]

5.50.020 Criminal child abuse.

(a) A person is guilty of criminal child abuse if he causes nonaccidental physical or mental injury to a person under 18 who is in his care. Injury shall include any form of sexual abuse not covered elsewhere in this title.

(b) Criminal child abuse is a Class A offense.

(c) Justification, as described in LVPTC 5.80.050, is a defense to a prosecution under this section.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 5-50-020.]

5.50.030 Criminal child neglect.

A person is guilty of criminal child neglect if he is responsible for the welfare of a child under 18, and recklessly endangers the child's welfare by intentionally or recklessly leaving or abandoning the child, intentionally or recklessly failing to provide food, or medical care, or otherwise intentionally or recklessly failing to care for the child in any manner which threatens serious harm to the physical or emotional well-being of the child. Criminal child neglect is a Class B offense.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 5-50-030.]

5.50.040 Failure to report child abuse or neglect.

A person is guilty of failure to report child abuse or neglect if in the course of his employment as a physician, nurse, social welfare worker, or teacher he intentionally or recklessly fails to report any instance of possible child abuse or neglect to the Tribal police officer or court. Failure to report child abuse or neglect is a Class C offense.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 5-50-040.]

Chapter 5.60

OFFENSES AGAINST THE ADMINISTRATION OF GOVERNMENT

Sections:

5.60.010 Bribery.
5.60.020 Improper influence in official matters.
5.60.030 Official misconduct.
5.60.040 Unofficial misconduct.
5.60.050 Perjury.
5.60.060 Making false reports.
5.60.070 Interfering with the judicial process.
5.60.080 Interfering with the governmental process.
5.60.090 Interfering with law enforcement procedures.
5.60.100 Doing business without a license.
5.60.110 Tampering with or destroying public property.
5.60.120 Failure to obey a lawful order of the court – Contempt.

5.60.010 Bribery.

(a) A person is guilty of bribery if he offers, gives, or agrees to give another, or solicits, accepts, or agrees to accept from another, any money or other benefit as compensation for the recipient's decision, opinion, vote, or other exercise of discretion.

(b) Compensation for past behavior shall be included under subsection (a) of this section as a form of bribery, even though such compensation may be received when the recipient no longer possesses the power to make discretionary official decisions.

(c) Bribery is a Class B offense.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 5-60-010.]

5.60.020 Improper influence in official matters.

(a) A person is guilty of improper influence in official matters if he threatens harm to any public servant, including but not limited to Tribal officials and judges, or to the relatives of public servants with the purpose of influencing a decision, opinion, recommendation, or other exercise of discretion.

(b) Retaliation of past official action shall be included under subsection (a) of this section as a form of improper influence.

(c) Improper influence is a Class B offense.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 5-60-020.]

5.60.030 Official misconduct.

(a) A person is guilty of official misconduct if, as a Tribal official, or employee, he intentionally commits an unauthorized act which purports to be an act of his office or intentionally refrains from performing a nondiscretionary duty imposed on him by law, for the purposes of benefitting himself.

(b) A person is guilty of official misconduct if, being a Tribal official or employee charged with the receipt, safekeeping, transfer or disbursement of public money, he appropriates the money or any portion thereof to his own use or the use of another or otherwise handles public money in a manner not authorized by law or the duties of his employment.

(c) Official misconduct is a Class B offense.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 5-60-030.]

5.60.040 Unofficial misconduct.

(a) A person is guilty of unofficial misconduct if he exercises or attempts to exercise any of the functions of a public official when he has not been elected or appointed to the office, has not filed a required bond, has not filed the required oath, continues to act as an official after his term of office has expired, or intentionally withholds or retains from his successor or intentionally destroys any records, papers, or documents pertaining to his office.

(b) It is a defense to a charge of unofficial misconduct that the person charged reasonably believed he was authorized to act as a public official.

(c) Unofficial misconduct is a Class B offense.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 5-60-040.]

5.60.050 Perjury.

(a) A person is guilty of perjury if, in any official proceeding, he makes a false statement under oath or equivalent affirmation, swears or affirms the truth of a statement previously made, when the statement could affect the outcome of the proceeding, and he does not believe it to be true. Perjury is a Class A offense.

(b) No person shall be convicted of an offense under subsection (a) of this section, where proof of falsity rests solely upon contradiction by the testimony of a single person other than the defendant.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 5-60-050.]

5.60.060 Making false reports.

(a) A person is guilty of making false reports if he intentionally:

(1) Gives false information to a law enforcement officer with the intention of misleading such officer in the performance of his official function;

(2) Makes a false statement not under oath, or swears or affirms the truth of such a statement previously made, when the falsification was intended to mislead a public official, or occurred in an official proceeding; or

(3) Causes a false fire alarm or other emergency alarm to be transmitted to or within any organization for dealing with emergencies involving danger to life or property.

(b) False reports is a Class C offense.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 5-60-060.]

5.60.070 Interfering with the judicial process.

(a) A person is guilty of interfering with the judicial process if he attempts to induce or otherwise cause another person to testify falsely or withhold information, testimony, documents or things from the court.

(b) A person is guilty of interfering with the judicial process if he harms another person in retaliation for anything done by the other person in his capacity as a court officer, court employee, witness or informant.

(c) A person is guilty of interfering with the judicial process if he solicits, accepts or agrees to accept any benefit in consideration for his doing any of the things specified in this section.

(d) A person is guilty of interfering with the judicial process if he alters, destroys, or conceals any record, document or thing with the purpose of impairing its availability as evidence, or presents any record, document, or thing knowing it to be false with the intent of misleading the court.

(e) Interfering with the judicial process is a Class B offense.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 5-60-070.]

5.60.080 Interfering with the governmental process.

(a) A person is guilty of interfering with the governmental process if he intentionally:

(1) Makes a false entry in, or false alteration of, any record, document or book kept by the Tribe;

(2) Makes, presents, or uses any false record, document or thing with the purpose that it be taken as genuine; or

(3) Destroys, conceals, or removes any record, document, or thing belonging to the Tribe.

(b) A person is guilty of interfering with the governmental process if he uses force, violence, or intimidation with the intent to interfere with a public servant performing an official function.

(c) Interfering with the governmental process is a Class C offense.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 5-60-080.]

5.60.090 Interfering with law enforcement procedures.

(a) A person is guilty of interfering with law enforcement procedures if he:

(1) Resists arrest by any means that create a risk of bodily harm to anyone;

(2) Intentionally interferes with the apprehension or prosecution of another by harboring or concealing the other, or by providing weapons or transportation or other means of escape; or

(3) Intentionally obstructs a law enforcement officer in the performance of his official duties through threats, violence, or force.

(b) A person is guilty of interfering with law enforcement procedures if he removes himself from official detention.

(c) Interfering with law enforcement procedures is a Class C offense.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 5-60-090.]

5.60.100 Doing business without a license.

A person is guilty of doing business without a license if he commences or carries on any business, trade, profession, or calling which is required by Tribal law to be licensed, without having an appropriate license. Doing business without a license is a Class D offense.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 5-60-100.]

5.60.110 Tampering with or destroying public property.

A person is guilty of tampering with or destroying public property if he intentionally injures or destroys any book, record, document, building, marker, or any other tangible property, real or personal, which belongs to the Tribe, or any public or governmental agency of the Tribe.

Tampering with or destroying public property is a Class B offense.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 5-60-110.]

5.60.120 Failure to obey a lawful order of the court – Contempt.

(a) A person is guilty of failure to obey a lawful order of the court if he intentionally, and without a good reason, fails to obey an order, subpoena, warrant, or command duly made, issued, or given by the Tribal Court or any officer thereof, or otherwise issued according to law.

(b) This section does not apply to a failure to appear as a party in a civil action where default or similar remedy is available to the other party.

(c) Failure to obey a lawful order of the court is a Class C offense.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 5-60-120.]

Chapter 5.70

OFFENSES AGAINST PUBLIC ORDER AND DECENCY

Sections:

5.70.010 Disorderly conduct.
5.70.020 Misuse of telephone.
5.70.030 Desecration.
5.70.040 Violation of privacy.
5.70.050 Weapons offenses.
5.70.060 Criminal nuisance.
5.70.070 Contributing to the delinquency of a minor.
5.70.080 Fireworks offenses.
5.70.090 Littering.
5.70.100 Controlled substances offenses.
5.70.110 Possession of marijuana.
5.70.120 Abandoned iceboxes and other containers.
5.70.130 BB guns and pellet guns.

5.70.010 Disorderly conduct.

(a) No person shall lie and sleep on any of the sidewalks, streets or other public places within the Reservation, or appear therein in such a state of intoxication or drunkenness as to be unable to take proper care of himself or herself.

(b) No person shall disturb the peace or quiet of any person, family or neighborhood, by making loud noises, or by violent or offensive language, or by the threatening, quarreling, fighting or offering or challenging to fight, or in any other way or manner shall disturb the peace, quiet and decency of any person, street or neighborhood.

(c) A person is guilty of disorderly conduct if he or she engages in conduct that creates a substantial risk of causing physical harm to any person; or if he or she intentionally disrupts a meeting, procession, or other gathering of people.

(d) A person is guilty of disorderly conduct if he or she refuses or knowingly fails to obey an order to disperse or leave the immediate vicinity, given by a law enforcement officer or other public servant performing a law enforcement function at the scene of an accident or fire, or given in the course of executing or enforcing a law, or given in the course of a criminal investigation.

(e) Disorderly conduct is a Class D offense.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977.

[Res. 03-013, 2003; Res. 10-27-77B, 1977. Prior Code § 5-70-010.]

5.70.020 Misuse of telephone.

A person is guilty of misuse of telephone if he uses the telephone with the intent of harassing another and without purpose of legitimate communication; if he intentionally refuses to yield or surrender the use of a party line or public pay telephone upon being informed that the telephone is needed to report a fire or summon an emergency vehicle, unless the actor is already using the telephone to report an emergency; or if he asks for the use of a party line or public pay telephone under pretext that an emergency exists, knowing no emergency exists. Misuse of a telephone is a Class C offense.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 5-70-020.]

5.70.030 Desecration.

A person is guilty of desecration if he purposely desecrates any public monument, structure, place of worship, or cemetery.

"Desecrate" means defacing, damaging, polluting, or otherwise physically mistreating one of the above things in a way that the actor knows or believes will outrage the sensibilities of the persons likely to discover his action. Desecration is a Class C offense.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 5-70-030.]

5.70.040 Violation of privacy.

(a) A person is guilty of violation of privacy if, except as authorized by law, he:

(1) Trespasses on property with intent to subject anyone to eavesdropping or other surveillance in a private place;

(2) Installs any device for observing, photographing, recording, or eavesdropping in or outside of any private place, without the consent of the person or persons who have a reasonable expectation of privacy there; or

(3) Intercepts a message by telephone, telegraph, letter, or other communication without the consent of the sender or the receiver.

(b) Violation of privacy is a Class C offense.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 5-70-040.]

5.70.050 Weapons offenses.

(a) A person is guilty of a weapons offense if:

(1) He carries a dangerous weapon on his person while intoxicated;

(2) He discharges any kind of firearm from a vehicle without lawful authority to do so;

(3) He discharges a firearm from, upon, or across any public highway without lawful authority to do so;

(4) He discharges a rifle or similar firearm from, upon, across or within one mile of any dwelling or occupied structure;

(5) He discharges a shotgun or similar firearm from, upon, across or within 100 yards of any dwelling or occupied structure; or

(6) He discharges a firearm upon any private property without the consent of the owner or occupant of such property.

(b) A person shall be guilty of an aggravated weapons offense if:

(1) He carries a dangerous weapon concealed on his person;

(2) He threatens to use or exhibits a dangerous weapon in a dangerous or threatening manner, or uses a dangerous weapon in a fight or quarrel;

(3) He possess a shotgun or rifle having a barrel or barrels of less than 16 inches in length or an altered or modified shotgun or rifle of less than 26 inches overall length.

(c) A weapons offense under subsection (a) of this section is a Class C offense. A weapons offense under subsection (b) of this section is a Class B offense.

(d) A dangerous weapon shall be defined as any firearm, any knife having a blade more than three inches in length, any switchblade knife, and any other device or object capable of causing serious bodily harm.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 5-70-050.]

5.70.060 Criminal nuisance.

(a) A person is guilty of criminal nuisance if:

(1) He recklessly interferes with or alters the flow of water in any stream, river, ditch, canal, or lateral;

(2) He recklessly breaks, injures, alters or destroys any bridge, dam, canal, flume, or other structure for the control of water without lawful authority to do so;

(3) He negligently causes or allows any substance harmful or potentially harmful or persons, animals, or plants to enter into a source of water used for drinking or other domestic or farm purposes; or

(4) He recklessly obstructs or tends to obstruct any lake, stream, canal, road, public park, or highway.

(b) A person is guilty of criminal nuisance if he keeps wrecked or junked cars, appliances or implements, or unreasonable quantities of trash or garbage on his property, in public view, and fails to remove them when requested to do so by the Tribal Council.

(c) Criminal nuisance under subsection (a) of this section is a Class C offense. Criminal nuisance under subsection (b) of this section is a Class E offense.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 5-70-060.]

5.70.070 Contributing to the delinquency of a minor.

A person 21 years of age and over is guilty of contributing to the delinquency of a minor if he recklessly sells, gives, or otherwise makes beer, wine, or other alcoholic beverages available to a person under the age of 21 years; if he recklessly sells, gives or otherwise makes available to a person under the age of 21 years a controlled substance, as specified in LVPTC 5.70.100, without a prescription from a doctor or other person licensed to prescribe medicine; or if he recklessly, by act or by omission, encourages, causes, or contributes to the commission of any offense by a person under 21 years of age. Contributing to the delinquency of a minor is a Class A offense. [Res. 17-001, 2017; Res. 10-27-77B, 1977. Prior Code § 5-70-070.]

5.70.080 Fireworks offenses.

A person is guilty of a fireworks offense if he possesses, buys or sells, distributes, transports, activates, ignites, or detonates any firecracker or other firework-type device which is capable of or intended to explode, ignite, become self-propelled, give off any projectile, spark, or other ignited or fused object or manifestation, or in any way give off sound or light by virtue of its burning or exploding. However, it shall not be an offense under this section to use or ignite hand-held sparkler-type devices in such a manner that they burn openly and singly or to use toy caps in capguns singly, or to use or ignite fireworks at a patriotic, religious, or Tribal ceremony, gathering, or celebration in a safe manner; provided, that a permit to do so has been obtained from the Tribal Council prior to the importation and use of such fireworks. A fireworks offense is a Class C offense.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 5-70-080.]

5.70.090 Littering.

A person is guilty of littering if he throws, dumps, places, or deposits upon the land of another, upon any Tribal or public property, upon any highway, street, road, or upon any other area not his own, without the consent of the owner or other lawful permission, any garbage, debris, junk, carcasses, trash, refuse, or other substance of any nature whatsoever which would mar the appearance or detract from the cleanliness of the area. Littering is a Class E offense. If a person is convicted of littering more than once in a 12-month period, the second and any subsequent convictions shall be Class D offenses.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 5-70-090.]

5.70.100 Controlled substances offenses.

(a) A person is guilty of a controlled substance offense if he has in his possession, either for use or for sale, any controlled substance listed in schedules I, II, III, IV and V of Title 21, U.S.C. § 812, or the successor to schedule I, II, III, IV, and V of Title 21, U.S.C. § 812, without a prescription from a doctor or other person licensed to prescribe medicine.

(b) The provisions in subsection (a) of this section, as they pertain to possession for use and not for sale, shall not apply to possession of one ounce or less of marijuana or one-eighth of an ounce or less of marijuana concentrate except as provided in subsection (c) of this section.

(c) A person is guilty of a controlled substance offense if he consumes marijuana or marijuana-infused product while in public.

(d) A person is guilty of a controlled substance offense if he cultivates marijuana on Tribal Reservation land, unless such person

has been issued a medical marijuana license, in which case such person may cultivate up to 12 marijuana plants at a time, so long as such plants are cultivated outside the public eye.

(e) Any controlled substance offense is a Class A offense. [Res. 18-011, 2018; Res. 17-001, 2017; Res. 10-27-77B, 1977. Prior Code § 5-70-100.]

5.70.110 Possession of marijuana.

A person is guilty of possession of marijuana if he has in his possession more than one ounce of marijuana or more than one-eighth ounce of marijuana concentrate. Possession of marijuana is a Class E offense. [Res. 17-001, 2017; Res. 10-27-77B, 1977. Prior Code § 5-70-110.]

5.70.120 Abandoned iceboxes and other containers.

Any person who shall have on his premises any abandoned chest, icebox or other container not in active use, the attached door to which has a latch or lock which automatically fastens upon the door being closed and which cannot be readily opened from inside, shall be guilty of a Class C offense.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 5-70-120.]

5.70.130 BB guns and pellet guns.

(a) Duty to Register. It shall be the duty of any person owning or having in his possession a BB or pellet gun to register such gun with the Tribal police.

(b) Failure to Register. It shall be a Class D offense for any person to possess a BB or pellet gun within the exterior boundaries of the Reservation unless such person has properly registered such gun.

(c) Confiscation. The Tribal police shall confiscate any BB or pellet gun which is possessed contrary to the provisions of this section. The gun may be returned to the owner or otherwise disposed of at the discretion of the Tribal judge.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 5-70-130.]

Chapter 5.80

DEFENSES

Sections:

5.80.010 Intoxication.
5.80.020 Duress.
5.80.030 Consent.
5.80.040 Entrapment.
5.80.050 Justification.
5.80.060 Force in defense of persons.
5.80.070 Force in arrest.
5.80.080 Force in defense of one's dwelling.
5.80.090 Force in defense of property.

5.80.010 Intoxication.

Intoxication is not a defense unless it negates the mental state required for the offense. When recklessness is an element of the offense, if the actor, due to self-induced intoxication, is unaware of a risk of which he should have been aware had he been sober, such awareness is not a defense. Intoxication which is not self-induced is a defense.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 5-80-010.]

5.80.020 Duress.

It is a defense that the actor engaged in conduct charged to constitute an offense because he was coerced to do so by the use, or threat to use, unlawful force against his person or the person of another, which a law-abiding person of reasonable firmness would have been unable to resist. It is no defense that a woman acted on a command of her husband, or a man on command of his wife, unless the circumstances amount to duress as defined above. The defense of duress is unavailable where the conduct constituting the offense causes or threatens to cause death or serious bodily harm to some other person than the actor.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 5-80-020.]

5.80.030 Consent.

The consent of the victim to conduct charged to constitute an offense or to the result thereof is a defense if such consent negates an element of the offense. However, consent is not a defense if the bodily harm consented to or threatened by the offense is serious. Consent that is given by a person who, by reason of youth, mental disease or defect, or intoxication, is unable to make a reasonable judgment is not valid.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 5-80-030.]

5.80.040 Entrapment.

A law enforcement officer perpetrates an entrapment if he induces or encourages another person to engage in conduct constituting an offense by knowingly making false representations designed to induce the belief that such conduct is not prohibited, or if he employs methods of persuasion which create a substantial risk that an offense will be committed by a person who would not otherwise be ready to commit it. This defense is not available when the offense involves bodily injury or the threat of bodily injury to a person other than the officer perpetrating the entrapment.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 5-80-40.]

5.80.050 Justification.

Justification is a defense when the actor's conduct is reasonable, and in fulfillment of his duties as a Tribal officer or employee, or is reasonable discipline of a minor by a parent,

guardian, teacher, or other person in the position of a parent.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 5-80-050.]

5.80.060 Force in defense of persons.

(a) A person is justified in threatening or using force against another person when and to the extent that he reasonably believes such force is necessary to defend himself or a third person against such other person's immediate use of unlawful force. However, a person is justified in using force which is intended or likely to cause death or serious bodily injury only if he reasonably believes that such force is necessary to prevent death or serious bodily injury to himself or a third person.

(b) A person is not justified in using force under this section if he was the aggressor or was engaged in combat by consent, unless he has withdrawn from the encounter and effectively communicated his withdrawal to the other person.

(c) A person is not justified in using force under this section if he initially provoked the use of force upon himself with the intent to use such force as an excuse to inflict harm upon another, or if he is attempting to commit, committing, or fleeing after the commission of an offense.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 5-80-060.]

5.80.070 Force in arrest.

Any person is justified in using force, except force likely to cause death or serious bodily injury, to effect an arrest. A law enforcement officer may use force likely to cause death or serious bodily injury only if such force is necessary, and the person to be arrested is attempting to escape by use of a deadly weapon.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 5-80-070.]

5.80.080 Force in defense of one's dwelling.

A person is justified in using force against another person when and to the extent necessary to prevent or terminate the other person's entry into or attack upon his dwelling. However, he may use force likely to cause death or serious bodily injury only if the entry is made or attempted in a violent manner, and it reasonably appears that there may be violence to any person in the dwelling, or if he reasonably believes that the entry is made or attempted for the purpose of committing a Class A offense involving bodily injury.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 5-80-080.]

5.80.090 Force in defense of property.

A person is justified in using force, other than deadly force, to the extent he reasonably believes such force is necessary to prevent or terminate criminal interference with real or personal property lawfully in his possession or in the possession of his immediate family, or belonging to a person whose property he has a legal duty to protect.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 5-80-090.]

Chapter 5.90

CLASSES OF OFFENSES AND SENTENCES

Sections:

5.90.010 Sentences for classes of offenses.
5.90.020 General sentencing provisions.
5.90.030 Probation and restitution.

5.90.010 Sentences for classes of offenses.

(a) A person convicted of a Class A, B, C, D or E offense may be sentenced as follows:

(1) If the offense is a Class A offense:

(A) To a term of imprisonment not to exceed one year;

(B) To a fine not to exceed $5,000; or

(C) To both such imprisonment and fine.

(2) If the offense is a Class B offense:

(A) To a term of imprisonment not to exceed six months;

(B) To a fine not to exceed $4,000; or

(C) To both such imprisonment and fine.

(3) If the offense is a Class C offense:

(A) To a term of imprisonment not to exceed 60 days;

(B) To a fine not to exceed $3,000; or

(C) To both such imprisonment and fine.

(4) If the offense is a Class D offense:

(A) To a term of imprisonment not to exceed 20 days;

(B) To a fine not to exceed $2,000; or

(C) To both such imprisonment and fine.

(5) If the offense is a Class E offense:

(A) To a fine not to exceed $1,000 without imprisonment.

(6) Nothing in this section shall prevent the imposition of a sentence involving exclusion or expulsion, in accord with the provisions of LVPTC Title 20.

Comment: This subsection entirely restates and supersedes its prior versions pursuant to Tribal Council Resolution No 94-039, dated October 18, 1994, and Tribal Council Resolution No. LV-88-153, dated ?, and as originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, and all amendments thereto.

(b) In addition to the sentences listed in subsection (a) of this section, any further punishment or penalty specifically established for a particular offense also may be imposed.

Comment: This subsection entirely restates and supersedes its prior version pursuant to Tribal Council Resolution No. LV-88-153, dated ?, and as originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, and all amendments thereto.

[Res. 06-010, 2006; Res. 94-039, 1994. Prior Code § 5-90-010.]

5.90.020 General sentencing provisions.

(a) If an offense is not designated as a Class A, B, C, D, or E offense, the sentence imposed for such offense shall be specified in the ordinance establishing the offense.

(b) If an offense is not designated as a Class A, B, C, D, or E offense and no sentence is specified for the offense, then the offense shall be a Class E offense, and a person convicted of such an offense shall be sentenced as provided in Section 5.90.010(a)(5).

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 5-90-020.]

5.90.030 Probation and restitution.

Nothing in this chapter shall prevent the imposition of a sentence involving probation or restitution, in accord with the provisions of LVPTC Title 4.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 5-90-030.]

Title 6

EVIDENCE

Chapters:

6.10	**Definitions**
6.20	**Admissibility in General**
6.30	**Witnesses**
6.40	**Evidence Excluded for Policy Reasons**
6.50	**Statements by Persons Not Present – The Hearsay Rule**
6.60	**Privileges to Exclude Evidence**

[Res. 10-27-77B, 1977.]

Chapter 6.10

DEFINITIONS

Sections:

6.10.010 Evidence.
6.10.020 Impeachment evidence.
6.10.030 Relevant evidence.
6.10.040 Natural person and person.
6.10.050 Representative.

6.10.010 Evidence.

"Evidence" means statements and answers given by a witness, documents, objects or anything else presented to the senses of the jury, or the judge.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 6-10-010.]

6.10.020 Impeachment evidence.

"Impeachment evidence" means evidence introduced for the purpose of showing that a witness's testimony or other evidence is not to be believed. It may take the form of further evidence contradicting what the witness has said, or evidence that raises questions about the witness's reliability or credibility in general.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 6-10-020.]

6.10.030 Relevant evidence.

"Relevant evidence" means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 6-10-030.]

6.10.040 Natural person and person.

"Natural person" and "person" means a human being. The term "person" may also include, when appropriate, a corporation, association, or other organization.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 6-10-040.]

6.10.050 Representative.

"Representative" means a person who has been asked by a client to provide legal, financial or accounting advice, or help in representing the client in front of any official body such as a court or a hearing officer. The word may also include any employee or assistant of such a person.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 6-10-050.]

Chapter 6.20

ADMISSIBILITY IN GENERAL

Sections:

6.20.010 Relevance.
6.20.020 Objections to evidence.
6.20.030 Appeals.
6.20.040 Effect of decision on appeal.

6.20.010 Relevance.

(a) All relevant evidence is admissible, except:

(1) As otherwise provided by provisions of the United States Constitution or federal law that are applicable to the Tribal Court; or

(2) When excluded by this title.

(b) Evidence which is not relevant is not admissible.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 6-20-010.]

6.20.020 Objections to evidence.

(a) Any party may object to a question asked a witness, or an answer of a witness, or any other piece of evidence presented. If the judge finds that the evidence is admissible, he shall overrule the objection. If the judge finds that the evidence is inadmissible, he shall sustain the objection, exclude the evidence, and, when appropriate, instruct the jury to disregard any inadmissible evidence that has already been introduced, presented, or otherwise disclosed to the jury.

(b) If no objection is made during the trial, a ruling of the trial judge as to whether or not to admit a piece of evidence may not be questioned on appeal unless otherwise provided by this Code.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 6-20-020.]

6.20.030 Appeals.

If evidence is offered by one party and objected to by another, the trial judge's decision on whether or not to admit the evidence may be appealed after trial except that:

(a) A prosecutor in a criminal case may not appeal if the defendant is found not guilty.

(b) No party may appeal a ruling by the trial judge as to the admissibility of evidence unless they are aggrieved by the final decision in the case and assert that the ruling in question is responsible for the final decision complained of.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 6-20-030.]

6.20.040 Effect of decision on appeal.

If the appeals court decides:

(a) That the trial judge's ruling was in error; and

(b) That the error may have affected the outcome of the case;

It may, in a civil case, and shall, in a criminal case, declare the verdict or judgment to be void and without effect. The case shall then be returned to the trial court for a new trial.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 6-20-040.]

Chapter 6.30

WITNESSES

Sections:

6.30.010 Judge and juror as witnesses.
6.30.020 Exclusion of witnesses.
6.30.030 Control by judge of questioning.
6.30.040 Order of questioning.
6.30.050 Form of questions.

6.30.010 Judge and juror as witnesses.

(a) The judge presiding at the trial and the jurors hearing testimony in the trial shall not testify as witnesses in that trial. If any of them testifies at trial, no objection need be made in order to preserve the point for appeal; the appeals court shall follow the rules set out in LVPTC 6.20.040.

(b) If a party requires the testimony of the judge in order to properly present his case, he shall request, before trial, that another judge hear the case. If this request is denied, the party may assert that this denial was in error in an appeal after trial.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 6-30-010.]

6.30.020 Exclusion of witnesses.

(a) Except as otherwise provided in subsection (b) of this section, at the request of a party the judge shall order witnesses excluded from the courtroom so that they cannot hear the testimony of other witnesses. The judge may make an order excluding witnesses of his own motion.

(b) This section does not authorize exclusion of:

(1) A party who is a natural person;

(2) An officer or employee of a party which is not a natural person, and who is acting for that party before the court;

(3) The representative of a party;

(4) A person whose continuing presence is shown by a party to be essential to the present action of his case; or

(5) Officers or employees of the court.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 6-30-020.]

6.30.030 Control by judge of questioning.

The judge shall exercise reasonable control over the presentation of evidence in order to:

(a) Determine the truth;

(b) Avoid a waste of time; and

(c) Protect witnesses from undue harassment or embarrassment.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 6-30-030.]

6.30.040 Order of questioning.

(a) After a witness has been questioned by the party or parties calling him, the adverse party or parties shall have the right to cross-examine the witness. Cross-examination is limited to the subject matter of the direct examination and matters affecting the credibility of the witness, unless the judge in the exercise of his discretion permits inquiry into additional matters as if on direct examination. At the completion of cross-examination, the party calling the witness has the right to conduct re-direct examination, limited to the matters raised in cross-examination. The adverse party may conduct a re-cross-examination limited to those matters raised on re-direct examination.

(b) The judge may dispense with the formal order of questioning set out in subsection (a) of this section. Any party may object to this action, and raise this objection on appeal if it is overruled.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 6-30-040.]

6.30.050 Form of questions.

(a) Leading questions are questions that by their form or content suggest the answer that is desired.

(b) Leading questions shall not be used in the direct examination of a witness except for preliminary matters not in controversy without the permission of the judge. The judge should liberally grant permission to ask leading questions to children and persons with language problems in the interests of obtaining meaningful testimony from such persons.

(c) Leading questions are permitted on cross-examination.

(d) In civil cases, a party is entitled to call:

(1) An adverse party; or

(2) A witness identified with an adverse party, and question by leading questions. The adverse party may then use leading questions in cross-examination such a party or witness only to the extent permissible if he had called such a person on direct examination.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 6-30-050.]

Chapter 6.40

EVIDENCE EXCLUDED FOR POLICY REASONS

Sections:

6.40.010 Character evidence.
6.40.020 Subsequent repairs.
6.40.030 Compromises – Offers to compromise.
6.40.040 Payment of medical or similar expenses.
6.40.050 Offer to plead “guilty” or “no contest” – Withdrawn guilty plea.
6.40.060 Liability insurance.

6.40.010 Character evidence.

(a) Evidence of a person’s character or a trait of his character is not admissible for the purpose of proving that he acted in conformity with it on a particular occasion, except:

(1) Evidence of his character or a trait of his character offered by an accused, and similar evidence offered by the prosecution to rebut such evidence;

(2) Evidence of the character or a trait of character of a victim of the crime offered by an accused, and similar evidence offered by the prosecution to rebut such evidence.

(b) Evidence of other acts by a party or witness is not admissible to prove that such person acted in conformity with those other acts. Such evidence may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident.

(c) Evidence of the character of a witness may be offered to attach or support his credibility. [Prior Code § 6-40-010.]

6.40.020 Subsequent repairs.

(a) When, after an event, measures are taken which, if taken previously, would have made the event less likely to occur, evidence of these measures is not admissible to prove negligence or culpable conduct in connection with the event.

(b) This section does not require the exclusion of evidence of subsequent remedial

measures when offered to impeach a witness denying ownership, control, or feasibility of precautionary measures.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 6-40-020.]

6.40.030 Compromises – Offers to compromise.

(a) Evidence of any negotiations in compromising or offering to compromise a claim is not admissible to prove the amount of a claim or the validity or invalidity of a claim. Evidence of conduct or statements made in compromise negotiations is likewise not admissible.

(b) This section does not require exclusion when the evidence is offered for another purpose, such as proving bias or prejudice of a witness, responding to a contention of undue delay, or proving an effort to obstruct a criminal investigation or prosecution.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 6-40-030.]

6.40.040 Payment of medical or similar expenses.

Evidence of furnishing, or offering or promising to pay medical, hospital, or similar expenses occasioned by an injury is not admissible to prove liability for the injury.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 6-40-040.]

6.40.050 Offer to plead “guilty” or “no contest” – Withdrawn guilty plea.

Evidence of a plea of “no contest,” or a plea of “guilty,” later withdrawn, or of an offer to plead “guilty” or “no contest” is not admissible in any proceeding involving the person who made the plea or offer.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 6-40-050.]

6.40.060 Liability insurance.

(a) Evidence that a person was or was not insured against liability is not admissible upon the issue of whether he acted negligently or otherwise wrongfully.

(b) This section does not require the exclusion of evidence of insurance against liability when it is relevant for another purpose, such as proof of agency, ownership or control, or bias or prejudice of a witness.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 6-40-060.]

Chapter 6.50

STATEMENTS BY PERSONS NOT PRESENT – THE HEARSAY RULE

Sections:

6.50.010 Criminal cases.
6.50.020 Civil cases.

6.50.010 Criminal cases.

(a) Hearsay is the testimony of a witness about the statement of another person who is not available to testify.

(b) Hearsay evidence shall be excluded from a criminal case before a jury if the judge finds:

(1) That the usefulness of the testimony would be outweighed by its possible prejudice; that is, if the likelihood of the jury's being misled is greater than the likelihood that the testimony will help them arrive at the truth; or

(2) That the admission of the testimony would deprive the defendant of the opportunity to confront the witnesses against him; that is, that it would be unfair to deny to the defendant his right to cross-examine the person who made the original statement.

(c) Any discussion or argument between the judge and the parties or their representatives shall take place out of the hearing of the jury.

(d) In a criminal case tried by the court, the judge may, in his discretion, permit such hearsay testimony if he believes the ends of justice will be served thereby and the defendant will not be denied his right to confront the witnesses against him.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 6-50-010.]

6.50.020 Civil cases.

(a) In a civil case before a jury where testimony is offered about the statement of another person not available to testify, the judge shall instruct the jury that they should realize that the person who made the statement is not there to be cross-examined, and that they should consider the fact in deciding how much weight to give to the testimony.

(b) In a civil case tried by the court, hearsay evidence if relevant, as defined in LVPTC 6.50.010, is admissible, except as otherwise provided in this title.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 6-50-020.]

Chapter 6.60

PRIVILEGES TO EXCLUDE EVIDENCE

Sections:

6.60.010 Privileges end at death.
6.60.020 Representative-client privilege (lawyer, accountant, etc.).
6.60.030 Health worker-patient privilege.
6.60.040 Religious counseling privilege.
6.60.050 News reporter's privilege.
6.60.060 Political voter's privilege.
6.60.070 Husband-wife privileges.
6.60.080 Trade secrets.
6.60.090 Privilege against self-incrimination.
6.60.100 Waiver of a privilege.
6.60.110 Privileged matter disclosed without opportunity to claim privilege.
6.60.120 Comment on use of privilege.

6.60.010 Privileges end at death.

No person may claim a privilege on behalf of a person who is dead.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 6-60-010.]

6.60.020 Representative-client privilege (lawyer, accountant, etc.).

(a) Definitions. In this section the following terms shall have the indicated meanings:

(1) "Client" means a person, including a public officer, or a corporation, association or other organization or entity, either public or private, who is given legal and financial advice or representation, or who consults someone with a view to obtaining such advice or representation.

(2) "Confidential communication to a representative" means a communication that is not intended to be disclosed to anyone except those who would have to know about it in order for the client to receive the advice and/or representation that he is seeking.

(b) General Rule of Privilege. A client has a privilege to refuse to disclose, and to prevent any other person from disclosing, any confidential communications:

(1) Between himself and his representative;

(2) Between two or more of his representatives; or

(3) Between him or his representative and another person or that person's representative in a matter of common interest between him and the other person, as long as the communication is made for the purpose of helping with the representation of the client.

(c) Who May Claim Privilege.

(1) The privilege may be claimed by the client, his guardian or conservator, or the successor, trustee, or similar representative of a corporation, association or other organization, whether or not in existence.

(2) The person who was the representative at the time of the communication may claim the privilege but only on behalf of the client. His authority to do so is presumed in the absence of evidence to the contrary.

(d) Exceptions. There is no representative-client privilege:

(1) If the services of the representative were sought or obtained to enable or aid anyone to commit or plan to commit what the client knew or reasonably should have known to be a crime or fraud.

(2) As to a communication relevant to an issue of breach of duty by the representative to his client or by the client to his representative.

(3) As to communication relevant to an issue concerning a witnessed document which the representative signed as a witness.

(4) As to communication relevant to a matter of common interest between two or more clients if the communication was made by any of them to a representative retained or consulted in common, when offered in an action between any of the clients.

(5) As to a communication relevant to the preparation or making of a public report.

(6) As to a communication between a corporation, association, or other organization and its representative, in an action against

the organization which is based on an alleged breach of fiduciary duty.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 6-60-020.]

6.60.030 Health worker-patient privilege.

(a) Definitions. In this section, the following terms shall have the indicated meanings:

(1) "Health worker" means a doctor, dentist, nurse, physical therapist, alcohol or drug or mental health counselor, or any other person who is employed or engaged in the examination, diagnosis, or treatment of people for physical or mental conditions. It also includes any person participating in the examination, diagnosis, or treatment under the direction of the health worker, including, when appropriate, members of the patient's family.

(2) "Confidential communication" means any communication not intended to be disclosed to anyone except for those who would have to know about it for the purpose of furthering the examination, diagnosis, or treatment.

(3) "Patient" means a person who consults or is examined or interviewed by a health worker for purposes of diagnosis or treatment.

(b) General Rule of Privilege. A patient has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications between himself and his health worker.

(c) Who May Claim Privilege. The privilege may be claimed by the patient or by his guardian or conservator. The health worker may claim the privilege but only on behalf of the patient. His authority to do so is presumed in the absence of evidence to the contrary.

(d) Exceptions.

(1) If the judge orders an examination of the condition of the patient, communications made in the course of that examination are not privileged with respect to the purpose for which the examination is ordered unless the judge orders otherwise.

(2) There is no privilege under this section as to communications relevant to an issue of the condition of the patient in any proceeding in which the condition is an element of a claim or defense.

(3) There is no privilege under this section as to communications which are made as part of an effort to achieve an unlawful result. For example, there is no privilege for communications made to a health worker in an attempt to get the health worker to procure a drug illegally.

(4) [Optional]. There is no privilege under this section for communications relevant to an issue in proceedings to hospitalize the patient for mental illness, if the health worker has determined that the patient is in need of hospitalization.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 6-60-030.]

6.60.040 Religious counseling privilege.

A clergyman, priest or other religious counselor shall not, without the consent of the person being counseled, be examined as a witness to any confession made to him while he was providing counsel.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 6-60-040.]

6.60.050 News reporter's privilege.

No reporter or employee of any newspaper, periodical, press association, or radio or television station may be required to disclose in any legal proceeding or investigation any unpublished information obtained or prepared by such person in gathering, receiving or processing information for communication to the public, or the source of any information procured or obtained by such person.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 6-60-050.]

6.60.060 Political voter's privilege.

Every person has an absolute privilege to refuse to disclose how he voted at a political election conducted by secret ballot.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 6-60-060.]

6.60.070 Husband-wife privileges.

(a) During marriage, a husband cannot be examined as a witness for or against his wife without her consent, nor a wife for or against her husband without his consent, except as provided in subsection (c) of this section.

(b) Neither a husband nor a wife can be examined, during the marriage, without the consent of the other, as to any communication made by one to the other before or during the marriage.

(c) Exceptions. The privileges set out in subsections (a) and (b) of this section do not apply:

(1) In a civil proceeding brought by or on behalf of one spouse against another spouse;

(2) In a proceeding to commit or otherwise place a spouse or the property of a spouse under the control of another person because of the spouse's mental or physical condition;

(3) In a juvenile proceeding;

(4) In a proceeding brought by or on behalf of a spouse to establish his competence; or

(5) In a criminal proceeding in which one spouse is charged with:

(A) A crime against the person or property of the other spouse or of a child in the custody of either spouse, whether such a crime was committed before or during marriage.

(B) A crime related to abandonment of a child or nonsupport of a wife or child.

(C) Bigamy or incest.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 6-60-070.]

6.60.080 Trade secrets.

(a) A person has a privilege, which may be claimed by him or his agent or employee, to refuse to disclose and to prevent other persons from disclosing a trade secret owned by him, if the allowance of the privilege will not tend to conceal fraud or otherwise work injustice.

(b) When disclosure is directed, the judge shall take such protective measures as the interests of the holder of the privilege and of the parties and the furtherance of justice may require.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 6-60-080.]

6.60.090 Privilege against self-incrimination.

(a) Criminal Defendant's Privilege Not to Testify.

(1) The defendant in a criminal case has the right not to testify, and not to produce any personal records. If he testifies voluntarily, he waives this privilege, except that testifying in one hearing does not waive the privilege at another hearing, and testifying upon a preliminary question of fact so as to determine whether evidence may be admitted (for instance, on the question of whether a confession was voluntary) does not waive the privilege with respect to any other issues.

(2) A defendant may be compelled to submit to fingerprinting, to give blood or urine samples, to speak so that a witness may identify his voice, or to stand up for identification.

(b) Witness's Privilege Against Self-Incrimination. Any witness in any proceeding has the right to refuse to disclose any matter that would directly or indirectly implicate the

witness in the commission of a crime. The answer need not prove guilt, as long as there is a reasonable possibility that the answer would be a link in a chain of evidence against the witness. If a witness testifies to a fact that tends to incriminate him, he waives his privilege not to testify as to any other facts relevant to the same transaction, unless he did not know when he disclosed the first fact that it would tend to incriminate him, or unless other circumstances exist which would make it unjust to require the witness to continue testifying against himself.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 6-60-090.]

6.60.100 Waiver of a privilege.

(a) A person who has a privilege against disclosure of a confidential matter under this chapter waives the privilege if he voluntarily discloses or consents to disclosure of any significant part of the matter.

(b) This section does not apply if the disclosure is itself a privileged communication.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 6-60-100.]

6.60.110 Privileged matter disclosed without opportunity to claim privilege.

(a) Evidence of a statement or other disclosure of privileged matter is inadmissible against the holder of the privilege if the disclosure was:

(1) Compelled improperly; or

(2) Made without giving the holder of the privilege an opportunity to claim this privilege.

(b) Nothing in this section shall prohibit the judge from declaring a mistrial for improper disclosure of privileged information when he considers it necessary to prevent injustice.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 6-60-110.]

6.60.120 Comment on use of privilege.

(a) The claim of a privilege is not a proper subject of comment by a party, a representative, or by a judge except as authorized in this section.

(b) No inference may be drawn from the use of a privilege.

(c) In jury cases, a person should be allowed to claim a privilege outside the hearing of the jury, if that is practical. If a party has claimed a privilege and fears that the jury might draw an inference against him because of it, he is entitled, upon request, to have the judge instruct the jury that they may not come to any conclusion because of his use of the privilege.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 6-60-120.]

Title 7

VEHICLES

Chapters:

7.10	**Jurisdiction**
7.20	**Duties Imposed by This Title**
7.30	**Enforcement Procedures**
7.40	**Trial of Traffic Offenders**
7.50	**Punishment of Traffic Offenders**
7.60	**Traffic Offenses**
7.70	**Other Traffic-Related Offenses**
7.80	**Driver Licensing**
7.90	**Registration of Vehicles**
7.100	**Off-Road Vehicles**
7.110	**Bicycles**

Chapter 7.10

JURISDICTION

Sections:

7.10.010 Jurisdiction.
7.10.020 Power to regulate.
7.10.030 Definitions.

7.10.010 Jurisdiction.

(a) The Tribe and the Tribal Court shall have jurisdiction over all vehicles located on or operated within the exterior boundaries of the Reservation; and, as provided herein, over owners and drivers of vehicles, whether Indian or non-Indian, in connection with matters arising from the ownership or operation of vehicles within the boundaries of the Reservation.

(b) Any driver operating a vehicle within the exterior boundaries of the Reservation shall be deemed to consent to the jurisdiction of the Tribe and the Tribal Court in connection with all matters, civil and/or criminal, arising from the ownership or operation of vehicles within the Reservation.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, and all amendments thereto.

[Res. 94-022, 1994. Prior Code § 7-10-010.]

7.10.020 Power to regulate.

The Tribal Council may regulate all matters involving the ownership or operation of vehicles, including but not limited to registration and licensing of operators, drivers and vehicles, parking, speed limits and other traffic controls, traffic offenses and enforcement, and trial and punishment, including the imposition of civil and/or criminal fines and penalties, of traffic offenders.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, and all amendments thereto.

[Res. 94-022, 1994. Prior Code § 7-10-020.]

7.10.030 Definitions.

(a) Unless otherwise set forth herein or clearly apparent from the context in which they are used, the terms used in this title shall have the same meanings as set forth in LVPTC Title 1. In addition:

"Authorized emergency vehicle" means:

(1) Any publicly owned ambulance, or any privately owned ambulance being used to respond to an emergency call; or

(2) Any vehicle operated by or with the authority of any police department, sheriff's department or state highway patrol; or

(3) Any vehicle operated by a forestry or fire department of any tribal, federal, state, or local government, or agency thereof; or

(4) Any vehicle which a majority of a quorum of the Tribal Council, either in a regularly scheduled or special meeting, has authorized as an emergency vehicle.

"Bicycle" means any mechanical device propelled solely by human power.

"Driver" means a person who drives or is in actual physical control of a vehicle or bicycle.

"Farm vehicle" means any vehicle used primarily in connection with farming or ranching, including, but not limited to, tractors, combines and other such equipment.

"Indian" means any person of Native American ancestry who is subject to federal criminal jurisdiction under the Major Crime Act, 18 U.S.C. § 1153.

"Owner" means a person to whom the real and beneficial use of a vehicle or bicycle belongs.

"Person" means any person, whether a natural person or legal entity.

"Right-of-way" means the privilege of the immediate use of the road.

"Road" means all paved, gravel, or dirt streets, roads, or highways within the Reservation.

"School bus" means any vehicle clearly marked as a school bus.

"Traffic officer" means any person empowered by the Tribal Council or other applicable Tribal or federal law to enforce this title.

"Valid driver's license" means any current and valid driver's license issued by:

(1) The Tribal Council;

(2) The governing body of a federally recognized Indian Tribe;

(3) The government of the United States of America;

(4) Any state of the United States of America; or

(5) The government of any foreign country;

"Vehicle" means every mechanical device which may be used for transportation or driven by a person upon a road, including, but not limited to, trucks, cars and other four-wheeled vehicles, motorcycles, motor scooters, and motor bikes and other two- or three-wheeled vehicles, but not including mechanical devices propelled solely by human power.

(b) Words and Terms – Tense, Number and Gender. In interpreting and/or applying the words and terms of this title, save when otherwise explicitly set forth or clearly apparent from the context:

(1) Words in the present tense shall include the future tense;

(2) Words in any gender shall refer to all genders; and

(3) Words in the singular shall include the plural, and words in the plural shall include the singular.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, and all amendments thereto.

[Res. 94-022, 1994. Prior Code § 7-10-030.]

Chapter 7.20

DUTIES IMPOSED BY THIS TITLE

Sections:

7.20.010 Duties and authority of traffic officers.
7.20.020 Duties of drivers and owners.

7.20.010 Duties and authority of traffic officers.

(a) All traffic officers shall have the general duty and authority to enforce this title.

(b) In addition to their general duty to enforce this title, traffic officers shall have the specific duty and authority:

(1) To direct traffic at the scene of an accident, when traffic control signals are not working, or when traffic is too heavy to be controlled by traffic control devices;

(2) To issue criminal and/or civil citations for violations of this title;

(3) To arrest persons and to take accused violators of this title and/or their property into custody pursuant to the provisions of this title and/or any other applicable provision of the Las Vegas Paiute Law and Order Code;

(4) To investigate and prepare a written accident report on any accident, occurring on any road and involving a vehicle, that results in property damage or personal injury; and to file all such reports with the Clerk of the Tribal Court within 24 hours after completing an investigation; and

(5) To have a badge indicating his official authority conspicuously displayed upon his person while on duty or while exercising his authority.

(c) If a traffic officer fails to perform his duty under this title, a civil action may be brought against him in Tribal Court to recover damages resulting from such failure. Such an action may be brought by either the Tribal Council or any person suffering damages resulting from the failure of the traffic officer to perform his duties.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No.

10-27-77B, dated October 27, 1977, and all amendments thereto.

[Res. 94-022, 1994. Prior Code § 7-20-010.]

7.20.020 Duties of drivers and owners.

(a) It is the duty of all drivers and owners to comply with the provisions of this title.

(b) It is the duty of all drivers operating vehicles or bicycles on the Reservation to exercise the due care necessary to avoid injury to or interference with persons, property, and the peace and quiet of the Reservation.

(c) It shall be a civil traffic offense for any driver or owner who is a non-Indian person to violate any provision of this title. Violations of this title by Indian persons, whether or not a member of the Las Vegas Paiute Tribe, shall be criminal and/or civil violations.

(d) If a driver or owner, whether Indian or non-Indian, fails to fulfill any applicable duty under this title, a civil action may be brought against him in Tribal Court to recover any damages resulting from such failure. Such civil action may be brought by the Tribe, any traffic officer or any person suffering damages as a result of the failure to fulfill the duty imposed by this title.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, and all amendments thereto.

[Res. 94-022, 1994. Prior Code § 7-20-020.]

Chapter 7.30

ENFORCEMENT PROCEDURES

Sections:

7.30.010 Citations.
7.30.020 Fines.
7.30.030 Hearings.
7.30.040 Failure to comply.
7.30.050 Immediate arrest.
7.30.060 Bail.

7.30.010 Citations.

(a) Initiating Proceedings. Proceedings against an accused violator of this title shall be initiated by the issuing of a civil or criminal citation to the accused and by the filing of a copy of the citation with the Clerk of the Tribal Court.

(b) Issuance. The citation shall be issued to the accused personally, except that if the offense is a nonmoving violation, then issuance may be made by affixing the citation to a visible location on the offending vehicle such as, but not limited to, the windshield or steering wheel/bar.

(c) Contents. The citation shall contain at least the following:

(1) The name and driver's license number of the accused, if available;

(2) The license or tag number of the vehicle involved;

(3) The date and time of the alleged offense;

(4) The particular section(s) of this title alleged to have been violated;

(5) A statement of the standard fine(s) or other penalties corresponding to the section(s) of this title alleged to have been violated;

(6) A notice giving an option to the accused to pay the applicable fine(s) or to appear in Tribal Court on a stated date (not to exceed 40 days from the date of the citation's issuance), time and location;

(7) A statement giving notice to the accused of the consequences of failure to either pay the applicable fine(s) or failure to appear in Tribal Court.

(d) Tender of a citation by a traffic officer to an accused violator of this title shall constitute valid service and notice to the accused, for all legal and procedural purposes pertaining to the enforcement of said citation, to appear in Tribal Court at the time specified on the citation or to pay the required fine thereon within the time specified.

(e) Nothing in this section or any other section or provision of this title shall preclude a traffic officer from issuing an accused violator of this title a Clark County regional citation rather than, or in addition to, a Tribal citation pursuant to this title; provided, however, that (1) nothing in this section or any other section or provision of this title shall constitute a waiver or limitation of the sovereign immunity of the Tribe or of officials of the Tribe acting in their official capacity, and (2) nothing in this section or any other section or provision of this title shall authorize, imply or allow the application of the laws of the state of Nevada or any other political body other than the Tribe except as explicitly set forth herein.

(f) Nothing in this section or any other provision of this title shall prohibit traffic officers, or other law enforcement officials of the Las Vegas Paiute Tribe, from issuing, at the officer's discretion, Clark County regional citations pursuant to the authority vested in them by NRS 171.1255 or any successor legislation thereto, for violations of this title or for related violations.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, and all amendments thereto.

[Res. 94-022, 1994. Prior Code § 7-30-010.]

7.30.020 Fines.

(a) Scope. Every person who is issued a citation shall be fined in accordance with the fine schedule(s) set forth, adopted by or referenced in this title. These fines shall apply whether the accused acknowledges his guilt of civil liability or is found guilty or liable by the Tribal Court.

(b) Payment. The fine specified on an issued citation may be paid in valid and immediately available funds at the office of the Clerk of the Tribal Court, either in person or by postmarking such payment within 30 days from the date the citation is issued; provided, however, that if an accused is not a resident of the Reservation or of the state of Nevada and does not have a valid Tribal or Nevada state driver's license, the fine specified, or a Tribal Court appearance bond in the amount of such fine, must be paid directly to the traffic officer issuing the citation if the Clerk of the Tribal Court or her designated agent is unavailable at the time of the citation's issuance.

(c) Satisfaction. Acceptance or receipt of a citation and payment of the prescribed fine or penalty thereon in a manner set forth in this title shall be deemed a complete satisfaction for the violation for which the citation was issued.

(d) Failure of an accused to pay a fine or penalty set forth on a citation in the manner set forth thereon, or the accused's demand for a hearing regarding the citation, may subject the accused violator to the issuance of a federal or Clark County regional traffic citation rather than, or in addition to, the citation issued by the traffic officer.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, and all amendments thereto.

[Res. 94-022, 1994. Prior Code § 7-30-020.]

7.30.030 Hearings.

(a) Optional Hearing. If an accused violator of this title prefers, he may appear at a hearing before the Tribal Court on the date and time specified on his citation and answer and defend against the complaint constituted by the citation rather than pay the fine or penalty set forth on the citation. In opting for this procedure, the accused voluntarily submits himself to the possibility of additional penalties and costs and to the possibility of being issued a Clark County regional citation rather

than, or in addition to, the original citation issued by the traffic officer.

(b) The accused must appear in person in the Tribal Court, but may have a representative in Tribal Court, if he chooses to have a hearing on the issuance of the citation rather than paying the specified fine.

(c) If the accused appears in person, the presiding Tribal Court judge shall advise him in open court of the nature of the infractions alleged in the citation and the liability, penalties and docket or other fees that may be assessed.

(d) If the accused answers that he is guilty or liable or if the accused fails to appear for the hearing, judgment shall be entered against him.

(e) If judgment is entered against the accused, he shall be assessed an appropriate penalty, generally in the amount set forth on the citation, a docket fee and any other applicable costs and/or fees.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, and all amendments thereto.

[Res. 94-022, 1994. Prior Code § 7-30-030.]

7.30.040 Failure to comply.

(a) Failure to Pay Fine(s). Should the accused be issued a citation but fail to pay the prescribed fine thereon within 30 days of his receipt of such citation, such citation shall be deemed a summons and complaint to appear in the Tribal Court for adjudicatory proceedings (civil as to non-Indian persons and criminal as to Indian persons) and default judgment on such summons and complaint shall be automatically entered against the accused, and may be certified by the Clerk of the Tribal Court, 10 days after the accused's failure to appear in Tribal Court unless the accused successfully petitions the court for the waiver of such automatic default.

(b) Payment Before Appearance. Should the accused accept service of or receive a citation but fail to immediately post the prescribed fine thereon within 30 days of receipt thereof, he shall be allowed to pay such penalty thereon and any applicable fees and/or costs to the Clerk of the Tribal Court during the two business days prior to the time for appearance as specified in the citation. Completion of this procedure shall be deemed a complete satisfaction of the citation and any judgment issued thereon.

(c) Other Applicable Law and Order Code Provisions. The provisions of LVPTC Title 4, Criminal Procedure, dealing with citations, are also applicable to proceedings under this title, with regard to proceedings upon violations of this title by Indian persons. Nothing in this subsection or elsewhere in this title shall be construed to limit the application of other provisions (including, but not limited to, provisions related to forfeiture of property) of the Las Vegas Paiute Law and Order Code to violations of this title.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, and all amendments thereto.

[Res. 94-022, 1994. Prior Code § 7-30-040.]

7.30.050 Immediate arrest.

(a) Standards. Any accused subject to the criminal jurisdiction of the Tribal Court shall be taken into custody and brought before the Tribal Court without unreasonable delay, if:

(1) He or she refuses to sign the citation, or pay the applicable fine according to the provisions of this title; or

(2) He or she is accused of a serious offense against the safety of persons or property.

(b) Setting of Trial. Trial of an accused held in custody shall be held within three days of the accused's incarceration. If an accused is released from custody, a date for trial may be set no more than 30 days after his arrest.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, and all amendments thereto.

[Res. 94-022, 1994. Prior Code § 7-30-050.]

7.30.060 Bail.

(a) Availability. The Tribal Court may release an accused who has been taken into custody, upon the posting of a cash bail in an amount determined by the Tribal Court; provided, however, that such bail may not be set in an amount less than the minimum amount of any fine set forth on any citation issued pursuant to this title.

(b) Forfeiture of Bail. Notwithstanding any other provisions of this title, an accused may forfeit the posted bail in lieu of appearing for trial. Forfeiture of bail shall constitute a plea of guilty or liable for all purposes. Bail may be forfeited by written agreement or by failure to appear for trial.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, and all amendments thereto.

[Res. 94-022, 1994. Prior Code § 7-30-060.]

Chapter 7.40

TRIAL OF TRAFFIC OFFENDERS

Sections:

7.40.010 Trial of traffice offenders.

7.40.010 Trial of traffice offenders.

The trial of accused traffic offenders subject to the criminal jurisdiction of the Tribal Court shall be governed by the provisions of the Las Vegas Paiute Law and Order Code relating to criminal procedure. The trial of all other accused traffic offenders shall be governed by Tribal law generally applicable to civil proceedings; including, but not limited to, LVPTC Title 1.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, and all amendments thereto.

[Res. 94-022, 1994. Prior Code § 7-40.]

Chapter 7.50

PUNISHMENT OF TRAFFIC OFFENDERS

Sections:

7.50.010 Fine schedule.
7.50.015 Miles over speed limit.
7.50.020 Suspension of license or privilege to drive upon Reservation.

7.50.010 Fine schedule.

Minimum fines for violating the provisions of this title shall be as follows:

Traffic Offense	Fine
Citations With Accident	Double
No Driver's License/Endorsements	$340.00
Exceptions:	
Address Change, Restrictions, No License in Possession	$95.00
Suspended/Revoked License	$400.00
Duty to Stop/Hit and Run/Failure to Give Information, etc.	$400.00
No Registration/Expired/Fictitious/ Altered/Suspended Registration	$140.00
Handicapped Parking	$170.00
No Insurance/Proof of Insurance	$770.00
Reckless Driving	$400.00
Seatbelts	$50.00
Unlawful Transfer of Plates/Tags	$140.00
All Other Nonspeeding Violations (i.e., Stop Sign)	$95.00

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, and all amendments thereto.

[Res. 98-025, 1998; Res. 94-022, 1994. Prior Code § 7-50-010.]

7.50.015 Miles over speed limit.

Miles Over Speed Limit	Fine
1 – 10	$95.00
11 – 20	$140.00
21 – 30	$190.00
31 – 40	$250.00
41 – 50	$300.00
51 – 60	$360.00
61 – 70	$420.00
71 – 80	$480.00
81 – 90	$520.00
91 – 100	$580.00

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, and as previously amended and restated pursuant to Tribal Council Resolution No. 94-022, dated July 5, 1994.

[Res. 98-025, 1998; Res. 95-007, 1995. Prior Code § 7-50-015.]

7.50.020 Suspension of license or privilege to drive upon Reservation.

(a) In General. Suspension of a driver's license or privilege to drive upon the Reservation may be imposed as provided in this title as an additional penalty for traffic offenses listed in or adopted by this title.

(b) The Tribal Court may order the suspension of any person's Tribal driver's license or privilege to operate a vehicle on the Reservation, for a period of up to one year. Suspensions may be ordered if a person has been convicted of traffic offenses listed in this title:

(1) Three times within one year;
(2) Four times within two years; or
(3) Five times within three years.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, and all amendments thereto.

[Res. 94-022, 1994. Prior Code § 7-50-020.]

Chapter 7.60

TRAFFIC OFFENSES

Sections:

7.60.010 Depositing matter upon road.
7.60.020 Reckless driving.
7.60.030 Speeding.
7.60.040 Driving on the wrong side of the road.
7.60.050 Unlawful passing.
7.60.060 Failure to signal.
7.60.070 Improper U-turns.
7.60.080 Failure to yield right-of-way.
7.60.090 Failure to yield right-of-way to emergency vehicles.
7.60.100 Improper passing of a school bus.
7.60.110 Failure to obey traffic control devices.
7.60.120 Operation of unsafe vehicles.
7.60.130 Equipment violations.
7.60.140 Joy riding.
7.60.150 Negligent injury to animals on the road.
7.60.160 Following too closely.
7.60.170 Leaving the scene of an accident.
7.60.180 Registration offenses.
7.60.190 Driver's license offenses.

7.60.010 Depositing matter upon road.

No person shall deposit upon any road any bottles, cans, garbage, glass, nails, paper, wire, or any other substance or item likely to injure or damage persons, vehicles or other traffic (including, but not limited to, livestock and wildlife) upon or using a road.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, and all amendments thereto.

[Res. 94-022, 1994. Prior Code § 7-60-010.]

7.60.020 Reckless driving.

Anyone who drives a vehicle upon a road in a manner so as to endanger any person or property shall be guilty of reckless driving.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, and all amendments thereto.

[Res. 94-022, 1994. Prior Code § 7-60-020.]

7.60.030 Speeding.

(a) Speeding Restrictions. It shall be unlawful for any person to operate any vehicle within the Reservation at a speed exceeding a posted speed limit or exceeding 30 miles per hour if no speed limit is posted, or exceeding a reasonable and proper speed dictated by road and weather conditions.

(b) Exception to Speed Restrictions. The speed restrictions designated in this title shall not apply to authorized emergency vehicles on emergency calls. This provision shall not relieve the driver of an authorized emergency vehicle of the duty to drive with due regard for the safety of all persons using the highway, nor shall it protect the driver of any such vehicle from civil liability or criminal prosecution as a consequence of reckless driving.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, and all amendments thereto.

[Res. 94-022, 1994. Prior Code § 7-60-030.]

7.60.040 Driving on the wrong side of the road.

A driver shall operate his vehicle or bicycle upon the right half of any road, except when that half of the road is out of repair or impassable, or when the driver's vehicle or bicycle is safely overtaking and passing another vehicle or bicycle.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, and all amendments thereto.

[Res. 94-022, 1994. Prior Code § 7-60-040.]

7.60.050 Unlawful passing.

It shall be unlawful to overtake and pass a moving vehicle:

(a) On a bridge, overpass, or tunnel;

(b) At a railway crossing or an underpass;

(c) At an intersection;

(d) When coming up to the top of a hill or on a curve where one does not have an unobstructed view for 500 feet ahead;

(e) When there is a solid yellow line in the driver's lane; or

(f) When an oncoming vehicle or bicycle is so close that it is not safe to cross the center line.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, and all amendments thereto.

[Res. 94-022, 1994. Prior Code § 7-60-050.]

7.60.060 Failure to signal.

(a) Mechanical Signals. When a driver of a vehicle slows, turns, changes lanes, or stops, he shall give the proper mechanical signal in sufficient time to indicate his intentions to other drivers and pedestrians. Turn signals must be given for the driver(s) approaching as well as for driver(s) following.

(b) Hand Signals. When mechanical signals are not given, signals must be given with the left arm as follows:

(1) For stopping, arm extended downward;

(2) For left turn, arm extended horizontally; and

(3) For right turn, arm extended upward.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, and all amendments thereto.

[Res. 94-022, 1994. Prior Code § 7-60-060.]

7.60.070 Improper U-turns.

A driver shall not make a U-turn where it is not safe to do so, or where there is a "No U-Turn" sign.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, and all amendments thereto.

[Res. 94-022, 1994. Prior Code § 7-60-070.]

7.60.080 Failure to yield right-of-way.

(a) A vehicle or bicycle approaching an intersection shall yield the right-of-way to a vehicle or bicycle which has entered the intersection.

(b) If two or more vehicles approach or enter an intersection from different roads at the same time, drivers shall yield the right-of-way to the vehicle on their right.

(c) All vehicles and bicycles shall yield the right-of-way to pedestrians.

(d) All vehicles about to enter or cross a road shall yield the right-of-way to vehicles or bicycles on the road.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, and all amendments thereto.

[Res. 94-022, 1994. Prior Code § 7-60-080.]

7.60.090 Failure to yield right-of-way to emergency vehicles.

Upon the approach of any authorized emergency vehicle displaying flashing lights and/or giving an audible signal by siren, the drivers of all other nearby vehicles shall immediately stop as far as possible off the right-hand edge of the road, and parallel to the right-hand edge or curb of the road, clear of any intersection or other roads, and shall remain so stopped until the authorized emergency vehicle has passed or unless otherwise directed by a traffic officer.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, and all amendments thereto.

[Res. 94-022, 1994. Prior Code § 7-60-090.]

7.60.100 Improper passing of a school bus.

All vehicles shall stop before meeting or passing a clearly marked school bus from any direction, when the school bus has stopped on a road or shoulder thereof to receive or discharge its occupants. Vehicles shall not proceed until the school bus starts moving or until signaled by the bus driver to proceed.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, and all amendments thereto.

[Res. 94-022, 1994. Prior Code § 7-60-100.]

7.60.110 Failure to obey traffic control devices.

All drivers, while driving a vehicle, shall obey the traffic control devices described in the Manual on Uniform Traffic Control Devices.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, and all amendments thereto.

[Res. 94-022, 1994. Prior Code § 7-60-110.]

7.60.120 Operation of unsafe vehicles.

It shall be unlawful to operate any vehicle which is in an unreasonably dangerous condition or which fails to meet vehicle inspection standards imposed or adopted by the Tribe.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, and all amendments thereto.

[Res. 94-022, 1994. Prior Code § 7-60-120.]

7.60.130 Equipment violations.

(a) Headlights and Taillights.

(1) During darkness, whether caused by nightfall, storms or other phenomena, every vehicle shall be equipped with and have in operation two functioning headlights, except that motorcycles shall be equipped with and have in operation one functioning headlight.

(2) Except as otherwise provided by Tribal law, every motor vehicle, trailer, semi-trailer and any vehicle which is being drawn at the end of a train of vehicles shall be equipped with at least two tail lamps mounted on the rear which when lighted shall emit a red light plainly visible for a distance of 500 feet to the rear, except that vehicles manufactured prior to July 1, 1969, shall have at least one tail lamp if they are originally equipped with only one tail lamp.

(b) Brake Lights. Every vehicle shall be equipped with two or more functioning brake lights, except that any vehicle manufactured prior to July 1, 1969, shall have at least one brake light if such vehicle was originally equipped with only one brake light. Brake lights shall be plainly visible from a distance of 300 feet to the rear during normal sunlight and at night.

(c) Backup Lights. Every vehicle other than a motorcycle shall be equipped with one or more functioning backup lights, if such lights were standard equipment on the vehicle as manufactured.

(d) Turn Signals. All vehicles shall be equipped with a mechanical turn signal system capable of clearly indicating an intention to turn either right or left.

(e) Brakes.

(1) Every vehicle shall be equipped with a service brake system and every vehicle with more than two wheels shall be equipped with a parking brake system. The two systems shall be constructed so that failure of any one part, except for failure of drums, brake shoes, or other mechanical part of the wheel brake assemblies, shall not leave the vehicle without operative brakes.

(2) All brakes and component parts shall be maintained in good condition and in good working order.

(3) Upon application of the service brake system, every vehicle, at any time and under all conditions of loading, shall be capable of stopping within 40 feet from an initial speed of 20 miles per hour.

(f) Windshields. Every vehicle with more than three wheels, except for farm and off-road vehicles, shall be equipped with an adequate windshield.

(g) Horns. Every vehicle, when operated upon a road, shall be equipped with a horn in good working order and capable of emitting a sound audible under normal conditions from a distance of 200 feet.

(h) Tires. No person shall use on a vehicle a pneumatic tire which is so worn that less than one thirty-second of one inch of tread depth remains in any two adjacent grooves at any location on the tire.

(i) Mufflers. Every vehicle shall at all times be equipped with an adequate muffler in constant operation and properly maintained to prevent excessive or unusual noise.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, and all amendments thereto.

[Res. 94-022, 1994. Prior Code § 7-60-130.]

7.60.140 Joy riding.

No person shall take or use any vehicle without permission or authority from the owner of such vehicle. The fact that such person did not intend to permanently deprive the owner of said vehicle shall be no defense to a charge brought against him under this section and/or any other section or provision of the Las Vegas Paiute Law and Order Code.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, and all amendments thereto.

[Res. 94-022, 1994. Prior Code § 7-60-140.]

7.60.150 Negligent injury to animals on the road.

The driver of a vehicle shall exercise due care to avoid injuring wild or domestic animals on roads.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, and all amendments thereto.

[Res. 94-022, 1994. Prior Code § 7-60-150.]

7.60.160 Following too closely.

The driver of a vehicle shall not follow another vehicle so closely as to create a substantial danger of an accident, taking into account the speed of vehicles involved, the amount of traffic, and road conditions.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, and all amendments thereto.

[Res. 94-022, 1994. Prior Code § 7-60-160.]

7.60.170 Leaving the scene of an accident.

(a) The driver of any vehicle involved in an accident resulting in injury to or death of any person, or damage to a vehicle or property, shall immediately stop as close as safely possible to the scene of the accident.

(b) If personal injury has occurred, or if the damaged vehicle or property is attended by any person, the driver shall give his name, address, the registration number of the vehicle he is driving, the name(s) and address(es) of the owners thereof, and shall show his driver's license to the driver or passenger of or person attending any damaged vehicle or property. The driver shall give reasonable assistance to any person injured in an accident, including transportation to a hospital or medical facility.

(c) The driver of the vehicle involved in an accident resulting in injury or death of any person or apparent property damage shall immediately give notice of the accident to the Tribal Law Enforcement Department.

(d) The driver of any vehicle which hits another vehicle or other property which is unattended shall immediately stop and attempt to locate and notify the driver or owner of such vehicle or property of his name and address. If the driver after reasonable effort cannot locate the owner or driver of the affected

property or vehicle, he shall leave in a safe and conspicuous place in or attached to the damaged vehicle or property a note giving his name and address.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, and all amendments thereto.

[Res. 94-022, 1994. Prior Code § 7-60-170.]

7.60.180 Registration offenses.

(a) Offense. No driver shall operate any vehicle on any road within the Reservation unless the driver has in his possession all required certificates of registration for such vehicle and unless the vehicle displays a set of valid license plates/tags.

(b) Farm Vehicle Exemption. This section shall not apply to farm vehicles, which are being driven on a road in connection with a farming or ranching purpose.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, and all amendments thereto.

[Res. 94-022, 1994. Prior Code § 7-60-180.]

7.60.190 Driver's license offenses.

(a) No driver shall operate a vehicle without a valid driver's license in his possession.

(b) No person shall possess or display a canceled, revoked, suspended, fictitious or fraudulently altered driver's license or a valid license not issued to him.

(c) No person shall allow another to use his driver's license for identification.

(d) No person shall cause or knowingly permit any unlicensed person to operate a vehicle on a road.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, and all amendments thereto.

[Res. 94-022, 1994. Prior Code § 7-60-190.]

Chapter 7.70

OTHER TRAFFIC-RELATED OFFENSES

Sections:

7.70.010 Driving under the influence of alcohol.
7.70.020 Drinking alcoholic beverages or consuming marijuana in a motor vehicle.
7.70.030 Driving under the influence of drugs.

7.70.010 Driving under the influence of alcohol.

(a) Offense. No person who is under the influence of intoxicating liquor, or under the combined influence of intoxicating liquor and any drug, shall drive a vehicle upon any road. Violation of this subsection is a Class A offense under the Las Vegas Paiute Law and Order Code with regard to Indian persons and with regard to both Indian and non-Indian persons may subject a violator to civil penalties equal to the amount leviable as penalty for Class A offenses in addition to such other penalties as may be leviable or exercised against such violator by the state of Nevada pursuant to a federal or Clark County regional citation issued, either instead of or in addition to a Tribal citation, by a traffic officer.

(b) Presumption.

(1) If, at the time of an alleged offense under this section, there was 0.08 percent or more by weight of alcohol in the accused's blood, it shall be presumed that the accused was under the influence of intoxicating liquor at that time.

(2) The foregoing provision shall not be construed as limiting the introduction of any other relevant evidence bearing upon the question of whether the accused was under the influence of intoxicating liquor at the time of the alleged offense.

(c) Implied Consent. Any driver who operates a vehicle upon the Reservation shall be considered to have consented to a scientific test to determine blood alcohol level when requested to do so by a traffic officer. If a driver refuses to submit to a blood, breath or urine

alcohol test, his privilege to operate a vehicle upon the Reservation may be suspended for a period of up to one year by the Tribal Court.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, and all amendments thereto.

[Res. 17-001, 2017; Res. 94-022, 1994. Prior Code § 7-70-010.]

7.70.020 Drinking alcoholic beverages or consuming marijuana in a motor vehicle.

No person, including passengers, shall drink any alcoholic beverage or consume marijuana or marijuana concentrate while in a vehicle, where such vehicle is upon a road.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, and all amendments thereto.

[Res. 17-001, 2017; Res. 94-022, 1994. Prior Code § 7-70-020.]

7.70.030 Driving under the influence of drugs.

(a) Controlled Substances. No person who is under the influence of any controlled substance listed in Schedules, I, II, III, IV or V of 21 U.S.C. § 812, or any successor legislation, shall drive a vehicle upon any road. Violation of this subsection is a Class A offense under the Las Vegas Paiute Law and Order Code with regard to Indian persons and, with regard to both Indian and non-Indian persons, may subject a violator to civil penalties equal to the amount leviable as penalty for Class A offenses in addition to such other penalties as may be leviable or exercised against such violation by the state of Nevada pursuant to a federal or Clark County regional citation issued, either instead of or in addition to a Tribal citation, by a traffic officer.

(b) Non-Narcotic Drugs. No person who is under the influence of any drug, other than a controlled substance as specified in subsection (a) of this section, to a degree which renders him incapable of safely driving a vehicle, shall drive a vehicle upon any road.

(c) If, at the time of an alleged offense under this section, there were 10 nanograms per milliliter of marijuana or 15 nanograms per milliliter of marijuana metabolite in the accused's urine, or two nanograms per milliliter of marijuana or five nanograms per milliliter of marijuana metabolite in the accused's blood, it shall be presumed that the accused was under the influence of a controlled substance at that time. The provisions of LVPTC 7.70.010(b) and (c) shall apply to this section.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, and all amendments thereto.

[Res. 17-001, 2017; Res. 94-022, 1994. Prior Code § 7-70-030.]

Chapter 7.80

DRIVER LICENSING

Sections:

7.80.010 General driver's license.
7.80.020 Special driver's license.
7.80.030 Driver's license applications.
7.80.040 Driver's license form.
7.80.050 Driver's license recordkeeping.
7.80.060 Grounds for refusing a driver's license.
7.80.070 Driver's license fees.
7.80.080 Regulations.

7.80.010 General driver's license.

(a) Requirements. The Tribal Council may issue a Tribal driver's license to an applicant who is at least 16 years of age, when the applicant has shown:

(1) His ability to operate a vehicle.

(2) His knowledge of the regulations pertaining to vehicles.

(3) His freedom from physical, emotional or mental disabilities which would hamper the operation of a vehicle within the uses permitted under the Tribal license sought.

(b) Period of Validity. A general driver's license shall be valid for a period of four years.

(c) The Tribal Council may by resolution require any person operating a vehicle to obtain a Tribal driver's license so that such person may begin or continue to operate vehicles on the Reservation.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, and all amendments thereto.

[Res. 94-022, 1994. Prior Code § 7-80-010.]

7.80.020 Special driver's license.

(a) A special driver's license may be issued to anyone 15 years of age or older.

(b) Special licenses shall be issued only in cases of hardship.

(c) A special license shall be issued with all restrictions necessary to limit its use to relieving hardship to the driver or his immediate family.

(d) Applications for special driver's licenses shall be made as set forth in LVPTC 7.90.030.

(e) Special licenses shall be valid for a period of one year.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, and all amendments thereto.

[Res. 94-022, 1994. Prior Code § 7-80-020.]

7.80.030 Driver's license applications.

A suitable application form approved by the Tribal Council shall be used for both original and renewal license applications. The form shall require the following information:

(a) The applicant's name, address, phone number, age, birth date, and physical description.

(b) A list of corrective devices which must be worn or used while driving, including but not limited to hearing aids and corrective lenses.

(c) The names, addresses and phone numbers of two persons to notify in case of accident or emergency.

(d) In the case of applications for special driver's licenses, a brief statement of the facts which justify issuance of the special license.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, and all amendments thereto.

[Res. 94-022, 1994. Prior Code § 7-80-030.]

7.80.040 Driver's license form.

A suitable license form shall be approved by the Tribal Council. The form shall contain:

(a) The expiration date of the license.

(b) A physical description of the driver.

(c) The driver's birth date.

(d) The driver's identification number assigned by the Tribal Council.

(e) The license's designated or restricted use.

(f) The official seal or stamp of the Tribe.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, and all amendments thereto.

[Res. 94-022, 1994. Prior Code § 7-80-040.]

7.80.050 Driver's license recordkeeping.

The Clerk of the Tribal Court shall keep records of each applicant and of each license issued.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, and all amendments thereto.

[Res. 94-022, 1994. Prior Code § 7-80-050.]

7.80.060 Grounds for refusing a driver's license.

No driver's license shall be issued if:

(a) The applicant does not have the ability to operate a vehicle;

(b) The applicant has insufficient knowledge of the regulations pertaining to vehicles;

(c) The applicant has physical, emotional, or mental disabilities which would significantly hamper his operation of a vehicle; or

(d) The applicant's driver's license has been revoked in any other jurisdiction. This prohibition against issuing a driver's license shall apply during the period of the revocation in the other jurisdiction.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, and all amendments thereto.

[Res. 94-022, 1994. Prior Code § 7-80-060.]

7.80.070 Driver's license fees.

Driver's license fees shall be established by resolution of the Tribal Council.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, and all amendments thereto.

[Res. 94-022, 1994. Prior Code § 7-80-070.]

7.80.080 Regulations.

By resolution, the Tribal Council may establish regulations further governing the issuance of Tribal driver's licenses. Copies of all such regulations shall be available for public inspection at Tribal headquarters, and shall be available for public distribution at a cost not exceeding the reasonable cost of copying.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, and all amendments thereto.

[Res. 94-022, 1994. Prior Code § 7-80-080.]

Chapter 7.90

REGISTRATION OF VEHICLES

Sections:

7.90.010 Application for registration.
7.90.020 Contents of certificate of registration.
7.90.030 Registration recordkeeping.
7.90.040 Registration plates or tags.
7.90.050 Registration of vehicles.
7.90.060 Regulations.

7.90.010 Application for registration.

The Tribal Council may by resolution require any vehicle operated on the Reservation to be registered with the Tribe. Applications for registration of vehicles shall be made upon a form approved by the Tribal Council. Applications shall contain:

(a) The name and signature of the vehicle owner;

(b) The owner's residence address;

(c) A list of all security interests of others in the vehicle;

(d) Proof of ownership of the vehicle;

(e) Proof of insurance sufficient to satisfy Nevada state law; and

(f) Any other information the Tribal Council may require.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, and all amendments thereto.

[Res. 94-022, 1994. Prior Code § 7-90-010.]

7.90.020 Contents of certificate of registration.

The certificate of registration shall contain:

(a) The date the certificate was issued;

(b) The registration number assigned to the vehicle by the Tribal Council;

(c) The name and address of the registered owner;

(d) A description of the registered vehicle, including the vehicle identification number;

(e) The names of persons holding any security interest in such vehicle; and

(f) Such other information as may be required by the Tribal Council.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, and all amendments thereto.

[Res. 94-022, 1994. Prior Code § 7-90-020.]

7.90.030 Registration recordkeeping.

The Clerk of the Tribal Court shall keep complete records of all vehicles registered by the Tribal Council.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, and all amendments thereto.

[Res. 94-022, 1994. Prior Code § 7-90-030.]

7.90.040 Registration plates or tags.

(a) Issuance of Registration Plates or Tags. The Tribal Council shall furnish two registration plates or tags to every owner whose vehicle has been registered by the Tribal Council, except that only one registration plate or tag shall be issued for two-wheeled vehicles.

(b) Form and Contents of Registration Plates or Tags. Every registration plate or tag shall have displayed upon it the registration number assigned to the owner of the vehicle. The Tribal Council shall determine and may vary the size, shape, color, and form and the material of which registration plates or tags shall be made. However, each registration plate or tag shall be sufficient size to be plainly readable from a distance of 100 feet during daylight.

(c) Display of Registration Plates or Tags. One registration plate or tag shall be attached to the front of the vehicle and one shall be attached to the rear. If the vehicle only requires one registration plate or tag, that registration plate or tag shall be attached to the rear of the vehicle. Registration plates or tags shall be placed in position so as to be clearly visible at all times.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, and all amendments thereto.

[Res. 94-022, 1994. Prior Code § 7-90-040.]

7.90.050 Registration of vehicles.

(a) The Tribal Council shall establish by resolution a reasonable fee for the registration of vehicles.

(b) Vehicle registration shall be good for one calendar year and must be renewed before January 1st of the following year.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, and all amendments thereto.

[Res. 94-022, 1994. Prior Code § 7-90-050.]

7.90.060 Regulations.

By resolution, the Tribal Council may establish regulations further governing the registration and licensing of vehicles. Copies of all such regulations shall be available for public inspection at Tribal headquarters and shall be available for public distribution at a cost not exceeding the reasonable cost of copying.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, and all amendments thereto.

[Res. 94-022, 1994. Prior Code § 7-90-060.]

Chapter 7.100

OFF-ROAD VEHICLES

Sections:

7.100.010 Applicability of this title to off-road vehicles.
7.100.020 Regulations for off-road vehicles.
7.100.030 Restricted areas.
7.100.040 Permitted use areas.
7.100.050 Exemption for vehicle operation on private land.

7.100.010 Applicability of this title to off-road vehicles.

All provisions of this title shall apply in restricted or open off-road areas, as defined herein.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, and all amendments thereto.

[Res. 94-022, 1994. Prior Code § 7-100-010.]

7.100.020 Regulations for off-road vehicles.

(a) Registration. The requirements imposed in LVPTC 7.100.010 shall apply to off-road vehicles.

(b) Special Rules. The following rules shall also apply to off-road vehicle use:

(1) It shall be unlawful to operate a vehicle at a speed or in a manner causing excessive disturbance to land, terrain, wildlife, or vegetation.

(2) It shall be unlawful to operate a vehicle in a restricted use area in any manner not permitted therein.

(3) It shall be unlawful to operate a vehicle in an area where off-road use is prohibited.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, and all amendments thereto.

[Res. 94-022, 1994. Prior Code § 7-100-020.]

7.100.030 Restricted areas.

The Tribal Council shall have the power to designate areas of the Reservation where vehicle operation is prohibited or restricted. In the absence of a specific designation, all Reservation lands shall be considered closed to the operation of off-road vehicles.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, and all amendments thereto.

[Res. 94-022, 1994. Prior Code § 7-100-030.]

7.100.040 Permitted use areas.

The Tribal Council may designate areas where off-road vehicle use is permitted. Such areas shall be designated by conspicuously posted signs advising of the locations and boundaries of off-road use areas and the regulations governing the use of off-road use areas.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, and all amendments thereto.

[Res. 94-022, 1994. Prior Code § 7-100-040.]

7.100.050 Exemption for vehicle operation on private land.

Drivers of vehicles operating on any privately owned land with the consent of the land owner are exempt from the regulations of this title.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, and all amendments thereto.

[Res. 94-022, 1994. Prior Code § 7-100-050.]

Chapter 7.110

BICYCLES

Sections:

7.110.010 Operation of bicycles.
7.110.020 Special rules for operation of bicycles.
7.110.030 Equipment.
7.110.040 Duty to exercise reasonable care.
7.110.050 Duty to obey traffic control devices.

7.110.010 Operation of bicycles.

When operated on roads, bicycles and their operations shall be governed by the provisions of this title, and shall have all of the rights and responsibilities of vehicles operated on roads.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, and all amendments thereto.

[Res. 94-022, 1994. Prior Code § 7-110-010.]

7.110.020 Special rules for operation of bicycles.

(a) Every person operating a bicycle upon a road shall ride as near as practical to the right side of the road.

(b) Persons riding bicycles upon a road shall not ride more than two abreast except on paths or parts of roads set aside for the exclusive use of bicycles.

(c) No bicycle shall be used to carry more persons at one time than the number for which such bicycle is designed and equipped.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, and all amendments thereto.

[Res. 94-022, 1994. Prior Code § 7-110-020.]

7.110.030 Equipment.

(a) When in use at night, every bicycle shall be equipped with a functioning front light which gives off white light visible from a distance of at least 500 feet to the front.

(b) When in use at night, every bicycle shall be equipped with a rear red reflector, which shall be visible at least 300 feet to the rear when directly in front of the head lamps on a vehicle.

(c) Every bicycle shall be equipped with a brake system which will enable the rider to make the braked wheels skid on dry, level, clean pavement.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, and all amendments thereto.

[Res. 94-022, 1994. Prior Code § 7-110-030.]

7.110.040 Duty to exercise reasonable care.

All bicycle riders shall exercise reasonable care to avoid injury to themselves and to other persons, and to avoid damage to any property. If a person fails to exercise reasonable care, a civil action may be brought in Tribal Court to recover any damages resulting from such failure to exercise reasonable care. Such an action may be brought by any person suffering damages resulting from such failure to exercise reasonable care.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, and all amendments thereto.

[Res. 94-022, 1994. Prior Code § 7-110-040.]

7.110.050 Duty to obey traffic control devices.

All bicycle riders shall obey all traffic control devices described in the Manual on Uniform Traffic Control Devices.

Comment: This section entirely restates and supersedes its prior version as originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, and all amendments thereto.

[Res. 94-022, 1994. Prior Code § 7-110-050.]

Title 8

CIVIL REMEDIAL FORFEITURE

Chapters:

8.10 Authorization and Definitions
8.20 Application
8.30 General Provisions
8.40 Civil Remedial Money Penalties
8.50 Civil Remedial Forfeiture of Property

[Res. 94-022, 1994.]

Chapter 8.10

AUTHORIZATION AND DEFINITIONS

Sections:

8.10.010 Purpose and authority.
8.10.020 Definitions.

8.10.010 Purpose and authority.

The Tribal Council enacts this title pursuant to Article VII of the Constitution and Bylaws of the Las Vegas Tribe of Paiute Indians in order to provide for the civil remedial forfeitures of money penalties and property for violation of Tribal civil regulatory or criminal ordinances. The remedial measures of this title are designed and intended to encourage compliance with the Las Vegas Paiute Law and Order Code and to compensate the Tribe for damage to the peace, security, welfare, or resources of the Reservation.

Comment: This section was created in its entirety pursuant to Tribal Council Resolution No. 94-021, dated June 21, 1994, and adopted in its entirety pursuant to Tribal Council Resolution No. 94-022, dated July 5, 1994.

[Res. 94-022, 1994; Res. 94-021, 1994. Prior Code § 8-10-010.]

8.10.020 Definitions.

(a) Unless otherwise set forth herein or clearly apparent from the context in which they are used, the terms used in this title shall have the same meanings as set forth in LVPTC Title 1. In addition:

"Crime" means an act or omission forbidden by the Las Vegas Paiute Law and Order Code which is punishable upon conviction by imprisonment, fine not designated as a civil fine, or other penal discipline;

"Enforcing officer" means federal enforcement agents, Tribal police, enforcement officers, and other persons duly authorized to enforce Tribal law;

"Indian" means any person of Native American ancestry who is subject to federal criminal jurisdiction under the Major Crimes Act, 18 U.S.C. § 1153;

"Non-Indian" means any person who is not an Indian as defined in this section;

"Person" means any person, whether a natural person or legal entity; and

(b) Words and Terms – Tense, Number and Gender. In interpreting and/or applying the words and terms of this title, save when otherwise fairly declared or clearly apparent from the context:

(1) Words in the present tense shall include the future tense;

(2) Words in any gender shall refer to all genders; and

(3) Words in the singular shall include the plural, and words in the plural shall include the singular.

Comment: This section was created in its entirety pursuant to Tribal Council Resolution No. 94-021, dated June 21, 1994, and adopted in its entirety pursuant to Tribal Council Resolution No. 94-022, dated July 5, 1994.

[Res. 94-022, 1994; Res. 94-021, 1994. Prior Code § 8-10-020.]

Chapter 8.20

APPLICATION

Sections:

8.20.010 Tribal law affected.
8.20.020 Application to non-Indians.
8.20.030 Property used in commission of crime.
8.20.040 Parties to a violation.

8.20.010 Tribal law affected.

(a) Whenever any provision of the Las Vegas Paiute Law and Order Code provides for a civil fine or civil remedial money penalty, or for civil remedial forfeiture of any property, the Tribe shall proceed against such person or property as provided in this title, unless a different procedure is otherwise explicitly required.

(b) All provisions of the Las Vegas Paiute Law and Order Code and any duly authorized rules of the Tribal Court shall apply to the proceedings instituted pursuant to this title, to the extent such provisions are not inconsistent with the provisions of this title.

Comment: This section was created in its entirety pursuant to Tribal Council Resolution No. 94-021, dated June 21, 1994, and adopted in its entirety pursuant to Tribal Council Resolution No. 94-022, dated July 5, 1994.

[Res. 94-022, 1994; Res. 94-021, 1994. Prior Code § 8-20-010.]

8.20.020 Application to non-Indians.

Any act or omission which constitutes a crime under Tribal law if committed by an Indian shall constitute a civil infraction subject to a civil remedial money penalty under this title if committed by a non-Indian or any other person over whom the Tribe is not permitted by federal law to exercise criminal jurisdiction. In addition, all criminal/prohibitory provisions of Tribal law shall be deemed civil/regulatory when applied to non-Indian persons. Nothing in this title shall be construed or implied to limit the jurisdiction of the Tribe or the Tribal Court in any manner nor shall any section or provision of this title be construed or implied to be a waiver or limitation of the sovereign immunity of the Tribe or its officers.

Comment: This section was created in its entirety pursuant to Tribal Council Resolution No. 94-021, dated June 21, 1994, and adopted in its entirety pursuant to Tribal Council Resolution No. 94-022, dated July 5, 1994.

[Res. 94-022, 1994; Res. 94-021, 1994. Prior Code § 8-20-020.]

8.20.030 Property used in commission of crime.

Any property used in the commission of any act which constitutes a crime if committed by an Indian shall be subject to civil remedial forfeiture pursuant to this title regardless of whether such property belongs to or was used by a non-Indian.

Comment: This section was created in its entirety pursuant to Tribal Council Resolution No. 94-021, dated June 21, 1994, and adopted in its entirety pursuant to Tribal Council Resolution No. 94-022, dated July 5, 1994.

[Res. 94-022, 1994; Res. 94-021, 1994. Prior Code § 8-20-030.]

8.20.040 Parties to a violation.

Any person who is concerned in the commission of a violation considered under this title shall be deemed a principal in such violation and may be adjudged to have committed the violation although such person did not directly do so, and has not been subjected to criminal prosecution or the remedial provisions of this title. A person is concerned in the commission of a violation if such person:

(a) Directly commits the violation;

(b) Aids and/or abets the commission of a violation; or

(c) Is party to a conspiracy with one or more others to commit the violation or advises, hires, counsels or procures another to commit the violation.

Comment: This section was created in its entirety pursuant to Tribal Council Resolution No. 94-021, dated June 21, 1994, and adopted in its entirety pursuant to Tribal Council Resolution No. 94-022, dated July 5, 1994.

[Res. 94-022, 1994; Res. 94-021, 1994. Prior Code § 8-20-040.]

Chapter 8.30

GENERAL PROVISIONS

Sections:

8.30.010 Jurisdiction.
8.30.020 Party plaintiff.
8.30.030 Effective date.
8.30.040 Implied consent.
8.30.050 Severability.
8.30.060 Additional remedies.

8.30.010 Jurisdiction.

The Tribal Court shall have jurisdiction over proceedings instituted pursuant to this title; provided, however, that nothing in this section shall limit the ability of the Tribe to pursue claims or appeals or judgments under this title in any other court of competent jurisdiction.

Comment: This section was created in its entirety pursuant to Tribal Council Resolution No. 94-021, dated June 21, 1994, and adopted in its entirety pursuant to Tribal Council Resolution No. 94-022, dated July 5, 1994.

[Res. 94-022, 1994; Res. 94-021, 1994. Prior Code § 8-30-010.]

8.30.020 Party plaintiff.

Any proceeding instituted under this title shall be brought in the name of the Tribe, as plaintiff; provided, however, that the Tribe's pursuit of any claim brought pursuant to this title shall not constitute a waiver of the sovereign immunity of the Tribe or its officers with regard to any counterclaims, crossclaims or other such claims.

Comment: This section was created in its entirety pursuant to Tribal Council Resolution No. 94-021, dated June 21, 1994, and adopted in its entirety pursuant to Tribal Council Resolution No. 94-022, dated July 5, 1994.

[Res. 94-022, 1994; Res. 94-021, 1994. Prior Code § 8-30-020.]

8.30.030 Effective date.

This title shall take effect upon its passage by the Tribal Council.

Comment: This section was created in its entirety pursuant to Tribal Council Resolution No. 94-021, dated June 21, 1994, and adopted in its entirety pursuant to Tribal Council Resolution No. 94-022, dated July 5, 1994.

[Res. 94-022, 1994; Res. 94-021, 1994. Prior Code § 8-30-030.]

8.30.040 Implied consent.

Entry upon the Reservation by nonmembers of the Tribe is expressly conditioned upon the consent of the person entering the Reservation to the jurisdiction of the Tribe for purposes of enforcing this title and any other provision of the Las Vegas Paiute Law and Order Code. Entry upon the Reservation not made in conformity with the provisions of this title or any other provision of the Las Vegas Paiute Law and Order Code is made without consent and is prohibited. Any person who enters upon the Reservation shall be deemed to have given consent to the jurisdiction of the Tribe and the Tribal Court for enforcing this title and any other provision of the Las Vegas Paiute Law and Order Code.

Comment: This section was created in its entirety pursuant to Tribal Council Resolution No. 94-021, dated June 21, 1994, and adopted in its entirety pursuant to Tribal Council Resolution No. 94-022, dated July 5, 1994.

[Res. 94-022, 1994; Res. 94-021, 1994. Prior Code § 8-30-040.]

8.30.050 Severability.

If any section, provision or portion of this title is adjudged to be unconstitutional or invalid by a court of competent jurisdiction, the remainder of this title shall not be affected.

Comment: This section was created in its entirety pursuant to Tribal Council Resolution No. 94-021, dated June 21, 1994, and adopted in its entirety pursuant to Tribal Council Resolution No. 94-022, dated July 5, 1994.

[Res. 94-022, 1994; Res. 94-021, 1994. Prior Code § 8-30-050.]

8.30.060 Additional remedies.

The civil remedial forfeiture remedies provided for by this title are not the exclusive remedies of the Tribe for violation of the Las Vegas Paiute Law and Order Code. Nothing in this title shall restrict or curtail the right of the Tribe to prosecute or seek the criminal prosecution of any defendant or to institute a civil action for damages in any court against a defendant. In addition to the civil remedies provided in this title, the Tribal Court may order a defendant to perform or refrain from performing any acts as may be necessary fully to protect the Tribe, its members, its property, or its natural resources. The Tribal Court may order abatement of a nuisance, restoration of a natural resource, or other appropriate action designed to eliminate or minimize damage caused by a defendant or owner.

Comment: This section was created in its entirety pursuant to Tribal Council Resolution No. 94-021, dated June 21, 1994, and adopted in its entirety pursuant to Tribal Council Resolution No. 94-022, dated July 5, 1994.

[Res. 94-022, 1994; Res. 94-021, 1994. Prior Code § 8-30-060.]

Chapter 8.40

CIVIL REMEDIAL MONEY PENALTIES

Sections:

8.40.010 Institution of proceedings – Citation.
8.40.020 Notice to alleged violator – Jurisdiction.
8.40.030 Citation contents.
8.40.040 Stipulation of default – Deposit.
8.40.050 Burden of proof.
8.40.060 Default.
8.40.070 Judgment.
8.40.080 Amount of penalty.
8.40.090 Enforcement of judgment.
8.40.100 Monies tendered to the Tribal Court.

8.40.010 Institution of proceedings – Citation.

Proceedings for the recovery of a civil remedial money penalty shall be instituted by the issuance of a citation by an enforcing officer. Whenever such enforcing officer has reason to believe that a person has violated the Las Vegas Paiute Law and Order Code subject to a civil remedial money penalty, such enforcing officer shall issue a citation to such person, and file a copy with the Tribal Court. A citation may be served by regular first class mail.

Comment: This section was created in its entirety pursuant to Tribal Council Resolution No. 94-021, dated June 21, 1994, and adopted in its entirety pursuant to Tribal Council Resolution No. 94-022, dated July 5, 1994.

[Res. 94-022, 1994; Res. 94-021, 1994. Prior Code § 8-40-010.]

8.40.020 Notice to alleged violator – Jurisdiction.

The issuance of a citation by an enforcing officer is sufficient notice to the alleged violator that he is charged with a civil infraction subject to a civil remedial money penalty and, notwithstanding any provision of the Las Vegas Paiute Law and Order Code or of applicable Tribal Court rules, shall constitute adequate process to confirm the Tribal Court's jurisdiction over the person allegedly committing the violation upon the filing of such citation with the Tribal Court.

Comment: This section was created in its entirety pursuant to Tribal Council Resolution No. 94-021, dated June 21, 1994, and adopted in its entirety pursuant to Tribal Council Resolution No. 94-022, dated July 5, 1994.

[Res. 94-022, 1994; Res. 94-021, 1994. Prior Code § 8-40-020.]

8.40.030 Citation contents.

It must appear on the face of the citation that there is a reasonable basis to believe that a violation of the Las Vegas Paiute Law and Order Code has been committed and that the defendant charged has committed the violation. The citation form shall contain the following:

(a) The name of the person to whom the citation was issued, together with the person's age, address, driver's license number and phone number(s), if available;

(b) The Tribal permit or license number of the defendant, if applicable;

(c) The name and Tribal department of the enforcing officer;

(d) The violation alleged, the time and place of occurrence, a statement that the defendant committed the violation, and a description of the violation in language which can be easily understood;

(e) The maximum civil remedial money penalty for which the defendant might be found liable;

(f) A date, time and place of a Tribal Court appearance, and a notice to appear;

(g) Provision for a deposit and stipulation of default in lieu of court appearance;

(h) Notice that if the defendant fails to appear at the time fixed in the citation, that he will be defaulted and judgment entered against him in an amount up to the maximum penalty plus any applicable fees and costs;

(i) Notice that if the defendant makes a deposit and stipulation of default, judgment will be entered against him in the amount of the deposit; and

(j) Any other information required by the Tribal Council or deemed pertinent by the enforcing officer.

Comment: This section was created in its entirety pursuant to Tribal Council Resolution No. 94-021, dated June 21, 1994, and adopted in its entirety pursuant to Tribal Council Resolution No. 94-022, dated July 5, 1994.

[Res. 94-022, 1994; Res. 94-021, 1994. Prior Code § 8-40-030.]

8.40.040 Stipulation of default – Deposit.

(a) A defendant to whom a citation is issued may make a deposit and stipulation of default in lieu of a Tribal Court appearance at any time prior to the date set for his appearance before the Tribal Court.

(b) The amount of the deposit shall be determined by the Clerk of the Tribal Court or her designated agent, or, if she is not available, by the enforcing officer at the time of issuance of the citation, but shall not exceed the maximum penalty for the violation set forth in a deposit schedule recommended by the Tribal Law Enforcement Department and adopted by the Tribal Council.

(c) By signing the stipulation of default, the defendant consents to the entry of judgment against him for a penalty not to exceed the amount of the deposit.

(d) The Clerk of the Tribal Court or, if the Clerk or her designated agent is unavailable, the enforcing officer issuing the citation shall accept the deposit and stipulation of default and shall prepare a receipt showing the purpose for which the deposit was made, a copy of which receipt shall be transmitted to the defendant. In the event that acceptance of the deposit and stipulation is made by an enforcing officer, the enforcing officer shall file the stipulation of default and a copy of the receipt, and any monies received as a deposit, with the Clerk of the Tribal Court.

Comment: This section was created in its entirety pursuant to Tribal Council Resolution No. 94-021, dated June 21, 1994, and adopted in its entirety pursuant to Tribal Council Resolution No. 94-022, dated July 5, 1994.

[Res. 94-022, 1994; Res. 94-021, 1994. Prior Code § 8-40-040.]

8.40.050 Burden of proof.

In all actions under this title, the Tribe shall have the burden of showing by a preponderance of the evidence that the defendant committed the violation charged in the citation. The Tribe shall not, however, be required to show that the defendant intended to commit the violation. If no Tribal prosecutor is available, any proceeding under this title may be brought, in the name of the Tribe, before the Tribal Court by any authorized Tribal representative other than the enforcing officer.

Comment: This section was created in its entirety pursuant to Tribal Council Resolution No. 94-021, dated June 21, 1994, and adopted in its entirety pursuant to Tribal Council Resolution No. 94-022, dated July 5, 1994.

[Res. 94-022, 1994; Res. 94-021, 1994. Prior Code § 8-40-050.]

8.40.060 Default.

Upon failure by the defendant to appear on the date indicated on the citation, an entry of default shall be made by the Tribal Court; provided, however, that if the citation was served by ordinary mail, proof of receipt by the defendant shall be required before default may be entered.

Comment: This section was created in its entirety pursuant to Tribal Council Resolution No. 94-021, dated June 21, 1994, and adopted in its entirety pursuant to Tribal Council Resolution No. 94-022, dated July 5, 1994.

[Res. 94-022, 1994; Res. 94-021, 1994. Prior Code § 8-40-060.]

8.40.070 Judgment.

If, upon default or after the presentation of all the evidence, the defendant is found by the trial judge to have committed the charged vi-

olation by a preponderance of the evidence, the Tribal Court shall enter judgment against the defendant and in favor of the Tribe for a monetary amount not to exceed the maximum allowable civil remedial money or, if a deposit has been made by the defendant, for an amount not to exceed the amount of the deposit.

Comment: This section was created in its entirety pursuant to Tribal Council Resolution No. 94-021, dated June 21, 1994, and adopted in its entirety pursuant to Tribal Council Resolution No. 94-022, dated July 5, 1994.

[Res. 94-022, 1994; Res. 94-021, 1994. Prior Code § 8-40-070.]

8.40.080 Amount of penalty.

The maximum civil remedial money penalty which may be imposed for a violation of the Las Vegas Paiute Law and Order Code shall be the lesser of:

(a) Five thousand dollars;

(b) The maximum amount provided for in the section of the Las Vegas Paiute Law and Order Code that has been violated, if an amount is specified; or

(c) In the case of a civil infraction by a non-Indian subject to LVPTC 8.20.020, the maximum amount of the criminal fine that might be imposed upon an Indian person by the section of the Las Vegas Paiute Law and Order Code violated, if such an amount is specified.

Comment: This section was created in its entirety pursuant to Tribal Council Resolution No. 94-021, dated June 21, 1994, and adopted in its entirety pursuant to Tribal Council Resolution No. 94-022, dated July 5, 1994.

[Res. 94-022, 1994; Res. 94-021, 1994. Prior Code § 8-40-080.]

8.40.090 Enforcement of judgment.

All civil remedies are available to enforce the judgment of the Tribal Court, including the power of civil contempt. A judgment shall be a lien upon any available property of the defendant which is located within the Reservation or within the jurisdiction of the Tribal Court. When necessary, the Tribe may bring suit in any court on the judgment against the defendant or his property located beyond the jurisdiction of the Tribal Court.

Comment: This section was created in its entirety pursuant to Tribal Council Resolution No. 94-021, dated June 21, 1994, and adopted in its entirety pursuant to Tribal Council Resolution No. 94-022, dated July 5, 1994.

[Res. 94-022, 1994; Res. 94-021, 1994. Prior Code § 8-40-090.]

8.40.100 Monies tendered to the Tribal Court.

Deposits and money paid on judgments rendered pursuant to this title shall be tendered to the Clerk of the Tribal Court. The Clerk of the Tribal Court shall tender such sums to the Tribal Treasurer for deposit in the general fund of the Tribe or for such other disposition as may be directed by the Tribal Council.

Comment: This section was created in its entirety pursuant to Tribal Council Resolution No. 94-021, dated June 21, 1994, and adopted in its entirety pursuant to Tribal Council Resolution No. 94-022, dated July 5, 1994.

[Res. 94-022, 1994; Res. 94-021, 1994. Prior Code § 8-40-100.]

Chapter 8.50

CIVIL REMEDIAL FORFEITURE OF PROPERTY

Sections:

8.50.010 Institution of proceedings – Complaint.
8.50.020 Contents of complaint.
8.50.030 Service of complaint.
8.50.040 Seizure of property without order.
8.50.050 Seizure of property with order.
8.50.060 Bond for property seized.
8.50.070 Hearing – Time.
8.50.080 Hearing procedure.
8.50.090 Order to seize.
8.50.100 Contents of an order to seize.
8.50.110 Service of order to seize.
8.50.120 Existence of security interest in seized property.
8.50.130 Trial.
8.50.140 Sale of forfeited property.
8.50.150 Sale of perishable property.
8.50.160 Effect on seizure of evidence.

8.50.010 Institution of proceedings – Complaint.

Proceedings for the civil remedial forfeiture of property shall be instituted by the filing of a complaint in rem against the property in Tribal Court by an enforcing officer. A complaint shall be filed whenever such enforcing officer has a reasonable basis to believe that a section or provision of the Las Vegas Paiute Law and Order Code has been violated and that the property is subject to forfeit since it was used in the commission of a violation of the Las Vegas Paiute Law and Order Code as is subject to seizure to satisfy a judgment entered against the owner of such property by the Tribal Court.

Comment: This section was created in its entirety pursuant to Tribal Council Resolution No. 94-021, dated June 21, 1994, and adopted in its entirety pursuant to Tribal Council Resolution No. 94-022, dated July 5, 1994.

[Res. 94-022, 1994; Res. 94-021, 1994. Prior Code § 8-50-010.]

8.50.020 Contents of complaint.

It must appear on the face of the complaint that there is a reasonable basis to believe that a section or provision of the Las Vegas Paiute Law and Order Code has been violated and that the property is subject to forfeit under the provisions of this title. The complaint shall contain the following:

(a) A description of the property against which proceedings are instituted;

(b) The section or provision of the Las Vegas Paiute Law and Order Code that has been violated;

(c) A description of the violation in language which can be easily understood;

(d) The name, address, and other pertinent information about the owner of the property, if known, or a statement that the owner of the property is unknown;

(e) A request for an order from the Tribal Court to seize the property; and

(f) The name and signature of the complaining enforcing officer.

Comment: This section was created in its entirety pursuant to Tribal Council Resolution No. 94-021, dated June 21, 1994, and adopted in its entirety pursuant to Tribal Council Resolution No. 94-022, dated July 5, 1994.

[Res. 94-022, 1994; Res. 94-021, 1994. Prior Code § 8-50-020.]

8.50.030 Service of complaint.

If the owner of the property is identified in the complaint, the complaint and a notice to appear at a hearing on an order to seize shall be served on the owner as provided for service of civil complaints.

Comment: This section was created in its entirety pursuant to Tribal Council Resolution No. 94-021, dated June 21, 1994, and adopted in its entirety pursuant to Tribal Council Resolution No. 94-022, dated July 5, 1994.

[Res. 94-022, 1994; Res. 94-021, 1994. Prior Code § 8-50-030.]

8.50.040 Seizure of property without order.

(a) Property may be seized by an enforcing officer prior to the filing of a complaint and issuance of an order to seize if one or more of the following circumstances exist:

(1) The property seized presents a danger to persons, property, or a natural resource of the Reservation;

(2) The enforcing officer has a reasonable basis to believe that without immediate seizure, the property will be removed from the jurisdiction of the Tribal Court; or

(3) The enforcing officer has a reasonable basis to believe that the property was used in the commission of a violation of any provision of the Las Vegas Paiute Law and Order Code.

(b) A receipt describing the property seized shall be issued to the person in possession of the property at the time of the seizure, if such person is present.

Comment: This section was created in its entirety pursuant to Tribal Council Resolution No. 94-021, dated June 21, 1994, and adopted in its entirety pursuant to Tribal Council Resolution No. 94-022, dated July 5, 1994.

[Res. 94-022, 1994; Res. 94-021, 1994. Prior Code § 8-50-040.]

8.50.050 Seizure of property with order.

Any property alleged to be subject to civil remedial forfeiture may be seized pursuant to an order to seize issued by the Tribal Court. Any and all property seized pursuant to an order to seize or without order as provided in LVPTC 8.50.040 shall be held by the Tribal Court pending disposition of the complaint or until a bond has been posted with the Tribal Court pursuant to LVPTC 8.50.060.

Comment: This section was created in its entirety pursuant to Tribal Council Resolution No. 94-021, dated June 21, 1994, and adopted in its entirety pursuant to Tribal Council Resolution No. 94-022, dated July 5, 1994.

[Res. 94-022, 1994; Res. 94-021, 1994. Prior Code § 8-50-050.]

8.50.060 Bond for property seized.

The Tribal Court, or in the case of property seized without an order, the enforcing officer, may release seized property to its owner upon the posting of bond with the Tribal Court or the enforcing officer in an amount and under conditions which the trial judge or the enforcing officer determines are necessary to protect the interests of the Tribe. In no event shall the amount of the bond exceed the fair market value of the property seized. Upon the posting of a proper bond, the bond shall be available to be levied against by the Tribe if the owner does not return the property to the custody of the Tribal Court in proper condition upon a determination of the Tribal Court that the property is subject to forfeit.

Comment: This section was created in its entirety pursuant to Tribal Council Resolution No. 94-021, dated June 21, 1994, and adopted in its entirety pursuant to Tribal Council Resolution No. 94-022, dated July 5, 1994.

[Res. 94-022, 1994; Res. 94-021, 1994. Prior Code § 8-50-060.]

8.50.070 Hearing – Time.

When property has been seized prior to the issuance of an order to seize, a hearing on the order to seize shall be held within five working days after the seizure. If the hearing is not held within that time, the property seized shall be immediately returned to the owner, if known. The hearing contesting the valid issuance or enforcement of an order to seize shall be held within 30 days of the seizure.

Comment: This section was created in its entirety pursuant to Tribal Council Resolution No. 94-021, dated June 21, 1994, and adopted in its entirety pursuant to Tribal Council Resolution No. 94-022, dated July 5, 1994.

[Res. 94-022, 1994; Res. 94-021, 1994. Prior Code § 8-50-070.]

8.50.080 Hearing procedure.

(a) At the hearing on the order to seize, the Tribe shall have the burden of showing that there is reasonable basis to believe that:

(1) The property is subject to civil remedial forfeiture; and

(2) The property is within the jurisdiction of the Tribal Court.

(b) The parties may present evidence through the testimony of witnesses. Affidavits will be accepted in lieu of testimony if, in the trial judge's discretion, it is determined that the interest of justice would be served thereby.

Comment: This section was created in its entirety pursuant to Tribal Council Resolution No. 94-021, dated June 21, 1994, and adopted in its entirety pursuant to Tribal Council Resolution No. 94-022, dated July 5, 1994.

[Res. 94-022, 1994; Res. 94-021, 1994. Prior Code § 8-50-080.]

8.50.090 Order to seize.

(a) If, after the hearing, the trial judge finds that there is a reasonable basis to believe that the property is subject to civil remedial forfeiture, and that the property is within the jurisdiction of the Tribal Court, the trial judge shall issue an order to seize, directing an enforcing officer to seize the property and hold it pending disposition of the complaint.

(b) If, after hearing, the trial judge finds that there is no reasonable basis to believe that the property is subject to civil remedial forfeiture or that the property is not within the jurisdiction of the Tribal Court, the trial judge shall deny the order to seize and, if property was seized prior to the hearing, order the property immediately released to its owner.

Comment: This section was created in its entirety pursuant to Tribal Council Resolution No. 94-021, dated June 21, 1994, and adopted in its entirety pursuant to Tribal Council Resolution No. 94-022, dated July 5, 1994.

[Res. 94-022, 1994; Res. 94-021, 1994. Prior Code § 8-50-090.]

8.50.100 Contents of an order to seize.

An order to seize shall contain the following:

(a) A description of the property subject to the order;

(b) The date of filing of a proper complaint for forfeiture, and the name and department of the complaining enforcing officer;

(c) A finding that the property is within the jurisdiction of the Tribal Court;

(d) A finding that there is a reasonable basis to believe that the property is subject to a civil remedial forfeiture, a brief factual narration of the grounds for the finding, and citation to the provision of the Las Vegas Paiute Law and Order Code that has been violated;

(e) Notice of the date, time and place of trial; and

(f) Notice that the property may be released by the posting of a proper bond.

Comment: This section was created in its entirety pursuant to Tribal Council Resolution No. 94-021, dated June 21, 1994, and adopted in its entirety pursuant to Tribal Council Resolution No. 94-022, dated July 5, 1994.

[Res. 94-022, 1994; Res. 94-021, 1994. Prior Code § 8-50-100.]

8.50.110 Service of order to seize.

The order to seize shall be served as provided in LVPTC 8.50.030.

Comment: This section was created in its entirety pursuant to Tribal Council Resolution No. 94-021, dated June 21, 1994, and adopted in its entirety pursuant to Tribal Council Resolution No. 94-022, dated July 5, 1994.

[Res. 94-022, 1994; Res. 94-021, 1994. Prior Code § 8-50-110.]

8.50.120 Existence of security interest in seized property.

The enforcing officer shall make a reasonable effort prior to the hearing on the order to seize to ascertain whether a perfected security interest exists in the property and, if one does exist, shall give notice to the secured party of any hearing in the case and shall also give the secured party a minimum of 15 days' notice of the time and place of any sale conducted pursuant to LVPTC 8.50.140.

Comment: This section was created in its entirety pursuant to Tribal Council Resolution No. 94-021, dated June 21, 1994, and adopted in its entirety

pursuant to Tribal Council Resolution No. 94-022, dated July 5, 1994.

[Res. 94-022, 1994; Res. 94-021, 1994. Prior Code § 8-50-120.]

8.50.130 Trial.

At trial, the Tribe shall have the burden of showing by a preponderance of the evidence that the property is subject to forfeit. If the Tribe fails to meet this burden, the Tribal Court shall dissolve the order to seize, enter judgment awarding title to the property to the owner, and order immediate release of the property or discharge of the bond, whichever is appropriate. If the Tribe meets its burden, the Tribal Court shall dissolve the order to seize, enter judgment awarding title to the property to the Tribe, and place the property in the hands of the Tribe for disposition or, if bond was posted, order the bond forfeited to the Tribe.

Comment: This section was created in its entirety pursuant to Tribal Council Resolution No. 94-021, dated June 21, 1994, and adopted in its entirety pursuant to Tribal Council Resolution No. 94-022, dated July 5, 1994.

[Res. 94-022, 1994; Res. 94-021, 1994. Prior Code § 8-50-130.]

8.50.140 Sale of forfeited property.

(a) Within 60 days after entry of a judgment forfeiting property to the Tribe, but in no event less than 15 days after the entry, the Tribe shall sell the property at the highest obtainable price. The net proceeds of such sale, after deducting sale expenses, shall be remitted to the Treasurer of the Tribe, who shall place such sums in the Tribe's general account or make such other disposition as the violated section or provision of the Las Vegas Paiute Law and Order Code; provided, however, that if the property has been seized and sold to satisfy a civil remedial money penalty, the Tribe shall return any surplus proceeds of sale above the amount of such civil remedial money penalty, minus cost of sale and administration, to the owner of the property at the time of its seizure.

(b) If there exists a perfected security interest in the forfeited property, and the violation which occasioned the forfeiture was not committed with the knowledge, consent or connivance of the secured party, there shall also be deducted from the proceeds of sale the amount due under the security agreement, and such amount shall be paid to the secured party. In the event a sufficient amount does not remain for such purpose after deducting other sale and/or administrative expenses, any amount remaining shall be paid over to such secured party.

(c) In lieu of sale of forfeited property, the Tribal Council may by resolution provide for the retention and use of the property by the Tribe, as may be directed in the resolution. If there exists a perfected security interest in the property, and the breach was not committed with the knowledge, consent or connivance of the secured party, the Tribe shall pay to the secured party the amount due under the security agreement before its retention and use of the property.

Comment: This section was created in its entirety pursuant to Tribal Council Resolution No. 94-021, dated June 21, 1994, and adopted in its entirety pursuant to Tribal Council Resolution No. 94-022, dated July 5, 1994.

[Res. 94-022, 1994; Res. 94-021, 1994. Prior Code § 8-50-140.]

8.50.150 Sale of perishable property.

Any perishable property seized pursuant to this title may be sold by the Clerk of the Tribal Court at the highest available price, and the proceeds of such sale shall be tendered to the Tribal Court to await such disposition as the Tribal Court shall direct.

Comment: This section was created in its entirety pursuant to Tribal Council Resolution No. 94-021, dated June 21, 1994, and adopted in its entirety pursuant to Tribal Council Resolution No. 94-022, dated July 5, 1994.

[Res. 94-022, 1994; Res. 94-021, 1994. Prior Code § 8-50-150.]

8.50.160 Effect on seizure of evidence.

Nothing in this title shall affect or limit the power of enforcing officers to execute search warrants or seize and hold property which constitutes evidence in any criminal case. Such property shall not be forfeited, however, except in compliance with this title.

Comment: This section was created in its entirety pursuant to Tribal Council Resolution No. 94-021, dated June 21, 1994, and adopted in its entirety pursuant to Tribal Council Resolution No. 94-022, dated July 5, 1994.

[Res. 94-022, 1994; Res. 94-021, 1994. Prior Code § 8-50-160.]

Title 9

DOMESTIC RELATIONS

Chapters:

9.10	**Marriage**
9.20	**Indian Custom Marriage and Divorce**
9.30	**Rights of Husband and Wife**
9.40	**Void Marriages**
9.50	**Annulment**
9.60	**Dissolution of Marriage**
9.70	**Custody and Support of Children**
9.80	**Determination of Parenthood**
9.90	**Adoption of Minor Children**
9.100	**Adoption of Adults**
9.110	**Guardianship**

[Res. 10-27-77B, 1977.]

Chapter 9.10

MARRIAGE

Sections:

9.10.010 Scope.
9.10.020 Consent.
9.10.030 Ability to consent.
9.10.040 Court orders.
9.10.050 Marriage licenses.
9.10.060 Validity of licenses issued outside this jurisdiction.
9.10.070 Marriage ceremonies.
9.10.080 Certificates of marriage.
9.10.090 Marriages entered into outside this jurisdiction.
9.10.100 Marriages entered into prior to the adoption of this title.

9.10.010 Scope.

This chapter establishes the requirements for a valid marriage and the procedures that must be followed by all persons wishing to enter into a valid marriage.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 9-10-010.]

9.10.020 Consent.

The consent of both parties is required before there can be a valid marriage. The parties must have the ability to consent.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 9-10-020.]

9.10.030 Ability to consent.

The following persons are legally incapable of giving a valid consent to the marriage contract, and therefore shall not be issued a license:

(a) A person under 18 years of age. However, a parent or guardian may give valid consent for a person under 18 years of age, or a court order pursuant to LVPTC 9.10.040 may be obtained.

(b) A person who lacks mental capacity because of mental disease or defect of either a temporary or permanent nature.

(c) A person whose mental capacity is seriously impaired by drugs or alcohol.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 9-10-030.]

9.10.040 Court orders.

(a) Availability of Court Orders. In the event that a parent or guardian will not consent to the marriage of a person under 18 years of age, or if there is no parent or guardian, a Tribal Court order permitting the marriage may be obtained by filing a petition with the Court Clerk.

(b) Contents of Petition. The petition shall state the names of the parties who wish to be married, their ages, the name of the parent(s) or guardian(s), the reason the consent of the parent(s) or guardian(s) could not be obtained, and the reason the marriage should be permitted.

(c) Procedure. The Clerk shall give the petition to the Tribal judge immediately after filing. The judge may schedule a hearing if more information is required. The hearing shall be held within five days from the day the petition is filed and the judge shall announce his decision within five days from the date of the hearing. The judge shall order that the marriage be permitted if a sufficient reason is given. Pregnancy, while it is a factor to be considered, is neither determinative nor required.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 9-10-040.]

9.10.050 Marriage licenses.

(a) Requirement. A marriage license is required before a marriage ceremony may be performed within this jurisdiction.

(b) Procedure. Persons wishing to marry shall request a license from the Tribal Court Clerk. The license shall be on a form approved by the Tribal Council. The Clerk shall issue a license as long as he or she is satisfied as to the parties' ability to consent.

(c) Contents. The license shall state the names of the parties, their ages, and their addresses, and shall be signed and dated by the Tribal Court Clerk.

(d) Denial of Licenses. If the Tribal Court Clerk refuses to issue a license because he or she is not satisfied as to the parties' ability to consent, the parties may request a hearing before the Tribal Court. Said hearing shall be held within five days. The Tribal judge shall resolve all disputes as to marriage licenses.

(e) Certificate of Marriage. The Tribal Court Clerk shall issue a blank certificate of marriage at the same time the license is issued. The certificate shall be on a form approved by the Tribal Council. The certificate shall contain a space to fill in the names of the parties and their ages, the name and title of the person performing the ceremony, and shall contain a statement that the parties consent to the establishment of the relationship of husband and wife themselves, such statement to be signed by the parties at the time of the ceremony. The certificate shall also include a space for the signature of the person performing the ceremony, and for the date the ceremony is to be performed.

(f) Time Limit for Validity. A license is valid for 30 days. A ceremony performed with a license issued more than 30 days previously is not valid.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 9-10-050.]

9.10.060 Validity of licenses issued outside this jurisdiction.

Licenses issued outside this jurisdiction may not be used for ceremonies performed within this jurisdiction.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 9-10-060.]

9.10.070 Marriage ceremonies.

(a) No particular form of ceremony is required. However, the parties must express their consent to the establishment of the relationship of husband and wife between themselves.

(b) Any religious practitioner may perform a marriage ceremony.

(c) The Tribal Chairperson may perform a marriage ceremony.

(d) The Tribal Council may, by resolution, designate any number of other persons to perform marriage ceremonies.

(e) Persons wishing to marry must present their valid license to the person performing the ceremony.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 9-10-070.]

9.10.080 Certificates of marriage.

(a) Persons authorized by LVPTC 9.10.070 to perform marriage ceremonies shall request the marriage certificate from the couple, and shall see that it is properly filled out and signed.

(b) The original of the certificate shall be given to the parties and two copies shall be given to the Tribal Court Clerk. The Clerk shall retain one copy in the court files and shall file another copy with the County Recorder.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 9-10-080.]

9.10.090 Marriages entered into outside this jurisdiction.

Marriages entered into outside this jurisdiction are valid within this jurisdiction if they are

valid in the jurisdiction in which they were entered into.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 9-10-90.]

9.10.100 Marriages entered into prior to the adoption of this title.

Marriages entered into on this Reservation prior to the adoption of this title whether by formal ceremony, Indian custom or otherwise, are valid if they were valid when entered into.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 9-10-100.]

Chapter 9.20

INDIAN CUSTOM MARRIAGE AND DIVORCE

Sections:

9.20.010 Scope.
9.20.020 Validity of Indian custom marriages.
9.20.030 Certificates of Indian custom marriages.
9.20.040 Indian custom divorces or dissolutions.
9.20.050 Property rights.

9.20.010 Scope.

This chapter codifies Tribal customs pertaining to marriage and divorce.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 9-20-010.]

9.20.020 Validity of Indian custom marriages.

Marriages according to Indian custom are valid.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 9-20-020.]

9.20.030 Certificates of Indian custom marriages.

(a) Requirements. Persons who have lived together as husband and wife for seven years or more may request a certificate from the Tribal Court or the Tribal Chairperson stating that they are married according to Indian custom.

(b) Procedure. The court or the Chairperson shall require affidavits from three persons who know the couple before issuing a certificate of Indian custom marriage. The affidavits must state the names of the couple, the name of the affiant, and the length of time the affiant has known the couple living together as husband and wife. If the affidavits estab-

lish that the requirements of subsection (a) of this section have been met, the court or the Chairperson shall issue a certificate of Indian custom marriage to the couple and shall file a copy of the certificate with the Western Nevada Agency of the Bureau of Indian Affairs and with the County Recorder.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 9-20-030.]

9.20.040 Indian custom divorces or dissolutions.

Indian custom divorce or dissolution is not recognized. Persons who have been married according to Indian custom, who wish to dissolve their marriage, must request a dissolution from the Tribal Court in accordance with the procedures as set forth in Chapter 9.60 LVPTC. However, any Indian custom divorce which occurred prior to the adoption of this title is valid if it was valid at the time it occurred.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 9-20-040.]

9.20.050 Property rights.

Persons who have married according to Indian custom shall have the same property rights as persons who are formally married, as set forth in Chapter 9.30 LVPTC. Such rights shall be retroactive to the time the couple first began to live together.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 9-20-050.]

Chapter 9.30

RIGHTS OF HUSBAND AND WIFE

Sections:

9.30.010 Scope.
9.30.020 Community property.
9.30.030 Separate property.
9.30.040 Community debts.
9.30.050 Separate debts.
9.30.060 Individual property agreements.
9.30.070 Applicability to this chapter to Indian trust land and money and to Tribal assignments.

9.30.010 Scope.

This chapter establishes the property rights of each party to a marriage.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 9-30-010.]

9.30.020 Community property.

(a) Defined. All property acquired after the marriage by either the husband, the wife, or both, while they are living together as husband and wife, is community property, with the exception of the property described in LVPTC 9.30.030.

(b) Rights in Community Property.

(1) The husband and the wife have present, existing, and equal interests in all community property.

(2) The husband and the wife have an equal right to manage community property.

(3) One spouse may give to the other spouse the right to control a particular community asset. This agreement must be in writing and signed by both parties.

(4) Neither spouse may make a gift of community property without the written consent of the other spouse. Any gift made without such written consent is void.

(c) Joint Agreement of Spouses Required for Certain Transactions. Notwithstanding any other provision of this section, neither spouse may sell or encumber in any way community household goods, furnishings, appliances, au-

tomobiles, or any real property, unless the other spouse jointly executes the agreement involved. Any agreement which is not jointly executed is void.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 9-30-020.]

9.30.030 Separate property.

(a) Defined. All property owned by either the husband or the wife before marriage, or acquired afterwards by gift, by will, or through the laws of inheritance of any jurisdiction, together with the rents, interests, or profits therefrom, is the separate property of the owner.

(b) Rights in Separate Property. The owner has exclusive control and management of his or her separate property.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 9-30-030.]

9.30.040 Community debts.

(a) Defined. Community debts are those debts jointly undertaken by the husband and wife, debts incurred in the purchase of community property, and debts incurred in the support of the husband and/or the wife and/or their children, while the husband and wife are living together.

(b) Responsibility for Community Debts. The husband and wife are jointly and equally responsible for community debts. In any action in which both spouses are parties, the court may require that the community property, or if there is insufficient community property, the separate property of the husband and/or the wife, be used to pay community debts.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 9-30-040.]

9.30.050 Separate debts.

(a) Defined. All debts undertaken by the husband or wife, individually, except for any debts described in LVPTC 9.30.040, are separate debts.

(b) Responsibility for Separate Debts. The court shall not require the separate property of the wife to be used to pay the debts of the husband, nor shall it require that the separate property of the husband be used to pay the debts of the wife, unless the owner of the separate property has previously agreed in writing that his or her separate property may be used to pay for the debts of his or her spouse.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 9-30-050.]

9.30.060 Individual property agreements.

Spouses may create their own agreements as to property and alter the provisions in this chapter. Such property agreements must be in writing, must be signed by the parties, and must specifically itemize the assets to be affected.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 9-30-060.]

9.30.070 Applicability to this chapter to Indian trust land and money and to Tribal assignments.

The provisions of this chapter are generally not applicable to interests in Indian trust land, to money held in trust for Indian individuals, or to assignments or other interests in Tribal lands. However, if the husband and/or wife acquire an interest in Tribal land, an interest in money held in trust for Indian individuals, or an assignment or other interest in Tribal lands, and each acquisition is within the definition of community property as set forth in LVPTC 9.30.020, such interests may be treated as community property, as long as

such treatment is not in conflict with federal law or with the Tribe's Constitution.

Comment: This section originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, has been completed due to missing words or sections unreadable from original text.

[Res. 10-27-77B, 1977. Prior Code § 9-30-070.]

Chapter 9.40

VOID MARRIAGES

Sections:

9.40.010 Definition.
9.40.020 Marriages which are void.
9.40.030 Court declaration of voidness.
9.40.040 Jurisdiction of the Tribal Court to declare marriages void.
9.40.050 Procedure.
9.40.060 Form of petition.
9.40.070 Property and debts of void marriages.
9.40.080 Children of void marriages.
9.40.090 Damages.
9.40.100 Filing of order.

9.40.010 Definition.

A void marriage is a marriage which is not valid for any legal purpose. A void marriage does not create any property rights or obligations, other than to support any children that may be born of the marriage.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 9-40-010.]

9.40.020 Marriages which are void.

(a) Bigamous and incestuous marriages are void.

(b) Definitions.

(1) A bigamous marriage is one that is entered into by any person who is already married, i.e., the person's prior marriage has not been annulled or dissolved, and the prior spouse is still alive.

(2) An incestuous marriage is one between a parent and child, or a brother and sister of the whole or half blood, or an uncle and niece or aunt and nephew of the whole or half blood, or between first cousins.

(3) For purposes of this chapter, an aunt is defined as the sister of the person's parent, and uncle is defined as the brother of the person's parent, and a first cousin is the child of the person's aunt or uncle.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 9-40-020.]

9.40.030 Court declaration of voidness.

Either party to a void marriage may file a petition with the Clerk requesting that the marriage be declared void. However, the void marriage is of no legal effect whether or not the parties obtain a court order declaring it void.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 9-40-030.]

9.40.040 Jurisdiction of the Tribal Court to declare marriages void.

(a) The Tribal Court has jurisdiction to declare void any marriage described in LVPTC 9.40.020 which was entered into on this Reservation.

(b) The Tribal Court has jurisdiction to declare void any marriage described in LVPTC 9.40.020 which was not entered into on this Reservation, if either of the parties to the marriage have resided on this Reservation for at least six weeks preceding the filing of the petition.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 9-40-040.]

9.40.050 Procedure.

(a) A petition requesting that a marriage be declared void shall be filed with the Clerk. It must conform to the requirements of LVPTC 9.40.060.

(b) A summons shall be issued and served on the other spouse, in accordance with LVPTC Title 3, Rules of Civil Procedure, unless the other spouse joins in the petition.

(c) The Tribal Court shall hold a hearing if the matter is contested, but may grant the order without a hearing if the matter is not contested, and evidence as to the bigamous or incestuous character of the marriage is presented with the petition.

(d) If the matter is contested, the court shall issue an order declaring the marriage void, if evidence indicates that it is more likely than not that the marriage is incestuous or bigamous.

(e) Any order as to property, child support and/or custody, or damages shall be made in accordance with LVPTC 9.40.070, 9.40.080 and 9.40.090.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 9-40-050.]

9.40.060 Form of petition.

(a) Required Contents of Petition. A petition requesting the court to declare a marriage void shall state:

(1) The names, ages, and residences of the parties to the marriage;

(2) The date and place of the marriage;

(3) An allegation as to the court's jurisdiction; and

(4) The reason the marriage should be declared void.

(b) Additional Contents. The petition may include:

(1) Requests as to division of property and debts;

(2) Requests as to child custody and/or support; and

(3) Allegations as to damages.

(c) Petitions Must Be Signed. The petition must be signed by one or both of the parties to the marriage.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 9-40-060.]

9.40.070 Property and debts of void marriages.

(a) Community Property Rules Do Not Apply. Because a void marriage is of no legal

effect there is no community property. However, the court shall ordinarily give one-half or the equivalent value of one-half of what would be community property if the marriage were valid to each person.

(b) Division of Debts. The court shall ordinarily divide responsibility for all debts that would be community debts if the marriage were valid equally between the parties.

(c) Discretionary Equitable Awards. The court may, in its discretion, award more than one-half of what would be community property if the marriage were valid, to one party, if this party also assumes more than one-half of the debts, or if it would be fair and equitable to do so.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 9-40-070.]

9.40.080 Children of void marriages.

(a) Support Obligations. Parties to a void marriage have the same obligations to support their children as if the marriage were valid.

(b) Custody. The standards set forth in Chapter 9.70 LVPTC should be followed to determine custody and/or support of any children.

(c) Legitimacy. Children of a void marriage are legitimate for all purposes.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 9-40-080.]

9.40.090 Damages.

(a) Any person who knowingly contracts a bigamous marriage shall pay damages of $250.00 to the other party to the bigamous marriage, if that other party was without knowledge of the bigamous nature of the marriage.

(b) Any person who knowingly contracts a bigamous marriage shall pay damages of $250.00 to the spouse from the first marriage, if that spouse has sued or commences to sue for divorce or annulment.

(c) Any party to a void marriage who is injured thereby shall receive such other damages as can be proven, in addition to any damages under subsection (a) of this section.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 9-40-090.]

9.40.100 Filing of order.

Orders obtained pursuant to this chapter shall be filed with the Tribal Court Clerk and the Tribal Court Clerk shall file a copy with the County Recorder.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 9-40-100.]

Chapter 9.50

ANNULMENT

Sections:

9.50.010 Reasons for annulment of marriages.
9.50.020 Jurisdiction of the Tribal Court.
9.50.030 Commencement of annulment actions.
9.50.040 Procedure.
9.50.050 Form of complaint.
9.50.060 Effect of an order of annulment.
9.50.070 Alimony not awarded.
9.50.080 Damages.
9.50.090 Filing of annulment orders.

9.50.010 Reasons for annulment of marriages.

The court may grant an annulment of a marriage for the following reasons:

(a) Lack of ability to consent because of age.

(b) Lack of ability to consent because of mental disease or defect.

(c) Lack of ability to consent because of serious mental impairment due to the use of drugs or alcohol.

(d) Force or fraud in obtaining consent to the marriage.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 9-50-010.]

9.50.020 Jurisdiction of the Tribal Court.

(a) The Tribal Court has jurisdiction to annul any marriage which was entered into on this Reservation.

(b) The Tribal Court has jurisdiction to annul any marriage which was not entered into on this Reservation if either of the parties to the marriage has resided on this Reservation for at least six weeks preceding the filing of the complaint.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 9-50-020.]

9.50.030 Commencement of annulment actions.

An action to obtain an annulment must be commenced within the following time periods and by the following persons:

(a) For cause described in LVPTC 9.50.010(a), by the underage party before reaching the age of 20, or by the parent or guardian of the underage party before the party reaches 18. However, a parent or guardian may not commence an annulment action if a court order was obtained pursuant to LVPTC 9.10.040 or if he gave his consent to the marriage pursuant to LVPTC 9.10.030(a).

(b) For cause described in LVPTC 9.50.010(b), by the party lacking capacity within two years of regaining capacity, or by the guardian of the person lacking capacity within two years of marriage.

(c) For cause described in LVPTC 9.50.010(c), by the party not freely consenting within two months of marriage.

(d) For cause described in LVPTC 9.50.010(d), by the party not freely consenting within two years of the marriage.

Comment: This section originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, has been completed due to missing words or sections unreadable from original text.

[Res. 10-27-77B, 1977. Prior Code § 9-50-030.]

9.50.040 Procedure.

(a) A complaint requesting that a marriage be annulled shall be filed with the Clerk. It must conform to the requirements of LVPTC 9.50.050.

(b) A summons shall be issued and served in accordance with LVPTC Title 3, Rules of Civil Procedure, on any party to the marriage not joining in the complaint.

(c) The court shall hold a hearing whether or not the matter is contested.

(d) If the court is satisfied that the evidence indicates that it is more likely than not that the allegations in the petition are true and is satisfied as to the court's jurisdiction, the annulment shall be granted.

(e) Any orders as to child custody and/or support shall be in compliance with Chapter 9.70 LVPTC.

(f) Any order as to damages shall be in accordance with LVPTC 9.50.080.

(g) Any order as to property and debts shall be in accordance with the standards set forth in LVPTC 9.60.070.

(h) The court shall restore the wife's former name if requested to do so by the wife or her representative.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 9-50-040.]

9.50.050 Form of complaint.

(a) Required Contents of Complaint.

(1) The names of the parties to the marriage;

(2) The date of the marriage;

(3) The place of the marriage;

(4) The reason for the requested annulment;

(5) An allegation as to the Tribal Court's jurisdiction; and

(6) If the person filing the complaint is not one of the parties to the marriage, the relationship of that person to the parties.

(b) Additional Contents. The complaint may include:

(1) A description of any property or debts to be divided by the court;

(2) Any requests as to child custody and/or support; and

(3) Any allegations as to damages.

(c) Restoration of a Woman's Former Name. The complaint may include a request that the wife's former name be restored.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 9-50-050.]

9.50.060 Effect of an order of annulment.

(a) After an annulment the parties are restored to the status of single and unmarried persons.

(b) Children of an annulled marriage are legitimate for all purposes.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 9-50-060.]

9.50.070 Alimony not awarded.

Neither party to an annulled marriage shall be required to pay alimony.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 9-50-070.]

9.50.080 Damages.

Any person who is damaged because of a marriage that is subsequently annulled may receive damages as can be proven.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 9-50-080.]

9.50.090 Filing of annulment orders.

The order of annulment shall be filed in the Tribal Court Clerk's office, and the Tribal Court Clerk shall file a copy with the County Recorder.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 9-50-090.]

Chapter 9.60

DISSOLUTION OF MARRIAGE

Sections:

9.60.010 Reasons for dissolution.
9.60.020 Jurisdiction of the Tribal Court.
9.60.030 Procedure.
9.60.040 Form of complaint.
9.60.050 Evidence considered.
9.60.060 Alimony.
9.60.070 Division of property and debts.
9.60.080 Effect.
9.60.090 Filing of orders.
9.60.100 Tribal custom divorces.

9.60.010 Reasons for dissolution.

A dissolution of marriage may be granted if either party to the marriage considers the marriage a failure.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 9-60-010.]

9.60.020 Jurisdiction of the Tribal Court.

The Tribal Court shall have jurisdiction to dissolve any marriage described in LVPTC 9.60.010 if:

(a) Either of the parties to the marriage has resided on this Reservation for at least six weeks preceding the filing of the complaint; or

(b) This Reservation was the place that the parties lived together as husband and wife.

(c) This Reservation was the place the marriage was entered into.

Comment: This section originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, has been completed due to missing words or sections unreadable from original text.

[Res. 10-27-77B, 1977. Prior Code § 9-60-020.]

9.60.030 Procedure.

(a) A complaint requesting a dissolution shall be filed with the Clerk. It must conform to the requirements of LVPTC 9.60.040.

(b) A summons shall be issued and served in accordance with LVPTC Title 3, Rules of Civil Procedure, on the other party to the marriage.

(c) The court shall hold a hearing whether or not the matter is contested.

(d) The dissolution shall be granted if the court is satisfied that it has jurisdiction, and if the complaint substantially satisfies the requirements of LVPTC 9.60.040.

(e) Any order as to child support or custody shall be in accordance with Chapter 9.70 LVPTC.

(f) Any order as to property or debts shall be issued in accordance with LVPTC 9.60.070.

(g) The court shall restore the wife's former name if requested to do so by the wife or her representative.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 9-60-030.]

9.60.040 Form of complaint.

(a) Required Contents. A complaint for dissolution of marriage shall contain:

(1) The names of the parties to the marriage;

(2) The date of the marriage;

(3) The place of the marriage; and

(4) An allegation as to the court's jurisdiction.

(b) Additional Contents. The complaint may contain:

(1) A description of any property or debts to be divided by the court;

(2) Any requests as to child custody and/or support;

(3) Any requests for alimony.

(c) Restoration of a Woman's Name. The complaint may include a request that the wife's former name is restored.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 9-60-040.]

9.60.050 Evidence considered.

(a) Fault is irrelevant and no evidence as to fault will be heard by the court.

(b) Testimony must be given, by a person who is not a party to the marriage, as to the facts required under LVPTC 9.60.020.

(c) No evidence as to the failure of the marriage need be presented by the party requesting the dissolution.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 9-60-050.]

9.60.060 Alimony.

(a) Alimony may be awarded to either party as part of the order granting the dissolution.

(b) It may be awarded for a limited time and limited amount and is conditioned on necessity and ability to pay.

(c) Alimony terminates automatically on the remarriage of the party receiving it, or upon the death of either party. It may be terminated at any time by the court, if the necessity for it no longer endures, upon motion by the person paying the alimony.

(d) Alimony does not terminate because of the remarriage of the person paying the alimony.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 9-60-060.]

9.60.070 Division of property and debts.

(a) Ordinarily, one-half or the equivalent of one-half of the community property as defined in this title shall be given to each party. If the community property includes interests described in LVPTC 9.30.070, the court may order a party to make a transfer of such interests; however, such transfers must conform to the requirements of federal law and the Tribe's Constitution.

(b) All separate property remains the property of its owner.

(c) Ordinarily, community debts shall be divided so that each party is responsible for an equal share.

(d) All separate debts remain the responsibility of the party who incurred them.

(e) The court may, in its discretion, award more than half of the community property to one party, if that party also assumes more than one-half of the community debts, or if it would be fair and equitable to do so.

(f) In spite of the above provisions, the parties may make their own agreement as to division of property and/or debts, but such agreements are subject to review and approval by the court.

Comment: This section originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, has been completed due to missing words or sections unreadable from original text.

[Res. 10-27-77B, 1977. Prior Code § 9-60-070.]

9.60.080 Effect.

The effect of an order of dissolution is to restore the parties to the status of single and unmarried persons.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 9-60-080.]

9.60.090 Filing of orders.

The order granting the dissolution shall be filed in the Tribal Court Clerk's office and the Tribal Court Clerk shall file a copy in the office of the County Recorder.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 9-60-090.]

9.60.100 Tribal custom divorces.

Tribal custom divorces or dissolutions are not recognized and have no legal effect.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 9-60-100.]

Chapter 9.70

CUSTODY AND SUPPORT OF CHILDREN

Sections:

9.70.010 Nature of action.
9.70.020 Proper parties to commence action.
9.70.030 Procedure.
9.70.040 Form of petition.
9.70.050 Standards to be applied and evidence considered in determining custody.
9.70.060 Visitation rights.
9.70.070 Support obligations.
9.70.080 Modification of support and custody orders.
9.70.090 Enforcement of support orders.
9.70.100 Filing and service of custody and support orders.

9.70.010 Nature of action.

A proceeding for custody and/or support of children may be joined with a proceeding under any chapter of this title, or may be commenced as a separate proceeding.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 9-70-010.]

9.70.020 Proper parties to commence action.

The following persons may bring an action for custody and/or support of a child:

(a) The child.

(b) Either parent.

(c) Any person who provides one-half of the total support of the child. “Support” means those items necessary and essential to the child’s well-being, including such items as food and lodging. However, a social service agency may bring an action pursuant to this chapter only for support, and only to defray any payments made by the agency on behalf of the child.

Comment: This section is in its original adopted version.

This section originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, has been completed due to missing words or sections unreadable from original text.

[Res. 10-27-77B, 1977. Prior Code § 9-70-020.]

9.70.030 Procedure.

(a) A petition concerning child custody and/or support shall be filed with the Clerk. It must conform to the requirements of LVPTC 9.70.040.

(b) A summons shall be issued and served in accordance with LVPTC Title 3, Rules of Civil Procedure, on all interested persons, including but not limited to the child's parents, grandparents, and any other person with whom the child resides.

(c) A hearing shall be held whether or not the matter is contested.

(d) At the hearing the court shall first determine if there is compliance with LVPTC 9.70.020 and this section, and then shall make its order based on the standards in LVPTC 9.70.050 and/or 9.70.070.

Comment: This section originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, has been completed due to missing words or sections unreadable from original text.

[Res. 10-27-77B, 1977. Prior Code § 9-70-030.]

9.70.040 Form of petition.

The petition shall state the following information, if known:

(a) The name, age, place of birth and residence of the child;

(b) The name, age, residence and relationship to the child of the person having physical custody;

(c) The name, age, residence and relationship to the child of the person seeking custody, if a custody order is sought;

(d) The name, age, residence and relationship to the child of the person to be charged with the support obligation, if a support order is sought;

(e) The name, age, residence and relationship to the child of the person bringing the petition; and

(f) The reasons(s) custody and/or support is sought.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 9-70-040.]

9.70.050 Standards to be applied and evidence considered in determining custody.

(a) The court shall make its decision based on what will be in the best interests of the child.

(b) The wishes of the child, though not dispository, will be given a substantial amount of weight.

(c) No presumptions as to the greater or lesser preference of one sex as a custodian shall be used.

(d) No presumptions as to the suitability of persons of particular ages shall be used.

(e) Reasons for annulments or dissolutions are irrelevant in custody proceedings.

(f) Custody may be given to a nonparent only if neither parent wants the child and they both waived their rights in writing, or the child is found to be a dependent child in accordance with LVPTC Title 10, Juvenile Proceedings.

(g) If custody is to be given to a nonparent, grandparents or other relatives shall be preferred over nonrelatives as custodians of the child.

(h) The child shall not be removed from the Reservation, unless there is no suitable person on the Reservation to act as custodian.

(i) The judge may request a social services report, which will be admissible in evidence, to aid him in his determination of custody. A copy of such report must be given to every interested party at least 48 hours before the hearing.

Comment: This section originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, has been completed due

to missing words or sections unreadable from original text.

[Res. 10-27-77B, 1977. Prior Code § 9-70-050.]

9.70.060 Visitation rights.

The noncustodial parent, and any other interested relative or nonrelative, shall be given reasonable rights of visitation upon a showing of interest in the child to the court.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 9-70-060.]

9.70.070 Support obligations.

(a) Nature of Obligation. Both parents of a child have a continuing obligation to support their child until the child is 18 years of age. This obligation is not affected by the parent's remarriage, and is not affected by any award of custody of the child.

(b) Determination of Obligation. The court shall consider the amount of support which is reasonably necessary, and the financial resources of each parent. The court shall then require each parent to pay a just and reasonable amount for the support of the child.

Comment: This section originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, has been completed due to missing words or sections unreadable from original text.

[Res. 10-27-77B, 1977. Prior Code § 9-70-070.]

9.70.080 Modification of support and custody orders.

Support and custody orders are modifiable due to changed circumstances upon petition to the court according to the procedures set out in this chapter.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 9-70-080.]

9.70.090 Enforcement of support orders.

The court may issue its contempt power to enforce a support order.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 9-70-090.]

9.70.100 Filing and service of custody and support orders.

Custody and support orders shall be filed with the Tribal Court Clerk and served upon all parties whose obligations are affected by them.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 9-70-100.]

Chapter 9.80

DETERMINATION OF PARENTHOOD

Sections:

9.80.010 Purpose and applicability.
9.80.020 Proper parties to bring action.
9.80.030 Procedure.
9.80.040 Form of petition.
9.80.050 Admissible evidence.
9.80.060 Effect of decree.
9.80.070 Filing of decrees.

9.80.010 Purpose and applicability.

(a) The purpose of this chapter is to establish the relationship of parent and child.

(b) An action under this chapter is not available if the child has been legally adopted.

(c) A proceeding under this chapter may be joined with a proceeding for custody and/or support under Chapter 9.70 LVPTC.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 9-80-010.]

9.80.020 Proper parties to bring action.

The following persons may bring an action under this chapter:

(a) The child.

(b) Either parent.

(c) Any person who provides one-half of the total support of the child. “Support” means those items necessary and essential to the child’s well-being, including such items as food and lodging. A social service agency is a proper party to bring an action under this section.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 9-80-020.]

9.80.030 Procedure.

(a) A petition alleging parenthood shall be filed with the Clerk. It must conform to the requirements of LVPTC 9.80.040.

(b) A summons shall be issued and served in accordance with LVPTC Title 3, Rules of Civil Procedure, on any parent who does not join in the petition.

(c) A hearing shall be held whether or not the matter is contested.

(d) The court shall issue a decree of parenthood based on a preponderance of the evidence indicating that a parental relationship exists.

Comment: This section originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, has been completed due to missing words or sections unreadable from original text.

[Res. 10-27-77B, 1977. Prior Code § 9-80-030.]

9.80.040 Form of petition.

The petition shall contain the following:

(a) The name, age, place of birth and residence of the child;

(b) The name, age, place of birth and residence of the alleged parent;

(c) The name, age, residence and relationship to the child of the person bringing the petition; and

(d) A short statement of the facts on which the allegation of parenthood is based.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 9-80-040.]

9.80.050 Admissible evidence.

The following types of evidence are admissible in an action to determine parenthood:

(a) Medical and scientific evidence, if reliable.

(b) Actions or words on the part of the purported parent that indicate a parental relationship.

(c) Any other evidence that is helpful to the court and is admissible in a civil action under LVPTC Title 6, Evidence.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 9-80-050.]

9.80.060 Effect of decree.

The effect of a decree of parenthood is to establish the relationship of parent and child with all attendant rights and responsibilities, including all inheritance rights.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 9-80-060.]

9.80.070 Filing of decrees.

All decrees of parenthood shall be filed with the Tribal Court Clerk and shall be served on all persons affected by them.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 9-80-070.]

Chapter 9.90

ADOPTION OF MINOR CHILDREN

Sections:

9.90.010 Scope.
9.90.020 Procedure.
9.90.030 Form of petition.
9.90.040 Affidavit of consent.
9.90.050 Standards applied and evidence considered.
9.90.060 Temporary decree of adoption.
9.90.070 Effect of entry of decree.
9.90.080 Records of adoption proceedings.
9.90.090 Right to Tribal membership.

9.90.010 Scope.

This chapter sets forth the procedures for establishing the relationship of parent and child, between a child and an adult other than a natural parent of the child.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 9-90-010.]

9.90.020 Procedure.

(a) A petition requesting an adoption shall be served with the Clerk. It must comply with the requirements of LVPTC 9.90.030.

(b) A summons shall be issued and served in accordance with LVPTC Title 3, Rules of Civil Procedure, on the natural parents, the grandparents, any person with whom the child resides, and any other interested person(s), unless they have signed affidavits of consent.

(c) A hearing shall be held whether or not the matter is contested.

Comment: This section originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, has been completed due to missing words or sections unreadable from original text.

[Res. 10-27-77B, 1977. Prior Code § 9-90-020.]

9.90.030 Form of petition.

The petition shall contain:

(a) The name, age, date and place of birth of the child if known, with documentary proof if possible;

(b) The name(s), age(s), of the person(s) seeking to adopt;

(c) The name(s) and address(es) of the natural parents, if known;

(d) Any affidavits of consent as required by LVPTC 9.90.040;

(e) A statement of any real or personal property owned by the child; and

(f) A request that the relationship of parent and child be established.

Comment: This section originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, has been completed due to missing words or sections unreadable from original text.

[Res. 10-27-77B, 1977. Prior Code § 9-90-030.]

9.90.040 Affidavit of consent.

(a) The consent(s), by affidavit, of the following person(s) is required when applicable:

(1) Of the child if he or she is 12 years of age or over;

(2) Of each of the natural parents, unless their parental rights have been judicially terminated;

(3) Of the grandparents, or other relative who wishes to provide a home for the child, unless the court makes a determination, based on notice and a hearing, that the grandparents or other relative are unsuitable as a custodian;

(4) Of the spouse of the adopting party, unless the spouse joins in the petition.

(b) Any consent obtained prior to the birth of the child or for two weeks thereafter is void.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 9-90-040.]

9.90.050 Standards applied and evidence considered.

(a) A petition for adoption shall be granted if the adoption would be in the best interest of the child.

(b) Single persons of either sex may adopt a child.

(c) Adopting parent(s) must be at least 10 years older than the child.

(d) There is no upper age limit on suitability as an adoptive parent.

(e) Grandparents and other relatives shall be preferred as adoptive parents over nonrelatives.

(f) The court may request a social services report on the adoptive parents, which shall be admitted into evidence, to aid in the determination of whether or not the adoption would be in the best interest of the child. A copy of such report shall be given to every interested party at least entitled to notice of the hearing.

Comment: This section originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, has been completed due to missing words or sections unreadable from original text.

[Res. 10-27-77B, 1977. Prior Code § 9-90-050.]

9.90.060 Temporary decree of adoption.

(a) If the court feels that the best interest of the child would be served, it may issue a temporary decree of adoption.

(b) Such decree is valid for six months, at which time another hearing must be held and a permanent decree granted or denied.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 9-90-060.]

9.90.070 Effect of entry of decree.

(a) Establishment of the Relationship of Parent and Child. A temporary or permanent decree of adoption establishes the relationship of parent and child between the parties.

(b) Inheritance Rights. After the entry of a permanent decree of adoption, an adopted

child inherits from and through the adoptive parent(s), and adoptive parent(s) inherit through the adopted child. The adopted child does not inherit from or through the natural parent(s), and the natural parents do not inherit from or through the adopted child.

(c) Stepparent Adoptions. When a stepparent adopts a child, it does not affect the relationship between the child and the natural parent who is the spouse of the stepparent.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 9-90-070.]

9.90.080 Records of adoption proceedings.

(a) After a permanent adoption decree is granted a birth certificate shall be issued in the name of the adoptive parent(s). The certificate shall be filed in the Tribal Court Clerk's office, and the Tribal Court Clerk shall file a copy with the County Recorder.

(b) All records of adoption proceedings are to be sealed and shall be released only upon order of the court. However, the Tribal Court Clerk may release enough information to determine the child's eligibility for Indian benefits.

Comment: This section originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, has been completed due to missing words or sections unreadable from original text.

[Res. 10-27-77B, 1977. Prior Code § 9-90-080.]

9.90.090 Right to Tribal membership.

Adoption shall not remove any rights that a child has to enroll as a Tribal member due to the blood inherited from his natural parents.

Comment: This section originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, has been completed due to missing words or sections unreadable from original text.

[Res. 10-27-77B, 1977. Prior Code § 9-90-090.]

Chapter 9.100

ADOPTION OF ADULTS

Sections:

9.100.010 Scope.
9.100.020 Consents.
9.100.030 Procedure.
9.100.040 Form of petition.
9.100.050 Effect of entry of decree.
9.100.060 Filing of decrees.

9.100.010 Scope.

This chapter sets forth the procedures for establishing the relationship of parent and child, between persons 18 years of age or over.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 9-100-010.]

9.100.020 Consents.

No consents are required except those of the adopted person and of the adopting person(s).

Comment: This section originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, has been completed due to missing words or sections unreadable from original text.

[Res. 10-27-77B, 1977. Prior Code § 9-100-020.]

9.100.030 Procedure.

(a) A petition requesting an adoption shall be filed with the Clerk. It must comply with the requirements of LVPTC 9.100.040.

(b) The court may order that notice be given to anyone who has an interest in the proceedings.

(c) The court shall hold a hearing and shall issue the decree of adoption, unless it finds that one of the parties does not understand the effect of adoption, or if there is evidence of lack of consent.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 9-100-030.]

9.100.040 Form of petition.

(a) The name, age, and residence of the person to be adopted;

(b) The name(s), age(s), and residence of the person(s) wishing to adopt;

(c) A request that the relationship of parent and child be established.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 9-100-040.]

9.100.050 Effect of entry of decree.

(a) Establishment of the Relationship of Parent and Child. A decree of adoption establishes the relationship of parent and child between the parties.

(b) Inheritance Rights. Adopted adults inherit from and through their adoptive parent(s) and the adoptive parent(s) inherit from and through the adopted adult. Adopted adults do not inherit from or through their natural parent(s) and the natural parent(s) do not inherit from or through the adopted adult.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 9-100-050.]

9.100.060 Filing of decrees.

All decrees obtained through this chapter shall be filed with the Tribal Court Clerk and the Tribal Court Clerk shall file a copy with the County Recorder.

Comment: This section originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, has been completed due to missing words or sections unreadable from original text.

[Res. 10-27-77B, 1977. Prior Code § 9-100-060.]

Chapter 9.110

GUARDIANSHIP

Sections:

9.110.010 Scope.
9.110.020 Commencement of the action.
9.110.030 Procedure.
9.110.040 Form of petition.
9.110.050 Standards applied.
9.110.060 Selection and approval of guardians.
9.110.070 Duties of a guardian.
9.110.080 Costs and fees.
9.110.090 Posting of bond.
9.110.100 Change of guardian.
9.110.110 Review of guardianships.
9.110.120 Termination of guardianships.
9.110.130 Temporary guardianships.
9.110.140 Filing of guardianships.

9.110.010 Scope.

This chapter establishes the procedure for the appointment of guardians for minor persons, or for adults who are unable to manage their property and business affairs and/or physically care for themselves.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 9-110-010.]

9.110.020 Commencement of the action.

Any person may file a petition for a guardianship, including the person to be placed under the guardianship.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 9-110-020.]

9.110.030 Procedure.

(a) A petition requesting a guardian shall be filed with the Clerk. It shall comply with the requirements of LVPTC 9.110.040.

(b) Upon filing of the petition, or any time thereafter, the court may appoint an investigator to locate persons who perform services needed by the proposed ward and other public and private resources available to him. The investigator may be an employee of a social service agency, family service officer of the court or other qualified person. The investigator, if one is appointed, shall file with the court and parties a written report opining the nature of the proposed ward's incapacity, if any, and of the powers which a guardian would need to assist the proposed ward.

(c) Except as otherwise provided, the court, upon the filing of a petition, shall direct the Clerk to a set a time and place for the hearing and directing the persons or institutions referred to in subsection (c)(1) of this section to appear and show cause why a guardian should not be appointed for the proposed ward.

(1) A notice of hearing issued under the above paragraph must be served:

(A) If the proposed ward is an incompetent: (i) upon the spouse and adult children of the incompetent or person of limited capacity who are known to exist, or, if there are none, upon any parent, brother or sister of the incompetent or person of limited capacity; (ii) upon any person or officer of an institution having the care, custody or control of the incompetent or person of limited capacity; (iii) upon the incompetent or person of limited capacity.

(B) If the proposed ward is a minor: (i) upon the parents of the minor; (ii) upon any person or officer of an institution having care, custody or control of the minor; and (iii) if the minor is 14 years of age or older, upon the minor.

Comment: This section originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, has been completed due to missing words or sections unreadable from original text.

[Res. 10-27-77B, 1977. Prior Code § 9-110-030.]

9.110.040 Form of petition.

(a) Except as otherwise provided, a proposed ward, a Tribal agency, a nonprofit corporation or any concerned person may

petition the court for the appointment of a guardian.

(b) The petition must state:

(1) The name and address of petitioner.

(2) The name, age and address of the proposed ward.

(3) Whether the proposed ward is a resident or nonresident of this Reservation.

(4) The names and addresses, so far as they are known to the petitioner, of the relatives of the proposed ward within the second degree.

(5) The name and address of the proposed guardian.

(6) A summary of the reasons why a guardian is needed.

(7) Whether the appointment of a general or a special guardian is sought.

(8) A general description and the probable value of the property of the proposed ward and any income to which he is entitled, if the petition is for the appointment of a guardian of the estate or a special guardian. If any money is paid or is payable to the proposed ward by the United States through the Veteran's Administration, the petition must so state.

(9) The name and address of any person or institution having the care, custody or control of the proposed ward.

(10) The relationship, if any, of the petitioner to the proposed ward and the interest, if any, of the petitioner in the appointment.

(11) Requests for any of the specific powers necessary to enable the guardian to carry out the duties of the guardianship.

Comment: This section originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, has been completed due to missing words or sections unreadable from original text.

[Res. 10-27-77B, 1977. Prior Code § 9-110-040.]

9.110.050 Standards applied.

(a) Any qualified person or entity may be found by the court to be a suitable guardian. Nonqualified persons include: (1) an incompetent; (2) a minor; (3) a convicted felon; (4) a disbarred or suspended attorney; or (5) a nonmember of the Tribe who is unassociated with the ward and/or not petitioning for guardianship.

(b) The necessity of the guardianship must be shown by clear and convincing evidence.

Comment: This section originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, has been completed due to missing words or sections unreadable from original text.

[Res. 10-27-77B, 1977. Prior Code § 9-110-050.]

9.110.060 Selection and approval of guardians.

(a) The court shall appoint a guardian only after a hearing required by LVPTC 9.110.030(c). The court may approve the guardian suggested by the petition, or may appoint any other person, as the best interests of the ward require. Wards 12 years of age or over may suggest their own guardians.

(b) If the ward's estate is large, a financial institution should be appointed to manage it.

(c) The duties of the guardian may be split, with one person chosen to care for the individual and another person or institution chosen to manage the property.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 9-110-060.]

9.110.070 Duties of a guardian.

(a) General. The duties of a guardian shall be as set forth below, depending on the special needs of the ward, the reason for the guardianship, and whether or not the duties of the guardian are split.

(b) Guardians of the Person. Guardians of a ward's physical person are responsible for providing the necessities of life to the ward, and shall have the authority to enroll a ward in school, to consent to medical treatment, to obtain any state or Indian benefits for the ward, and to exercise similar duties and authority.

(c) Guardians of the Estate. Guardians of a ward's property or business affairs shall manage the ward's property in the manner in which a prudent person would manage his own property.

(d) Other Specific Duties. In addition to the duties listed above, the court may enumerate specific duties for the guardian in its order, if such duties would be in the best interest of the ward.

Comment: This section originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, has been completed due to missing words or sections unreadable from original text.

[Res. 10-27-77B, 1977. Prior Code § 9-110-070.]

9.110.080 Costs and fees.

Guardians may request the court to approve payment for costs and fees incurred in the management of property, and as reasonable costs for their services. The financial assets of the ward's estate shall be used to pay any fees, costs, or compensation approved by the court.

Comment: This section originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, has been completed due to missing words or sections unreadable from original text.

[Res. 10-27-77B, 1977. Prior Code § 9-110-080.]

9.110.090 Posting of bond.

Guardians may be required by the court to post a bond, to insure protection of the ward's property.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 9-110-090.]

9.110.100 Change of guardian.

Persons placed under a guardianship may petition the court at any time for a change of a guardian.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 9-110-100.]

9.110.110 Review of guardianships.

All guardianships shall be reviewed by the court at least once every 12 months as to continued necessity and as to the suitability of the guardian. The Tribal Court Clerk shall keep a calendar on which the review dates shall be entered. The guardian, ward, and other interested parties shall receive at least two weeks' notice of any review.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 9-110-110.]

9.110.120 Termination of guardianships.

(a) Guardianship of Minors.

(1) Upon turning 18 years of age, a minor may petition the court and have his or her guardianship terminated, unless there is a reason for the guardianship in addition to age.

(2) Parents or guardians may petition the court at any time to terminate the guardianship of children or wards if the necessity for the guardianship no longer exists.

(b) Guardianships of Adults. An adult ward may petition the court and have his or her guardianship terminated when the ward regains ability to manage his or her property or business affairs and/or physically care for himself or herself.

(c) Guardianships of Minors or Adults. The court may terminate a guardianship on its own motion, in conjunction with the annual review.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 9-110-120.]

9.110.130 Temporary guardianships.

(a) Defined. A temporary guardianship over either the business affairs or the physical care of a ward may be granted, on petition,

but without a hearing, for up to three months. All procedures for the appointment of a temporary guardianship are the same as for a permanent one, except no petition is required for termination.

(b) Procedure. The petition must be accompanied by written consent from the natural parents if the proposed ward is a child, or a written consent of the proposed ward if the proposed ward is an adult.

(c) Conversion Into Permanent Guardianship. A new petition must be filed to change a temporary guardianship into a permanent one, and a full hearing must be held.

(d) Temporary Guardianships Over Minors. Notwithstanding any other provision of this chapter, a temporary guardianship over the physical care of a minor may be granted by the person having care, custody and control of the minor for a period of up to six months, without a petition to the court. Such guardianship must be in writing, signed by the person granting it; must specify the period which it is to exist; and must state that it is over the physical care of the minor. If there are two people who have care, custody and control over the minor, they must both sign the guardianship.

Comment: This section originally adopted pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977, has been completed due to missing words or sections unreadable from original text.

[Res. 10-27-77B, 1977. Prior Code § 9-110-130.]

9.110.140 Filing of guardianships.

All court orders as to guardianships and all guardianships pursuant to LVPTC 9.110.120(c) must be filed with the Tribal Court Clerk and must be served on the guardian, ward, and other interested parties.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 9-110-140.]

Title 10

JUVENILE PROCEEDINGS

Chapters:

10.10	**Jurisdiction**
10.20	**Definitions**
10.30	**Complaints of Delinquency and Dependency**
10.40	**Petitions of Delinquency or Dependency**
10.50	**Hearings Upon Petitions of Delinquency or Dependency**
10.60	**Dispositions of Cases After Findings of Delinquency or Dependency**
10.70	**Proceedings and Records of Juvenile Court**
10.80	**Termination of Parental Rights**
10.90	**Use of Professional Services by the Juvenile Court**
10.100	**Facilities for Custody or Detention of Children**
10.110	**School Attendance**

[Res. 10-27-77B, 1977.]

Chapter 10.10

JURISDICTION

Sections:

10.10.010 Jurisdiction over children.
10.10.020 Jurisdiction over adults.

10.10.010 Jurisdiction over children.

When sitting as the Juvenile Court, the Tribal Court shall have jurisdiction over all allegedly delinquent or dependent children and all delinquent or dependent children, whether Indian or non-Indian, who are within the exterior boundaries of the Reservation.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 10-10-010.]

10.10.020 Jurisdiction over adults.

When sitting as the Juvenile Court, the Tribal Court shall have jurisdiction over adults whether Indian or non-Indian and whether within or without the exterior boundaries of the Reservation, as is incidental to its jurisdiction as set forth in LVPTC 10.10.010, and as may be necessary to accomplish the purposes of this title.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 10-10-020.]

Chapter 10.20

DEFINITIONS

Sections:

10.20.010 Adult.
10.20.020 Child.
10.20.030 Delinquent child.
10.20.040 Dependent child.
10.20.050 Parental care and control.
10.20.060 Parental responsibility.
10.20.070 Juvenile court.

10.20.010 Adult.

"Adult" means a person who has attained the age of 18 years.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 10-20-010.]

10.20.020 Child.

"Child" means a person under the age of 18 years.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 10-20-020.]

10.20.030 Delinquent child.

"Delinquent child" means any child who has committed an act which would be an offense if committed by an adult, or who has committed an act specifically designated an act of juvenile delinquency by this title.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 10-20-030.]

10.20.040 Dependent child.

"Dependent child" means a child:

(a) Who has been abandoned by his or her parents, guardian, or custodian; or

(b) Who is being or has been subjected to cruelty, or physical, sexual, or emotional abuse, by or with the knowledge or acquies-

cence of his or her parents, guardian, or custodian; or

(c) Who lacks the parental care and control necessary for his or her well-being because of failure or inability of his or her parents, guardian, or custodian to provide such care and control; or

(d) Who for any reason is deprived of the subsistence, education, medical care, or any care or necessities essential to his or her well-being; or

(e) Whose parents, guardian, or custodian are for any reason unable to discharge their parental responsibilities for the child; or

(f) Who has been placed for care or adoption in violation of law.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 10-20-040.]

10.20.050 Parental care and control.

"Parental care and control" means the supervision, direction, discipline, and responsibility for welfare which reasonably must be exercised by a parent, guardian or custodian for the well-being of a child.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 10-20-050.]

10.20.060 Parental responsibility.

"Parental responsibility" means the duty of a parent, guardian or custodian to supervise, control, care for, discipline, and provide the necessities of life for a child.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 10-20-060.]

10.20.070 Juvenile court.

"Juvenile court" means the Tribal Court when sitting to hear cases arising under this Juvenile Code.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 10-20-070.]

Chapter 10.30

COMPLAINTS OF DELINQUENCY AND DEPENDENCY

Sections:

10.30.010 Form and contents.
10.30.020 Filing of complaint.
10.30.030 Custody of a child before filing of a complaint.
10.30.040 Preliminary investigation of complaints.
10.30.050 Custody of child after filing of complaint of delinquency or dependency.
10.30.060 Disposition of complaints.
10.30.070 Report of disposition of complaints.

10.30.010 Form and contents.

(a) Form. Complaints of delinquency or dependency shall comply with any form established by rule of the Juvenile Court, and shall contain the information required in subsection (b) of this section.

(b) Contents. Complaints of delinquency or dependency shall contain at least the following information:

(1) The name and age, if known, of the child alleged to be delinquent or dependent;

(2) The name and addresses, if known, of the parent, guardian, or custodian of the child;

(3) For complaints of delinquency:

(A) A statement of the nature of the alleged offense, with sufficient factual detail to establish that an offense probably has been committed; and

(B) A citation of the specific provision of the Tribal Code violated by the alleged offense;

(4) For complaints of dependency:

(A) A statement of the facts and circumstances upon which the allegation of dependency is based, with sufficient factual detail to establish that the child probably is dependent as defined in LVPTC 10.20.040; and

(B) A citation of the specific provision of this title upon which the allegation of dependency is based;

(5) The name and address of the person filing the complaint;

(6) The signature of the person filing the complaint, certifying that the information contained in the complaint is true and correct to the best of his knowledge.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 10-30-010.]

10.30.020 Filing of complaint.

(a) Complaints shall be filed with the Court Clerk, or with some other official designated by the Court Clerk and approved by the Tribal judge.

(b) A complaint may be filed by any person who has personal knowledge of the facts set forth in the complaint, or by a law enforcement officer or social services worker acting upon his own knowledge, or in response to information received from any person, after investigation of such information to verify its correctness.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 10-30-020.]

10.30.030 Custody of a child before filing of a complaint.

(a) Standards.

(1) Allegedly delinquent children may be detained or placed in custody before the filing of a complaint only if such detention is necessary for the welfare of the child or for the safety and protection of the public.

(2) Allegedly dependent children may be removed from the custody of their parents, guardian, or custodian or may be detained before the filing of a complaint only if such action is necessary for the safety, health, or welfare of the child.

(3) Before the filing of a complaint, allegedly delinquent or dependent children may be detained, placed in custody, or removed from their parents, guardian or custodian only

by a Tribal law enforcement officer or social services worker.

(b) Time Limit. An allegedly delinquent or dependent child may be detained or placed in custody only for the period of time reasonably necessary to determine whether a complaint should be filed. In no event may such detention exceed 12 hours in length.

(c) Place of Detention. An allegedly delinquent child may be detained or placed in custody, only in detention facilities approved pursuant to Chapter 10.100 LVPTC and shall be confined in an area separate and distinct from any area where adults are confined. An allegedly dependent child shall be detained or placed in custody, only in a facility approved pursuant to Chapter 10.100 LVPTC, and shall not be kept in custody with allegedly delinquent children.

(d) Advisement of Rights. Allegedly delinquent or dependent children, at the time they are detained or placed in custody, shall be advised:

(1) Of the reason that they have been taken into custody;

(2) Of their right to retain a representative as counsel; and

(3) Of their right to refuse to answer questions and to avoid self-incrimination.

(e) Informing of Parents, Guardian, or Custodian. When an allegedly delinquent or dependent child is detained or placed in custody, the parents, guardian or custodian of the child shall be notified immediately if possible, and in any case as soon as practical, that the child is in custody, and the reason for and circumstances surrounding such action. When so notified the parents, guardian or custodian shall be advised of their rights to retain a representative as counsel, to refuse to answer questions, and to avoid self-incrimination, and also shall be advised that the child has the same rights.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 10-30-030.]

10.30.040 Preliminary investigation of complaints.

The Tribal law enforcement officer or social services worker shall conduct an investigation of all complaints filed, to determine whether the allegations of the complaint are correct.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 10-30-040.]

10.30.050 Custody of child after filing of complaint of delinquency or dependency.

(a) Grounds for Taking Into Custody. Following the filing of a complaint of delinquency or dependency, an allegedly delinquent or dependent child may be taken into or retained in custody only if such custody is necessary for the safety, health, or welfare of the child or of other persons or is essential for the safety of the community.

(b) Procedure.

(1) Complaints of Delinquency. Upon being taken into custody, an allegedly delinquent child shall be advised of his right to retain a representative as counsel, his right to refuse to answer questions and his right to avoid self-incrimination. As soon as practical after a child is taken into custody, the parents, guardian, or custodian of the child shall be notified that the child is in custody, shall be provided free of charge with a copy of the complaint, shall be advised of the circumstances surrounding the alleged offense, and shall be advised of the child's rights.

(2) Complaints of Dependency. Upon being taken into custody, an allegedly dependent child, if of sufficient age and understanding, shall be advised of the allegations of dependency, the circumstances upon which these allegations are based, and the right of the child to retain a representative as counsel. As soon as practical after an allegedly dependent child is taken into custody, the parents, guardian, or custodian of the child shall be provided free of charge with a copy of the complaint, shall be advised of the

circumstances upon which the allegation of dependency is based, and shall be advised of their right to retain a representative as counsel, their right to refuse to answer questions, and their right to avoid self-incrimination.

(c) Place of Custody.

(1) An allegedly delinquent child, if taken into custody, shall be detained in a detention facility approved pursuant to Chapter 10.100 LVPTC and shall be confined in an area separate and distinct from any area where adults are confined.

(2) An allegedly dependent child, if taken into custody, shall be placed in the temporary custody of any relative by blood or marriage of the child's parents, guardians, or custodian, or in a foster home or custody facility approved pursuant to Chapter 10.100 LVPTC. Placement in the temporary custody of a relative shall be preferred; and such placement shall be subject to the continuing supervision of the social services agency. Allegedly dependent children shall not be retained in custody in the same facility with allegedly delinquent children.

(d) Preference for Release of Child From Custody. In all cases, release of an allegedly delinquent or dependent child from detention or foster care custody to the temporary custody of the child's parents, guardian or custodian shall be favored. In the case of an allegedly dependent child, preference shall be given to the placement of the child in the temporary custody of a relative of the parents, guardian or custodian, if the welfare of the child requires that it be removed from the custody of its parents, guardian or custodian.

(e) Mandatory Release of Child From Detention or Custody. If an allegedly delinquent or dependent child is in custody as provided in this section, the complaint of delinquency or dependency must be disposed of by the law enforcement officer or social services worker, as provided in LVPTC 10.30.060, within two working days of the commencement of custody. If the complaint is not so disposed of, the child shall be released into the custody of its parents, guardian, or custodian no later than 7:00 p.m. of the second working day. In addition, the complaint shall be dismissed, and no complaint based on the same facts shall be filed concerning that child. If the parent, guardian or custodian is not available to take custody of the child, the child then shall be treated as an allegedly dependent child, and the law enforcement officer or social services worker shall make every effort to locate the child's parent, guardian or custodian.

(f) Continuing Custody. The custody provisions set forth in this section shall be applicable until the end of a disposition hearing conducted pursuant to Chapter 10.60 LVPTC.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 10-30-050.]

10.30.060 Disposition of complaints.

(a) Following the completion of a preliminary investigation, the law enforcement officer or social services worker shall make one of the following dispositions of the complaint:

(1) Dismissal;

(2) An informal conference attended by the officer or worker, the allegedly delinquent or dependent child, the parents, guardian, or custodian of the child, and representatives for the child, the parents, or both, if desired by either;

(3) Filing of a petition of delinquency or dependency.

(b) If an informal conference is held, no petition of delinquency or dependency shall be filed, based upon the facts alleged in that complaint, if:

(1) A disposition or resolution of the complaint is agreed to in writing by all parties at the conference; and

(2) All actions required on the part of any party to implement the disposition or resolution are carried out or completed.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 10-30-060.]

10.30.070 Report of disposition of complaints.

All complaints of delinquency or dependency, reports of the disposition of complaints, and reports of the substance of all informal conferences conducted and dispositions or resolutions made, shall be provided to the Juvenile Court at least once per week.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 10-30-070.]

Chapter 10.40

PETITIONS OF DELINQUENCY OR DEPENDENCY

Sections:

10.40.010 Filing.
10.40.020 Form and contents.
10.40.030 Service of petitions.

10.40.010 Filing.

Petitions of delinquency or dependency shall be filed with the Clerk of the Juvenile Court. Petitions may be filed only by a law enforcement officer or social services worker, after a preliminary investigation, consideration of the complaint, and a determination that the matter cannot be resolved by an informal conference.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 10-40-010.]

10.40.020 Form and contents.

(a) Form. A petition of delinquency or dependency shall comply with any form established by Juvenile Court rule and shall contain the information required in subsection (b) of this section.

(b) Contents. A petition shall include the following:

(1) A caption or heading which clearly identifies the child involved and states the nature of the petition;

(2) Data concerning the child, including the name, date of birth, and permanent residence address, if known;

(3) Data concerning the parents, guardian, or custodian, including their names, addresses, and relationships to the child, if known;

(4) The present custodial status of the child, and the length of time the child has been in custody or detention;

(5) Specific facts sufficient to invoke the jurisdiction of the Juvenile Court, and to establish that probable cause exists for the filing of the petition;

(6) A statement by the law enforcement officer or social services worker explaining why disposition by an informal conference was not appropriate.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 10-40-020.]

10.40.030 Service of petitions.

The following persons shall be served with a copy of a petition of delinquency or dependency:

(a) The allegedly delinquent or dependent child;

(b) The parent, guardian, or custodian of the child, if known, or if not known, the most closely related known blood relative;

(c) The person in actual physical custody of the child.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 10-40-030.]

Chapter 10.50

HEARINGS UPON PETITIONS OF DELINQUENCY OR DEPENDENCY

Sections:

10.50.010 Time of hearings.
10.50.020 Conduct of hearings.
10.50.030 Persons permitted to attend hearings.
10.50.040 Rights of parties at delinquency and dependency hearings.
10.50.050 Evidence at delinquency and dependency hearings.
10.50.060 Procedure at delinquency and dependency hearings.
10.50.070 Findings of juvenile court.
10.50.080 Standard of proof to be applied by the Juvenile Court.
10.50.090 Appeals of findings.

10.50.010 Time of hearings.

(a) Time Limit. The Juvenile Court shall hold a hearing upon every petition filed within 10 days after filing. If a hearing is not held as required, the petition shall be dismissed and no petition based upon the same facts subsequently shall be filed concerning the child named in the complaint.

(b) Times Excluded From Limit. The following times shall be excluded from computation of the time limit established in subsection (a) of this section:

(1) Delays resulting from legal action concerning the child;

(2) Continuances requested by the child's representative in delinquency proceedings;

(3) Continuances requested by the child's representative or the parents', guardian's or custodian's representative in dependency proceedings;

(4) Periods during which the child is absent from the jurisdiction;

(5) Continuances agreed to by all the parties;

(6) Such other periods of time as are necessary and appropriate, in the discretion of the court, to further the ends of justice, and which will not prejudice any party.

(c) Continuances.

(1) Defined. Continuances are delays in the holding of a hearing.

(2) Granting Continuances. In the discretion of the court, continuances may be granted after the start of a hearing upon application of any party or upon motion of the court. Continuances shall not be granted for the purpose or with the effect of avoiding the application of subsection (a) of this section. The agreement of all parties to the granting of a continuance shall be required unless clear injustice would result from the denial of a continuance.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 10-50-010.]

10.50.020 Conduct of hearings.

Hearings upon petitions of delinquency or dependency shall be conducted by the juvenile court. Such hearings upon petitions of delinquency or dependency shall be conducted without a jury, and there shall be no right to a jury trial in any Juvenile Court proceeding.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 10-50-020.]

10.50.030 Persons permitted to attend hearings.

The following persons shall be permitted to attend hearings upon petitions of delinquency or dependency:

(a) The allegedly delinquent or dependent child, and the representative for the child;

(b) The parents, guardian, or custodian of the child, and the representative for the parents, guardian or custodian;

(c) The Tribal prosecutor and any law enforcement personnel involved in the case;

(d) Any social services agency personnel involved in the case;

(e) Any other interested persons, with the permission of and in the discretion of the court.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 10-50-030.]

10.50.040 Rights of parties at delinquency and dependency hearings.

An allegedly delinquent or dependent child, and the parents, guardian, or custodian of such child, each are individually entitled to all rights of a criminal defendant at a hearing upon a petition and at all stages of every juvenile proceeding, except as otherwise specifically provided in this title.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 10-50-040.]

10.50.050 Evidence at delinquency and dependency hearings.

Evidence at hearings upon petitions of delinquency or dependency shall be admissible in accord with the rules of evidence set forth in LVPTC Title 6.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 10-50-050.]

10.50.060 Procedure at delinquency and dependency hearings.

Procedure at hearings upon petitions of delinquency and dependency shall be in accord with general rules of court established pursuant to LVPTC Title 1 and such special Juvenile Court rules as may be established by the court and approved by the Indian Council. The Juvenile Court is authorized to establish appropriate rules not in conflict with this title, and subject to approval by the Indian Council.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 10-50-060.]

10.50.070 Findings of juvenile court.

After hearing and considering the evidence introduced at trial, the Juvenile Court shall make a finding. The finding shall state that an allegedly dependent child is or is not dependent, or that an allegedly delinquent child is or is not delinquent. Upon motion of the court, and with the agreement of all parties, a hearing may be continued for an agreed period of up to three months before the making of a finding; at the end of the agreed time, a finding shall be made.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 10-50-070.]

10.50.080 Standard of proof to be applied by the Juvenile Court.

(a) In Hearings Upon Delinquency Petitions. To find that a child is delinquent, the court must find that the evidence establishes beyond a reasonable doubt that the child committed the acts alleged in the complaint and petition of delinquency, which acts would have been offenses if committed by an adult, or which acts are specifically made acts of juvenile delinquency by this title.

(b) In Hearings Upon Dependency Petitions. To find that a child is dependent, the court must find that the evidence establishes that it is more probable than not that the allegations of dependency in the complaint and petition are true and correct, which allegations constitute dependency as defined in this title.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 10-50-080.]

10.50.090 Appeals of findings.

Findings made by the Juvenile Court may be appealed in the same manner as provided in the Tribal Code for the appeal of criminal convictions. In all appeal proceedings, the Appeals Court shall conduct closed sessions and shall follow all provisions of this title relating to the confidentiality of Juvenile Court proceedings.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 10-50-090.]

Chapter 10.60

DISPOSITIONS OF CASES AFTER FINDINGS OF DELINQUENCY OR DEPENDENCY

Sections:

10.60.010 Predisposition reports.
10.60.020 Disposition hearing.
10.60.030 Disposition for children adjudged delinquent.
10.60.040 Disposition of children adjudged dependent.
10.60.050 Continuing jurisdiction of the Juvenile Court.
10.60.060 Review of disposition and jurisdiction by the Juvenile Court.
10.60.070 Termination of dispositions and jurisdiction of the court.
10.60.080 Appeals of dispositions.

10.60.010 Predisposition reports.

To aid in the proper disposition of a case following a finding of delinquency or dependency, the court may request the preparation of a predisposition report. Such a report shall be prepared by the social services agency, at the direction of the court. The report shall contain all relevant information concerning the history and present condition of the child and of the parents, guardian, or custodian, and other relatives of the child, which will assist the judge in making a proper disposition of the case. The report shall also list the Tribal and community resources which are available to implement a disposition, and may, if requested by the judge, include a suggested disposition. A predisposition report shall not be prepared before a finding is made. A copy of the predisposition report shall be provided to the child, and the representatives of each, no less than 48 hours before the disposition hearing.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 10-60-010.]

10.60.020 Disposition hearing.

No sooner than one week and no more than two weeks and after a finding of delinquency or dependency is made, the Juvenile Court shall conduct a disposition hearing. At the disposition hearing, the court shall consider the predisposition report, if any, and shall receive any additional evidence which the parties wish to present relating to an appropriate disposition for the case. The procedure followed and rules of evidence applied at a disposition hearing shall be the same as at delinquency and dependency hearings.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 10-60-020.]

10.60.030 Disposition for children adjudged delinquent.

The Juvenile Court shall take legal custody of a child found delinquent. A child found delinquent may be returned to the physical custody of his parents, guardian, or custodian, or may be placed in an approved foster home or in an approved detention facility. Any type of placement may be combined with continued supervision by social services personnel of such type and in such manner as the court may specify. The court may direct such other disposition and impose such other conditions as are fair and equitable, serve the interest of rehabilitating the delinquent child and protecting the community. If a child is removed from the physical custody of his parents, guardian, or custodian, reasonable rights of visitation shall be afforded to such parents, guardian or custodian.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 10-60-030.]

10.60.040 Disposition of children adjudged dependent.

The Juvenile Court shall take legal custody of a child found dependent. A child found de-

pendent may be returned to the physical custody of his parents, guardian, or custodian, may be placed in the physical custody of a relative by blood or marriage of his parent, guardian or custodian, or may be placed in an approved foster care home. Any type of placement may be combined with continued supervision by social services personnel of such type and in such manner as the court may specify. The court may direct such other disposition and impose such other conditions as are fair and equitable, serve the interest of the child, and promote family integrity and stability. If a child is removed from the physical custody of his parents, guardian or custodian, reasonable rights of visitation shall be afforded to such parents, guardian or custodian.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 10-60-040.]

10.60.050 Continuing jurisdiction of the Juvenile Court.

Following any disposition of a case after a finding of delinquency or dependency, the Juvenile Court shall retain legal custody of and continuing jurisdiction over the child, subject to review as provided in LVPTC 10.60.060.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 10-60-050.]

10.60.060 Review of disposition and jurisdiction by the Juvenile Court.

(a) Following the imposition of any disposition by the Juvenile Court, such disposition, and the continuing jurisdiction of the court, shall be subject to review:

(1) In the discretion of the court, at any time; upon motion of any party to the hearing; upon motion of any person or agency which would have been a proper party to a hearing; or upon the court's own motion; and

(2) At least every six months.

(b) Review pursuant to this section shall be based upon the files and pleadings of the case, and upon such further information as may be required to the court, or obtained at the direction of the court. Further information may be submitted by any person or agency which was a party to the hearings or which would have been a proper party to the hearings.

(c) All parties to the hearing shall receive written notice no less than 10 days before a review is conducted, and upon the written request of any party, or person or agency which would have been a proper party, the review shall be conducted before the Juvenile Court in the same manner as a disposition hearing.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 10-60-060.]

10.60.070 Termination of dispositions and jurisdiction of the court.

(a) The jurisdiction of the Juvenile Court, and any disposition imposed as a result of a finding of delinquency or dependency, shall be terminated:

(1) In the sole discretion of the court, by order of the court, following a review or otherwise;

(2) Upon the attainment of the age of 18 by a child found to be dependent;

(3) Upon the attainment of the age of 18 by a child found to be delinquent, except that if the Juvenile Court specifically so prefaces in its disposition for six months after the child attains the age of 18.

(b) When the jurisdiction of the Juvenile Court is terminated as provided in subsection (a) of this section, legal custody of the child shall return to the person or persons who had legal custody when the Juvenile Court took jurisdiction. Legal custody shall end when a person attains the age of 18 years, although a disposition may be continued beyond that time as provided in subsection (a)(3) of this section.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 10-60-070.]

10.60.080 Appeals of dispositions.

Dispositions imposed by the Juvenile Court may be appealed in the manner set forth in LVPTC 10.50.090 for the appeal of Juvenile Court findings. Appeals of findings and dispositions may be combined and considered together by the Appeals Court.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 10-60-080.]

Chapter 10.70

PROCEEDINGS AND RECORDS OF JUVENILE COURT

Sections:

10.70.010 Closed proceedings.
10.70.020 Closed records – Availability to certain persons.
10.70.030 Disclosure of involvement in Juvenile Court proceedings.
10.70.040 Destruction of records.
10.70.050 Unauthorized release or publication of Juvenile Court records an offense.

10.70.010 Closed proceedings.

Proceedings of the Juvenile Court shall be conducted in closed session and shall not be open to the public.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 10-70-010.]

10.70.020 Closed records – Availability to certain persons.

(a) Records of the Juvenile Court shall be closed, shall not be accessible to the general public, shall not be subject to disclosure or inspection as public records, and shall not be used in any other proceedings.

(b) Nothing in this section shall prevent a child who is the subject of Juvenile Court proceedings, the parent, guardian, or custodian of such child, the representative of the child or his parents, guardian, or custodian, or any person authorized in writing by the child or his parents, guardian, or custodian, from inspecting and copying such records.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 10-70-020.]

10.70.030 Disclosure of involvement in Juvenile Court proceedings.

The involvement of a person in Juvenile Court proceedings, and the existence of Juvenile Court records relating to a person, do not have to be disclosed in response to requests for information about involvement in legal proceedings, or for any other purpose.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 10-70-030.]

10.70.040 Destruction of records.

Records of the Juvenile Court shall be physically destroyed within one week after the first anniversary of the termination of Juvenile Court jurisdiction over the child.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 10-70-040.]

10.70.050 Unauthorized release or publication of Juvenile Court records an offense.

The release of Juvenile Court records, except in the manner provided in LVPTC 10.70.020(b), or any publication of such records, shall be a Class C offense and shall be punishable as set forth on LVPTC Title 4, Criminal Procedure.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 10-70-050.]

Chapter 10.80

TERMINATION OF PARENTAL RIGHTS

Sections:

10.80.010 Definition – Effect of decree.
10.80.020 Grounds for termination.
10.80.030 Initiation of termination action.
10.80.040 Petition for termination of parental rights – Form and contents.
10.80.050 Notice to parents.
10.80.060 Hearing upon petition for termination of parental rights.
10.80.070 Intervention in termination hearing by person claiming parenthood.
10.80.080 Disposition of petition for termination by Juvenile Court.
10.80.090 Effect of an order of termination of parental rights.
10.80.100 Voluntary termination of parental rights.

10.80.010 Definition – Effect of decree.

An action for termination of parental rights is a proceeding to permanently terminate the relationship of parent and child. The effect of a decree of termination of parental rights is to permanently end the parent-child relationship, to relieve the parent of all rights and responsibilities with respect to the child, and to sever all legal relationships, including but not limited to inheritance, between the parent and child.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 10-80-010.]

10.80.020 Grounds for termination.

The parental rights of a parent shall be terminated only if the court finds that the evidence presented at the hearing establishes beyond a reasonable doubt that it will be harmful to the child if the parental rights are not terminated.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 10-80-020.]

10.80.030 Initiation of termination action.

(a) General Provisions. A proceeding for termination of parental rights shall be commenced by a petition filed with the Juvenile Court. Petitions may be filed by the social services agency or by any person seeking to adopt the child involved. The following conditions must exist before such a petition may be filed:

(1) There must have been a prior finding of dependency by the Juvenile Court; and

(2) There must have been a disposition involving placement of the child with some person other than the parent whose rights are sought to be terminated, which disposition was of at least one year's duration.

(b) Termination of Parental Rights of an Absent Parent. Notwithstanding the provisions of subsection (a) of this section, a parent who has custody of a child may file a petition to terminate the parental rights of an absent parent of a child. The following conditions must exist before such a petition may be filed:

(1) The parent filing the petition must have had actual physical custody of a child for at least the preceding 24 months; and

(2) For at least the preceding 24 months, the absent parent must have been absent from the household where the child lived, must not have had actual physical custody of the child, must have failed to contribute to the support of the child, and must have shown no interest in the child.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 10-80-030.]

10.80.040 Petition for termination of parental rights – Form and contents.

A petition for termination of parental rights may be in a form established by rule of the Juvenile Court, and shall contain at least the following information:

(a) The name, address, and present custodial status of the child;

(b) The name(s) and address(es) of the parent(s) whose rights are sought to be terminated; or a statement that this information could not be determined by diligent search;

(c) A summary of prior dependency petition(s) involving the child, if any, and the dispositions of such petitions;

(d) A summary of the custodial status of the child since the filing of the first dependency petition relating to the child, or for the preceding 24 months, if no such dependency petitions have been filed;

(e) A concise statement of the facts and circumstances which are the basis for the petition for termination.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 10-80-040.]

10.80.050 Notice to parents.

The parent or parents whose rights are sought to be terminated each shall be served with a copy of the petition for termination no less than 30 days before the date set for hearing of the petition. If the whereabouts of such parent or parents are unknown and cannot be determined by diligent search, notice may be given by:

(a) Posting notice of the pending termination action at two prominent locations on the Reservation;

(b) Publishing such notice at least once a week in a newspaper of general circulation on the Reservation, within the county, or within the state Indian community, for a period of three weeks; and

(c) Providing actual written notice to the nearest known blood relative, if any.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 10-80-050.]

10.80.060 Hearing upon petition for termination of parental rights.

The following procedures and standards shall be applicable in actions for termination of parental rights:

(a) Scope. The hearing upon a petition for termination shall consider and determine whether grounds exist for termination of parental rights, as set forth in LVPTC 10.80.020.

(b) The hearing shall be conducted by the Juvenile Court only, without a jury. All provisions of this title relating to Juvenile Court procedure, including but not limited to those requiring closed proceedings and closed records, shall apply.

(c) Rights of Parents. At a termination hearing, the parent(s) whose rights are to be terminated shall have all rights of a criminal defendant, except as otherwise specifically provided in this title.

(d) Rights of Child. At a termination hearing, the child shall have all the rights of a criminal defendant, except as otherwise specifically provided in this title.

(e) Evidence Considered. At a termination hearing, the rules of evidence established in LVPTC Title 6, Evidence, shall be applicable.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 10-80-060.]

10.80.070 Intervention in termination hearing by person claiming parenthood.

(a) Proper Parties to Intervene. A person who claims parenthood of a child shall be allowed to intervene in a termination proceeding as a matter of right.

(b) Supplementary Hearing Upon Parenthood of Intervention. When a person intervenes in a termination hearing pursuant to this section, a supplementary hearing shall be held by the court to consider the assertion of parenthood. Such hearing shall be conducted in accord with the rules and standards established for determination of parenthood in LVPTC Title 9, Domestic Relations.

(c) Standard of Proof – Effect of Decree. If the supplementary hearing establishes that it is more probable than not that the person claiming parenthood is in fact a parent of the child, a decree of parenthood shall be entered by the court. Such decree shall have the force and effect of establishing parental rights and relationships between the child and claiming party.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 10-80-070.]

10.80.080 Disposition of petition for termination by Juvenile Court.

The Juvenile Court may make the following dispositions in a proceeding for termination of parental rights:

(a) Dismissal of the petition;

(b) Entry of an order of termination of parental rights;

(c) Other dispositions, including but not limited to continuances for a specific period of time, which serve the best interest of the child.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 10-80-080.]

10.80.090 Effect of an order of termination of parental rights.

(a) An order of termination of parental rights shall have the effect of permanently ending the parent-child relationship, to relieve the parent of all rights and responsibilities with respect to the child, and to sever all legal relationships, including but not limited to inheritance, between the parent and child. Upon entry of an order of termination, the court shall direct the entry of a notation upon the child's

birth certificate and other birth records, referring to the court record of termination proceeding. Such notation shall not be included on any birth certificate subsequently issued when the child is adopted. The child shall retain and continue to use its original last name until adopted or until the last name is changed in a court proceeding, unless the court shall specifically order the use of another last name.

(b) Upon entry of an order of termination, legal custody of the child shall be as follows:

(1) In a parent whose parental rights have not been terminated;

(2) If there is no such parent in the Juvenile Court, with care and control of the child to be in the social services agency, when the Juvenile Court specifically orders otherwise.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 10-80-090.]

10.80.100 Voluntary termination of parental rights.

(a) Notwithstanding any other provisions of this chapter, a parent may voluntarily terminate his or her own parental rights. A voluntary termination of parental rights may be accomplished only by one of the following two procedures:

(1) By submission to the Juvenile Court of a written statement signed by the parent seeking to terminate his or her rights. Such a statement shall explicitly state that the parent voluntarily seeks to terminate his or her parental rights with respect to a specifically named child, that the parent is not acting under fraud, duress, or undue influence or for monetary gain, that the parent fully realizes the irrevocable nature of a termination of parental rights, and that the parent fully consents to such termination of rights. The statement shall be signed by the parent and the parent's signature shall be notarized. In the discretion of the Juvenile Court, a parent completing such a statement also may be required to appear before the Juvenile Court, or a Juvenile Court of any other jurisdiction, to affirm the statement under oath before a judge, subject to inquiry by a judge as to the nature of termination, as to the voluntary nature of the statement, as to the parent's motives, and as to any other pertinent matters; or

(2) By personal appearance of the parent before the judge of the Juvenile Court. At such an appearance the parent shall affirm, under oath, that he or she voluntarily seeks to terminate his or her parental rights with respect to a specified named child, that he or she is not acting under fraud, duress, or undue influence, or for monetary gain, and that he or she fully consents to such termination of rights. The judge may examine the parent as to his or her understanding of the nature of termination, as to the parent's motive, and as to other pertinent matters.

(b) An order of voluntary termination shall be entered only after the judge is satisfied that the termination of rights is completely understood by the parent, and is not a result of fraud, duress, undue influence, or possible or actual monetary gain. An order of voluntary termination has the same effect as an order of termination.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 10-80-100.]

Chapter 10.90

USE OF PROFESSIONAL SERVICES BY THE JUVENILE COURT

Sections:

10.90.010 Definitions.
10.90.020 Use of services.
10.90.030 Designation of social services agency.
10.90.040 Duties and responsibilities of social services agency.

10.90.010 Definitions.

(a) Professional Personnel. Members of those health services professions licensed by the state of Nevada or by any other jurisdiction; attorneys; persons who have had specialized training or experience in providing child welfare services; and other persons recognized by the Juvenile Court as regularly providing child welfare services.

(b) Social Services Agency. An agency or organization, funded from any source, which utilizes professional personnel to provide child welfare services.

(c) Social Services Personnel. Professional personnel who are employed by a social services agency, or other employees of a social services agency under the direction and supervision of professional personnel in regularly providing child welfare services.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 10-90-010.]

10.90.020 Use of services.

(a) The Juvenile Court is authorized and directed to utilize, to the fullest extent it deems practical in the implementation of this title, the services of social services agencies and personnel, and professional personnel.

(b) The services of social services agencies and personnel and professional personnel shall be utilized to the maximum extent feasible by law enforcement personnel in the implementation of this title.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 10-90-020.]

10.90.030 Designation of social services agency.

The Indian Council each year may designate by resolution the social services of what agency shall be used by the Juvenile Court. The Juvenile Court shall exclusively use the services of any agency so designated, unless the Tribal Council resolution of designation provides otherwise.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 10-90-030.]

10.90.040 Duties and responsibilities of social services agency.

(a) A social service agency which undertakes to provide service to the Juvenile Court, whether by Tribal Council resolution of designation or otherwise, shall have the following duties and responsibilities:

(1) To assist the Juvenile Court as that court may direct;

(2) To prepare such preliminary investigation reports as may be appropriate, and such predisposition reports as may be requested by the Juvenile Court; and

(3) To provide such post-disposition services as may be directed by the Juvenile Court.

(b) Subsection (a) of this section shall not require a social services agency to provide services other than those for which the Tribal Council or Bureau of Indian Affairs has contracted or which the social services agency normally and customarily provides in the absence of or notwithstanding a contract.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 10-90-040.]

Chapter 10.100

FACILITIES FOR CUSTODY OR DETENTION OF CHILDREN

Sections:

10.100.010 Definitions.
10.100.020 Establishment of standards and rules for custody and detention facilities.
10.100.030 Approval of custody and detention facilities.
10.100.040 Use of custody and detention facilities.

10.100.010 Definitions.

(a) "Foster care facility" means any arrangement for the care and custody of up to six children in a situation which is not the home of the parents, guardian, or custodian of the children.

(b) "Group home facility" means any arrangement for the care and custody of seven to 15 children in a situation which is not the home of the parents, guardian, or custodian of the children.

(c) "Institutional facility" means any arrangement for the care and custody of more than 15 children in a situation which is not the home of the parents, guardian, or custodian of the children.

(d) "Detention facility" means any arrangement for the care and custody of a child in a situation the primary function of which is the restraint of the child, or the prevention of the infliction of harm or damage to other persons or property by the child.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 10-100-010.]

10.100.020 Establishment of standards and rules for custody and detention facilities.

(a) The Juvenile Court shall direct the designated social services agency to establish standards for and rules regarding foster care, group home, institutional, and detention facilities. Such standards and rules shall be in full force and effect unless disapproved by the Tribal Council upon review.

(b) The rules and standards established pursuant to this section may regulate all aspects of the facilities defined in LVPTC 10.100.010, relating to the welfare, health, and safety of the children in custody in such facilities.

(c) Standards and rules adopted pursuant to this section shall be made available in written form to any person requesting a copy of them, and shall be available for inspection at the office of the Clerk of the Court.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 10-100-020.]

10.100.030 Approval of custody and detention facilities.

(a) Approval Procedure. Those foster care and detention facilities which comply with the standards and rules adopted pursuant to LVPTC 10.100.020 shall be approved by the Juvenile Court, following investigation by the designated social services agency and recommendation for approval. Facilities which do not meet the standards and requirements of LVPTC 10.100.020 shall not be approved.

(b) Inspection Prior to Approval. Prior to approval, custody and detention facilities may be required to allow inspection by the designated social services agency, to permit that agency to make its recommendation to the Juvenile Court.

(c) Annual Review of Approval. The Juvenile Court shall reconsider the approval of each facility at least once a year, and shall reapprove only those facilities which continue to meet the requirements established pursuant to LVPTC 10.100.020, and which are recommended for reapproval by the designated social services agency.

(d) Records of Approval or Disapproval. Notwithstanding any other provisions of this title, all records and proceedings of the Juvenile Court relating to approval or disapproval

of custody and detention facilities shall be open and public.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 10-100-030.]

10.100.040 Use of custody and detention facilities.

No child shall be placed in any custody or detention facility unless such facility has been approved pursuant to LVPTC 10.100.030. In cases of emergency, the Juvenile Court may direct the placement of a child in a nonapproved custody or detention facility for a period of not more than three days. However, pursuant to this section, no child shall be placed in any area of any custody or detention facility which area is also used for the custody or detention of adults.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 10-100-040.]

Chapter 10.110

SCHOOL ATTENDANCE

Sections:

10.110.010 Duty to attend school – Excuses.
10.110.020 Attendance standards and records.
10.110.030 Notices of truancy.
10.110.040 Truant children.
10.110.050 Taking absent children into custody.
10.110.060 Habitual truancy proceedings.
10.110.070 Truancy offenses.

10.110.010 Duty to attend school – Excuses.

(a) It is the duty of every child between the ages of six and 16 years residing on the Reservation to attend school regularly, unless excused from doing so because of illness or other circumstances which make absence reasonable. It is the duty of the parent, guardian, or custodian of every child to assure the school attendance of such child, in compliance with this section.

(b) Excuses. The parent, legal guardian, or custodian of any child shall provide to school authorities a written explanation of the reason for any absence of such child from school. The school principal or his designated representative shall determine whether such absence is excused because of illness or other circumstances making such absence reasonable.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 10-110-010.]

10.110.020 Attendance standards and records.

It is the duty of each school principal, or his designated representative:

(a) No later than the beginning of each school year, to establish and to provide to parents and pupils in written form a nonexclusive list of reasonable excuses for absence; and

(b) During the school year, to maintain accurate and complete records of pupil attendance.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 10-110-020.]

10.110.030 Notices of truancy.

(a) It is the duty of each school principal, or his designated representative:

(1) To determine whether each absence of a pupil is excused; and

(2) To notify in writing the parent, legal guardian or custodian of any child who has been absent without reasonable excuse.

(b) Notice of unexcused absences given pursuant to subsection (a)(2) of this section shall be sufficiently specific to inform the parents, guardian, or custodian of the child involved of dates, times, and circumstances of any unexcused absence, and shall state that the child is considered to have been a truant child upon that occasion.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 10-110-030.]

10.110.040 Truant children.

(a) A truant child is a child:

(1) Whose absence from school has not been excused; and

(2) Whose parent, guardian, or custodian has been given written notice of such absence in accord with LVPTC 10.110.030.

(b) For purposes of this section, each day during which a child is absent without excuse for any period of time may be considered a separate occurrence of truancy, if the child's parent, guardian, or custodian is given required written notice of each absence.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 10-110-040.]

10.110.050 Taking absent children into custody.

(a) During school hours, any Tribal police officer, or other person specifically authorized by the Council, may apprehend and take into custody without a warrant any child who is not at such child's normal residence, and who has been reported by school officials to be absent from school and in probable violation of LVPTC 10.110.010(a).

(b) Upon apprehending an absent child, the apprehending officer or employee may decline to take the child into custody if he considers such custody unwarranted. In such case, the officer or employee shall investigate the circumstances of the incident, and shall include the full results of his investigation and a description of his actions in the written report required by subsection (d) of this section.

(c) Any child taken into custody pursuant to this section shall be delivered immediately to the school official who reported the truancy of the child. If the child cannot be delivered to such school official during regular school hours, the child instead shall be delivered immediately to his parents, guardian, or custodian.

(d) A written report of all actions taken pursuant to this section, including the facts and circumstances of any decision to not take into custody a child who is apprehended, shall be made to the designated social services agency within two working days of such actions.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 10-110-050.]

10.110.060 Habitual truancy proceedings.

(a) Definitions. A "habitual truant" is a child:

(1) Who has been found by school officials to be truant upon three separate occasions in one six-week period pursuant to LVPTC 10.110.040; and

(2) Who needs the supervision of the Juvenile Court to assure future school attendance.

(b) Proceedings. Any person authorized by LVPTC 10.110.050(a) to take a truant into custody, any school official, or the parent, guardian, or custodian of a child may file a petition with the Juvenile Court alleging that a child is an habitual truant. Such a petition may be filed only if the person filing the petition reasonably believes that the child involved is an habitual truant as defined in subsection (a) of this section. The Juvenile Court shall hear and consider habitual truancy petitions in the same manner and following the same procedures utilized when other petitions are heard by the Juvenile Court. All parties to such proceedings shall have all of the rights provided to parties on other Juvenile Court proceedings.

(c) Decree of Habitual Truancy. If the Juvenile Court finds that the evidence presented at the hearing establishes that it is more probable than not that a child is an habitual truant, as defined in subsection (a) of this section, the court shall enter a decree finding that the child is an habitual truant.

(d) Effects of Decree of Habitual Truancy. If a child is found to be a habitual truant, the Juvenile Court may make any disposition regarding custody, placement and supervision of the child which will assure future school attendance by the child. Preference shall be given to a disposition which provides for the custody of the child by parents, guardian or blood relative.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 10-110-060.]

10.110.070 Truancy offenses.

(a) Failure of Parents, Guardians, or Custodians to Comply With Duty to Assure School Attendance. The intentional failure of any parent, guardian, or custodian of a child to assure the school attendance of such child is a Class D offense. Any person guilty of failing to assure school attendance may be prosecuted and punished as provided in LVPTC Titles 4 and 5.

(b) Inducing Truancy. Intentional or knowing action by any person to induce a child to be a truant is a Class D offense. Any person guilty of failing to assure school attendance may be prosecuted and punished as provided in LVPTC Titles 4 and 5. [Prior Code § 10-110-070.]

Title 11

TAXATION

Chapters:

11.10 **Tobacco Excise Tax and Tribal Tobacco Outlets**
11.20 **Sales and Use Taxes**
11.30 **Use Tax**

[Res. 10-27-77B, 1977.]

Chapter 11.10

TOBACCO EXCISE TAX AND TRIBAL TOBACCO OUTLETS

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11.10.010 Purpose and applicability.

(a) The purpose of this chapter is:

(1) To promote economic growth on the Las Vegas Colony;

(2) To provide increased services to residents of the Las Vegas Colony;

(3) To provide funds for the Tribal Government; and

(4) To regulate the sale of tobacco products on the Las Vegas Colony.

(b) This chapter is applicable to all sales of tobacco products on the Las Vegas Colony.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 11-10-010.]

11.10.020 Definitions.

"Cigarette" means all rolled tobacco or substitutes therefor, which are wrapped in paper or any paper substitute other than tobacco.

"Consumer" means any person who is not a wholesale dealer or retail dealer who comes into possession of cigarettes within the Las Vegas Colony for any purpose other than offering them for sale.

"Manager" means a member of the Las Vegas Colony employed by the Tribe to manage a Tribal tobacco outlet.

"Net profits" means money remaining from the operation of a tobacco outlet, after deduction of excise tax revenues and all costs of doing business, as determined by the Tribal Council upon consultation with a manager, and including reasonable costs for improvement and expansion.

"Person" means one or more individuals, or any firm, association, partnership or corporation. The term shall not include the Tribe.

"Retail selling price" means the ordinary, customary or usual price paid by the consumer for each tobacco product, less the excise tax levied by this chapter.

"Sale" or "to sell" means any of the following:

(1) To exchange, barter, possess or traffic in;

(2) To solicit or receive an order for;

(3) To keep or expose for sale;

(4) To deliver for value;

(5) To peddle;

(6) To possess with intent to sell;

(7) To transfer to anyone for sale or resale.

"Tobacco outlet" means a Tribal retail sales business selling tobacco products on trust land within the Las Vegas Colony.

"Tobacco products" means cigarettes, cigars, smoking tobacco, snuff, chewing tobacco, and other kinds and forms of tobacco prepared in such manner as suitable for chewing or smoking.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 11-10-020.]

11.10.030 Establishment of tobacco outlets.

The Tribal Council may establish one or more tobacco outlets within the Las Vegas

Colony as the Council in its sole discretion deems necessary to provide adequate service to consumers of cigarettes and tobacco products. Tobacco products may not be sold on the Las Vegas Colony other than by a tobacco outlet established by the Tribal Council.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 11-10-030.]

11.10.040 Nature of outlet.

Each tobacco outlet established pursuant to this chapter shall be operated and managed for the Tribe by a manager retained by the Tribal Council.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 11-10-040.]

11.10.050 Purchase by Tribe.

All tobacco products sold on the Las Vegas Colony shall be purchased wholesale by the Tribe and held for resale at Tribal tobacco outlets only.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 11-10-050.]

11.10.060 Excise tax imposed.

(a) There is hereby levied and there shall be collected as hereinafter provided, a tax upon the purchase or possession of cigarettes by a consumer within the Las Vegas Colony. This tax shall be in the amount of $0.10 per package on each package of cigarettes containing 20 cigarettes or less. If the package contains more than 20 cigarettes, a tax of $0.10 shall be charged for each 20 cigarettes contained therein.

(b) There is hereby levied and there shall be collected as hereinafter provided, a tax upon the purchase or possession of all tobacco products, other than cigarettes, by a consumer within the Las Vegas Colony. This tax shall be in the amount of 10 percent of the retail selling price.

(c) The Tribal Council may change the amount of the tax upon purchase, use, consumption, handling, possession, or distribution of cigarettes and other tobacco products as it deems desirable.

(d) The excise tax levied hereunder shall be added to the retail selling price of tobacco products sold to the consumer.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 11-10-060.]

11.10.070 Responsibility for collection of the cigarette excise tax.

It shall be the responsibility of every manager of a tobacco outlet to collect the tobacco excise tax from every purchaser of tobacco products.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 11-10-070.]

11.10.080 Remittance of taxes to the Tribal Council.

The taxes collected pursuant to this chapter shall be remitted to the Tribal Council according to a schedule which shall be established by the Tribal Council.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 11-10-080.]

11.10.090 Required records.

Every manager shall keep written records of the following:

(a) The number of packages of cigarettes or other tobacco products he receives from the Tribe;

(b) The number of packages of cigarettes or other tobacco products sold to consumers;

(c) The amount of excise taxes collected.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 11-10-090.]

11.10.100 Audit.

All records required to be kept by this chapter shall be open to inspection and audit by a representative of the Tribal Council, at reasonable times and places, to insure compliance with this chapter.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 11-10-100.]

11.10.110 Use of net profits and excise tax revenues.

(a) All net profits derived from the operation of a tobacco outlet shall be the property of the Tribe. These profits, as well as the excise tax revenues collected pursuant to LVPTC 11.10.060, shall be used for the benefit of the Colony and Tribal community.

(b) All excise tax revenues shall be appropriated to provide Tribal governmental services, induding but not limited to:

(1) Police and fire protection;

(2) Establishment of Tribal courts;

(3) Bond construction, repair and maintenance;

(4) Water, sewage, and garbage disposal;

(5) Education of children;

(6) Public health;

(7) Development of Tribal enterprises which employ Tribal members;

(8) Public recreation; and

(9) Other essential Tribal services.

(c) Net profits may be appropriated by the Tribal Council for governmental services or for any other purpose consistent with the promotion of the Tribe's interests, such as investment purposes.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 11-10-110.]

11.10.120 Duties and responsibilities of tobacco outlet.

(a) A manager shall be directly responsible to the Tribal Council for the efficient and profitable operation of a tobacco outlet.

(b) Subject to the final approval of the Tribal Council, a manager shall have the authority to employ such persons as he deems necessary to efficiently operate a tobacco outlet.

(c) Without the express written consent of the Council, a manager shall not be authorized to waive the sovereign immunity of the Tribe from suit, nor shall such manager be authorized to create any liability on behalf of the Tribe or to utilize Tribal credit. Any such written consent by the Tribal Council shall specify in detail the scope of a manager's authority. Any such authority shall be limited in duration and in scope to the maximum possible extent. Any action taken by a manager pursuant to authority derived under this section shall be in writing, shall be an express term of the transaction at hand, and shall be limited to that transaction. Whenever, possible, the Tribal Council shall approve in final form the language of such provision.

(d) As remuneration for operating and managing a tobacco outlet, a manager shall be entitled to a reasonable salary as fixed by the Tribal Council.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 11-10-120.]

11.10.130 Restricted sales to minors.

A manager may not sell any tobacco products to any person under the age of 18 years.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 11-10-130.]

11.10.140 Civil actions.

The Tribe may bring a civil action against any manager or other person to enforce compliance with this chapter. Such action shall be brought in accordance with the procedures set forth in LVPTC Title 3, Rules of Civil Procedure. The Tribal Court shall have exclusive jurisdiction over any action arising from the sale of tobacco products or payment of the excise tax imposed by LVPTC 11.10.060.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 11-10-140.]

11.10.150 Power to adopt regulations.

The Tribal Council shall have the power to adopt any regulations which are necessary to the efficient administration of the tobacco excise tax laws and tobacco outlets, as long as such regulations are not in conflict with the provisions of this chapter.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 11-10-150.]

Chapter 11.20

SALES AND USE TAXES

Sections:

11.20.010 Short title.
11.20.015 Definitions.
11.20.020 Business.
11.20.025 Gross receipts.
11.20.030 In the jurisdiction of the Tribe.
11.20.035 Occasional sale.
11.20.040 Person.
11.20.045 Purchase.
11.20.050 Retail sale – Sale at retail.
11.20.055 Retailer.
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11.20.075 Storage.
11.20.080 Storage and use – Exclusion.
11.20.085 Tangible personal property.
11.20.090 Tribal Council.
11.20.095 Taxpayer.
11.20.105 Imposition and rate of sales tax.
11.20.110 Method of collection of sales tax.
11.20.120 Civil actions.
11.20.130 Power to adopt regulations.

11.20.010 Short title.

This title is known and may be cited as the sales and use tax act.

Comment: This section was approved by Tribal Council Resolution No. 92-011, dated March 10, 1992, and ratified and codified as Title 12 by Tribal Council Resolution No. 94-023, dated July 12, 1994. All of Title 12, Sales and Use Tax Act, was removed to be inserted into existing Title 11, Taxation, pursuant to Tribal Council Resolution No. 95-___, dated _____, 1995.

[Res. 95, 1995; Res. 94-023, 1994; Res. 92-011, 1992. Prior Code § 11-20-010.]

11.20.015 Definitions.

Except where the context otherwise requires, the definitions given in LVPTC 11.20.020 through 11.20.095, inclusive, govern the construction of this title.

Comment: This section was approved by Tribal Council Resolution No. 92-011, dated March 10,

1992, and ratified and codified as Title 12 by Tribal Council Resolution No. 94-023, dated July 12, 1994. All of Title 12, Sales and Use Tax Act, was removed to be inserted into existing Title 11, Taxation, pursuant to Tribal Council Resolution No. 95-___, dated _____, 1995.

[Res. 95, 1995; Res. 94-023, 1994; Res. 92-011, 1992. Prior Code § 11-20-015.]

11.20.020 Business.

"Business" includes any activity engaged in by any person or caused to be engaged in by him with the object of gain, benefit or advantage, either direct or indirect.

Comment: This section was approved by Tribal Council Resolution No. 92-011, dated March 10, 1992, and ratified and codified as Title 12 by Tribal Council Resolution No. 94-023, dated July 12, 1994. All of Title 12, Sales and Use Tax Act, was removed to be inserted into existing Title 11, Taxation, pursuant to Tribal Council Resolution No. 95-___, dated _____, 1995.

[Res. 95, 1995; Res. 94-023, 1994; Res. 92-011, 1992. Prior Code § 11-20-020.]

11.20.025 Gross receipts.

(a) "Gross receipts" means the total amount of the sale or lease or rental price, as the case may be, of the retail sales of retailers, valued in money, whether received in money or otherwise, without any deduction on account of any of the following:

(1) The cost of the property sold. However, in accordance with such rules and regulations as the Tribal Council may prescribe, deduction may be taken if the retailer has purchased property for some other purpose than resale, has reimbursed his vendor for tax which the vendor is required to pay to the Tribe or has paid the use tax with respect to the property, and has resold the property prior to making any use of the property other than retention, demonstration or display while holding it for sale in the regular course of business. If such deduction is taken by the retailer, no refund or credit will be allowed to his vendor with respect to the sale of the property.

(2) The cost of the materials used, labor or service cost, interest paid, losses or any other expense.

(3) The cost of transportation of the property prior to its sale to the purchaser.

(b) The total amount of the sale or lease or rental price includes all of the following:

(1) Any services that are a part of the sale.

(2) All receipts, cash, credits and property of any kind.

(3) Any amount for which credit is allowed by the seller to the purchaser.

(c) "Gross receipts" does not include any of the following:

(1) Cash discounts allowed and taken on sales.

(2) Sale price of property returned by customers when the full sales price is refunded either in cash or credit; but this exclusion shall not apply in any instances when the customer, in order to obtain the refund, is required to purchase other property at a price greater than the amount charged for the property that is returned.

(3) The price received for labor or services used in installing or applying the property sold.

(4) The amount of any tax (not including, however, any manufacturers' or importers' excise tax) imposed by the United States upon or with respect to retail sales, whether imposed upon the retailer or the consumer.

Comment: This section was approved by Tribal Council Resolution No. 92-011, dated March 10, 1992, and ratified and codified as Title 12 by Tribal Council Resolution No. 94-023, dated July 12, 1994. All of Title 12, Sales and Use Tax Act, was removed to be inserted into existing Title 11, Taxation, pursuant to Tribal Council Resolution No. 95-___, dated _____, 1995.

[Res. 95, 1995; Res. 94-023, 1994; Res. 92-011, 1992. Prior Code § 11-20-025.]

11.20.030 In the jurisdiction of the Tribe.

"In the jurisdiction of the Tribe" means within the exterior boundaries of the Colony or Reservation, including all lands within these limits whether held in fee or trust and all other Tribal lands whether on or off the Reservation held in trust.

Comment: This section was approved by Tribal Council Resolution No. 92-011, dated March 10, 1992, and ratified and codified as Title 12 by Tribal Council Resolution No. 94-023, dated July 12, 1994. All of Title 12, Sales and Use Tax Act, was removed to be inserted into existing Title 11, Taxation, pursuant to Tribal Council Resolution No. 95-___, dated _____, 1995.

[Res. 95, 1995; Res. 94-023, 1994; Res. 92-011, 1992. Prior Code § 11-20-030.]

11.20.035 Occasional sale.

(a) "Occasional sale" includes:

(1) A sale of property not held or used by a seller in the course of an activity for which he is required to hold a seller's permit, provided such sale is not one of the series of sales sufficient in number, scope and character to constitute an activity requiring the holding of a seller's permit.

(2) Any transfer of all or substantially all the property held or used by a person in the course of such an activity when after such transfer the real or ultimate ownership of such property is substantially similar to that which existed before such transfers.

(b) For the purposes of this section, stockholders, bondholders, partners or other persons holding an interest in a corporation or other entity are regarded as having the "real or ultimate ownership" of the property of such corporation or other entity.

Comment: This section was approved by Tribal Council Resolution No. 92-011, dated March 10, 1992, and ratified and codified as Title 12 by Tribal Council Resolution No. 94-023, dated July 12, 1994. All of Title 12, Sales and Use Tax Act, was removed to be inserted into existing Title 11, Taxation, pursuant to Tribal Council Resolution No. 95-___, dated _____, 1995.

[Res. 95, 1995; Res. 94-023, 1994; Res. 92-011, 1992. Prior Code § 11-20-035.]

11.20.040 Person.

"Person" includes any individual, firm, copartnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, business trust, receiver, trustee, syndicate, cooperative, assignee, or any other group or combination acting as a unit, including the Tribe.

Comment: This section was approved by Tribal Council Resolution No. 92-011, dated March 10, 1992, and ratified and codified as Title 12 by Tribal Council Resolution No. 94-023, dated July 12, 1994. All of Title 12, Sales and Use Tax Act, was removed to be inserted into existing Title 11, Taxation pursuant to Tribal Council Resolution No. 95-____, dated ____, 1995.

[Res. 95, 1995; Res. 94-023, 1994; Res. 92-011, 1992. Prior Code § 11-20-040.]

11.20.045 Purchase.

(a) "Purchase" means any transfer, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property for a consideration.

(b) A transaction whereby the possession of property is transferred but the seller retains the title as security for the payment of the price is a purchase.

(c) A transfer for a consideration of tangible personal property which has been produced, fabricated or printed to the special order of the customer, or of any publication, is also a purchase.

Comment: This section was approved by Tribal Council Resolution No. 92-011, dated March 10, 1992, and ratified and codified as Title 12 by Tribal Council Resolution No. 94-023, dated July 12, 1994. All of Title 12, Sales and Use Tax Act, was removed to be inserted into existing Title 11, Taxation, pursuant to Tribal Council Resolution No. 95-___, dated _____, 1995.

[Res. 95, 1995; Res. 94-023, 1994; Res. 92-011, 1992. Prior Code § 11-20-045.]

11.20.050 Retail sale – Sale at retail.

(a) "Retail sale" or "sale at retail" means a sale for any purpose other than resale in the regular course of business of tangible personal property.

(b) The delivery in the Tribe's territory of tangible personal property by an owner or former owner thereof or by a factor, or agent of such owner, former owner or factor, if the delivery is to a consumer or person for redelivery to a consumer or business in the Tribe's

territory, is a retail sale in the Tribe's territory by the person making the delivery. He shall include the retail selling price of the property in his gross receipts.

Comment: This section was approved by Tribal Council Resolution No. 92-011, dated March 10, 1992, and ratified and codified as Title 12 by Tribal Council Resolution No. 94-023, dated July 12, 1994. All of Title 12, Sales and Use Tax Act, was removed to be inserted into existing Title 11, Taxation, pursuant to Tribal Council Resolution No. 95-___, dated _____, 1995.

[Res. 95, 1995; Res. 94-023, 1994; Res. 92-011, 1992. Prior Code § 11-20-050.]

11.20.055 Retailer.

(a) "Retailer" includes:

(1) Every seller who makes any retail sale or sales of tangible personal property, and every person engaged in the business of making retail sales at auction of tangible personal property owned by the person or others.

(2) Every person engaged in the business of making sales for storage, use or other consumption or in the business of making sales at auction of tangible personal property owned by the person or others for storage, use or other consumption.

(3) Every person making more than two retail sales of tangible personal property during any 12-month period, including sales made in the capacity of assignee for the benefit of creditors, or receiver or trustee in bankruptcy.

(b) When the Tribal Council determines that it is necessary for the efficient administration of this title to regard any salesmen, representatives, peddlers or canvassers as the agents of the dealers, distributors, supervisors or employees under whom they operate or from whom they obtain the tangible personal property sold by them, irrespective of whether they are making sales on their own behalf or on behalf of such dealers, distributors, supervisors or employers, the Tribal Council may so regard them and may regard the dealers, distributors, supervisors or employers as retailers for purpose of this title.

(c) A licensed optometrist or physician and surgeon is a consumer of, and shall not be considered, a retailer within the provisions of this title, with respect to the ophthalmic materials used or furnished by him in the performance of his professional services in the diagnosis, treatment or correction of conditions of the human eye, including the adaptation of lenses or frames for the aid thereof.

Comment: This section was approved by Tribal Council Resolution No. 92-011, dated March 10, 1992, and ratified and codified as Title 12 by Tribal Council Resolution No. 94-023, dated July 12, 1994. All of Title 12, Sales and Use Tax Act, was removed to be inserted into existing Title 11, Taxation, pursuant to Tribal Council Resolution No. 95-___, dated _____, 1995.

[Res. 95, 1995; Res. 94-023, 1994; Res. 92-011, 1992. Prior Code § 11-20-055.]

11.20.060 Sale.

(a) "Sale" means and includes any transfer of title or possession, exchange, barter, lease or rental, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property for a consideration.

(b) "Transfer or possession," "lease" or "rental" includes only transactions found by the Tribal Council to be in lieu of a transfer of title, exchange or barter.

(c) "Sale" includes:

(1) The producing, fabricating, processing, printing or imprinting of tangible personal property for a consideration for consumers who furnish either directly or indirectly, the materials used in the producing, fabricating, processing, printing or imprinting.

(2) The furnishing and distributing of tangible personal property for a consideration by social clubs and fraternal organizations to their members or others.

(3) The furnishing, preparing, or serving for a consideration of food, meals, or drinks.

(4) A transaction whereby the possession of property is transferred but the seller retains the title as security for the payment of the price.

(5) A transfer for a consideration of the title or possession of tangible personal prop-

erty which has been produced, fabricated or printed to the special order of the customer, or of any publication.

Comment: This section was approved by Tribal Council Resolution No. 92-011, dated March 10, 1992, and ratified and codified as Title 12 by Tribal Council Resolution No. 94-023, dated July 12, 1994. All of Title 12, Sales and Use Tax Act, was removed to be inserted into existing Title 11, Taxation, pursuant to Tribal Council Resolution No. 95-___, dated _____, 1995.

[Res. 95, 1995; Res. 94-023, 1994; Res. 92-011, 1992. Prior Code § 11-20-060.]

11.20.065 Sales price.

(a) "Sales price" means the total amount for which tangible property is sold, valued in money, whether paid in money or otherwise, without any deduction on account of any of the following:

(1) The cost of the property sold.

(2) The cost of materials used, labor or service cost, interest charged, losses or any other expenses.

(3) The cost of transportation of the property prior to its purchase.

(b) The total amount for which the property is sold includes all of the following:

(1) Any services that are part of the sale.

(2) Any amount for which credit is given to the purchaser by the seller.

(c) "Sales price" does not include any of the following:

(1) Cash discounts allowed and taken on sales.

(2) The amount charged for property returned by customers when the entire amount charged therefor is refunded either in cash or credit.

(3) The amount charged for labor or services rendered in installing or applying the property sold.

(4) The amount of any tax (not including any manufacturers' or importers' excise tax) imposed by the United States.

(5) The amount of any tax (not including, however, any manufacturers' or importers' excise tax) imposed by the United States upon or with respect to retail sales, whether imposed upon the retailer or the consumer.

Comment: This section was approved by Tribal Council Resolution No. 92-011, dated March 10, 1992, and ratified and codified as Title 12 by Tribal Council Resolution No. 94-023, dated July 12, 1994. All of Title 12, Sales and Use Tax Act, was removed to be inserted into existing Title 11, Taxation, pursuant to Tribal Council Resolution No. 95-___, dated _____, 1995.

[Res. 95, 1995; Res. 94-023, 1994; Res. 92-011, 1992. Prior Code § 11-20-065.]

11.20.070 Seller.

"Seller" includes every person engaged in the business of selling tangible personal property of any kind, the gross receipts from the retail sale of which are required to be included in the measure of the sales tax.

Comment: This section was approved by Tribal Council Resolution No. 92-011, dated March 10, 1992, and ratified and codified as Title 12 by Tribal Council Resolution No. 94-023, dated July 12, 1994. All of Title 12, Sales and Use Tax Act, was removed to be inserted into existing Title 11, Taxation, pursuant to Tribal Council Resolution No. 95-___, dated _____, 1995.

[Res. 95, 1995; Res. 94-023, 1994; Res. 92-011, 1992. Prior Code § 11-20-070.]

11.20.075 Storage.

"Storage" includes any keeping or retention in the Tribe's territory for any purpose except sale in the regular course of business or subsequent use solely outside this Tribe's jurisdiction of tangible personal property purchased for a retailer.

Comment: This section was approved by Tribal Council Resolution No. 92-011, dated March 10, 1992, and ratified and codified as Title 12 by Tribal Council Resolution No. 94-023, dated July 12, 1994. All of Title 12, Sales and Use Tax Act, was removed to be inserted into existing Title 11, Taxation, pursuant to Tribal Council Resolution No. 95-___, dated _____, 1995.

[Res. 95, 1995; Res. 94-023, 1994; Res. 92-011, 1992. Prior Code § 11-20-075.]

11.20.080 Storage and use – Exclusion.

"Storage" and "use" do not include the keeping, retaining or exercising any right or power over tangible personal property for the purpose of subsequently transporting it outside the Tribe's territory for use thereafter solely outside the Tribe's territory, or for the purpose of being processed, fabricated or manufactured into, attached to, or incorporated into, other tangible personal property to be transported outside the Tribe's territory, and thereafter used solely outside the Tribe's territory.

Comment: This section was approved by Tribal Council Resolution No. 92-011, dated March 10, 1992, and ratified and codified as Title 12 by Tribal Council Resolution No. 94-023, dated July 12, 1994. All of Title 12, Sales and Use Tax Act, was removed to be inserted into existing Title 11, Taxation, pursuant to Tribal Council Resolution No. 95-___, dated _____, 1995.

[Res. 95, 1995; Res. 94-023, 1994; Res. 92-011, 1992. Prior Code § 11-20-080.]

11.20.085 Tangible personal property.

"Tangible personal property" means personal property which may be seen, weighed, measured, felt or touched, or which is in any other manner perceptible to the senses.

Comment: This section was approved by Tribal Council Resolution No. 92-011, dated March 10, 1992, and ratified and codified as Title 12 by Tribal Council Resolution No. 94-023, dated July 12, 1994. All of Title 12, Sales and Use Tax Act, was removed to be inserted into existing Title 11, Taxation, pursuant to Tribal Council Resolution No. 95-___, dated _____, 1995.

[Res. 95, 1995; Res. 94-023, 1994; Res. 92-011, 1992. Prior Code § 11-20-085.]

11.20.090 Tribal Council.

"Tribal Council" means Las Vegas Paiute Tribal Council, which is the governing body of the Las Vegas Paiute Tribe.

Comment: This section was approved by Tribal Council Resolution No. 92-011, dated March 10, 1992, and ratified and codified as Title 12 by Tribal Council Resolution No. 94-023, dated July 12, 1994. All of Title 12, Sales and Use Tax Act, was removed to be inserted into existing Title 11, Taxation, pursuant to Tribal Council Resolution No. 95-___, dated _____, 1995.

[Res. 95, 1995; Res. 94-023, 1994; Res. 92-011, 1992. Prior Code § 11-20-090.]

11.20.095 Taxpayer.

"Taxpayer" means any person liable for tax under this title.

Comment: This section was approved by Tribal Council Resolution No. 92-011, dated March 10, 1992, and ratified and codified as Title 12 by Tribal Council Resolution No. 94-023, dated July 12, 1994. All of Title 12, Sales and Use Tax Act, was removed to be inserted into existing Title 11, Taxation, pursuant to Tribal Council Resolution No. 95-___, dated _____, 1995.

[Res. 95, 1995; Res. 94-023, 1994; Res. 92-011, 1992. Prior Code § 11-20-095.]

11.20.105 Imposition and rate of sales tax.

For the privilege of selling tangible personal property at retail a tax is hereby imposed upon all retailers at a rate equal to the current rate in Clark County (which is currently seven percent on the gross receipts of any retailer from the sale of all tangible personal property sold at retail within the jurisdiction of the Tribe, effective March 10, 1992).

Comment: This section was approved by Tribal Council Resolution No. 92-011, dated March 10, 1992, and ratified and codified as Title 12 by Tribal Council Resolution No. 94-023, dated July 12, 1994. All of Title 12, Sales and Use Tax Act, was removed to be inserted into existing Title 11, Taxation, pursuant to Tribal Council Resolution No. 95-___, dated _____, 1995.

[Res. 95, 1995; Res. 94-023, 1994; Res. 92-011, 1992. Prior Code § 11-20-105.]

11.20.110 Method of collection of sales tax.

The tax hereby imposed shall be collected by the retailer from the consumer and remitted to the Tribe monthly.

Comment: This section was approved by Tribal Council Resolution No. 92-011, dated March 10, 1992, and ratified and codified as Title 12 by Tribal

Council Resolution No. 94-023, dated July 12, 1994. All of Title 12, Sales and Use Tax Act, was removed to be inserted into existing Title 11, Taxation, pursuant to Tribal Council Resolution No. 95-___, dated _____, 1995.

[Res. 95, 1995; Res. 94-023, 1994; Res. 92-011, 1992. Prior Code § 11-20-110.]

11.20.120 Civil actions.

The Tribe may bring a civil action against any person to enforce compliance with this title. Such action shall be brought in accordance with the Tribe's Civil Procedure Code. The Tribal Court shall have exclusive jurisdiction over any action arising from the imposition of the sales and use taxes.

Comment: This section was approved by Tribal Council Resolution No. 92-011, dated March 10, 1992, and ratified and codified as Title 12 by Tribal Council Resolution No. 94-023, dated July 12, 1994. All of Title 12, Sales and Use Tax Act, was removed to be inserted into existing Title 11, Taxation, pursuant to Tribal Council Resolution No. 95-___, dated _____, 1995.

[Res. 95, 1995; Res. 94-023, 1994; Res. 92-011, 1992. Prior Code § 11-20-120.]

11.20.130 Power to adopt regulations.

The Tribal Council or official designated by the Tribal Council shall have the power to adopt any regulations which are necessary to the efficient administration of the Tribal sales tax as long as such regulations are not in conflict with the provisions of this title.

Comment: This section was approved by Tribal Council Resolution No. 92-011, dated March 10, 1992, and ratified and codified as Title 12 by Tribal Council Resolution No. 94-023, dated July 12, 1994. All of Title 12, Sales and Use Tax Act, was removed to be inserted into existing Title 11, Taxation, pursuant to Tribal Council Resolution No. 95-___, dated _____, 1995.

[Res. 95, 1995; Res. 94-023, 1994; Res. 92-011, 1992. Prior Code § 11-20-130.]

Chapter 11.30

USE TAX

Sections:

11.30.010 Imposition and rate.
11.30.020 Exemption from taxes imposed by this chapter.
11.30.030 Constitutional and statutory exemptions.
11.30.040 Proceeds of mines.
11.30.050 Fuel used to propel motor vehicle.
11.30.060 Native American arts and crafts.
11.30.070 Farming and ranching.
11.30.080 Animals and plants intended for human consumption – Feed – Fertilizers.
11.30.090 Prosthetic devices – Appliances and supplies relating to ostomy, products for hemodialysis – Medicine.
11.30.100 Food for human consumption.
11.30.110 Meals and food products sold to students or teachers by school organization of students or parent-teacher association.
11.30.120 Containers.
11.30.130 Gas, electricity and water.
11.30.140 Domestic fuels.
11.30.150 Newspapers.
11.30.160 Manufactured homes and mobile homes.
11.30.170 Occasional sales.
11.30.180 Gold, silver, platinum and other precious metals.
11.30.190 Sale to United States, tribe, state, political subdivision or religious or eleemosynary organization.
11.30.200 Loan or donation to United States, tribe, state, political subdivision or religious or eleemosynary organization.

11.30.210 Personal property sold to or used by contractor who is constituent part of governmental, religious or charitable entity.
11.30.220 Liability of purchaser who uses property declared exempt for purpose not exempt.

11.30.010 Imposition and rate.

(a) An excise tax is hereby imposed on the storage, use or other consumption in the territory of the Tribe of tangible personal property purchased from any retailer, for storage, use or other consumption in the territory of the Tribe at the rate of two percent of the sales price of the property.

(b) The tax is imposed with respect to all property which was acquired out of the Tribe's territory in a transaction that would have been a taxable sale if it had occurred within the Tribe's territory.

Comment: This section was approved by Tribal Council Resolution No. 92-011, dated March 10, 1992, and ratified and codified as Title 12 by Tribal Council Resolution No. 94-023, dated July 12, 1994. All of Title 12, Sales and Use Tax Act, was removed to be inserted into existing Title 11, Taxation, pursuant to Tribal Council Resolution No. 95-___, dated _____, 1995.

[Res. 95, 1995; Res. 94-023, 1994; Res. 92-011, 1992. Prior Code § 11-30-185.]

11.30.020 Exemption from taxes imposed by this chapter.

"Exempted from the taxes imposed by this chapter" means exempted from the computation of the amount of taxes imposed.

Comment: This section was approved by Tribal Council Resolution No. 92-011, dated March 10, 1992, and ratified and codified as Title 12 by Tribal Council Resolution No. 94-023, dated July 12, 1994. All of Title 12, Sales and Use Tax Act, was removed to be inserted into existing Title 11, Taxation, pursuant to Tribal Council Resolution No. 95-___, dated _____, 1995.

[Res. 95, 1995; Res. 94-023, 1994; Res. 92-011, 1992. Prior Code § 11-30-260.]

11.30.030 Constitutional and statutory exemptions.

There are exempted from the taxes imposed by this chapter the gross receipts from the sale of, and the storage, use or other consumption in the jurisdiction of the Tribe of, tangible personal property, the gross receipts from the sale of which, or the storage, use or other consumption of which, this Tribe is prohibited from taxing under the Constitution or laws of the United States or under the Constitution of the Tribe.

Comment: This section was approved by Tribal Council Resolution No. 92-011, dated March 10, 1992, and ratified and codified as Title 12 by Tribal Council Resolution No. 94-023, dated July 12, 1994. All of Title 12, Sales and Use Tax Act, was removed to be inserted into existing Title 11, Taxation, pursuant to Tribal Council Resolution No. 95-___, dated _____, 1995.

[Res. 95, 1995; Res. 94-023, 1994; Res. 92-011, 1992. Prior Code § 11-30-265.]

11.30.040 Proceeds of mines.

There are exempted from the taxes imposed by this chapter the gross receipts from the sale of, and the storage, use or other consumption in the jurisdiction of the Tribe of, the proceeds of mines which are subject to taxes levied pursuant to this chapter.

Comment: This section was approved by Tribal Council Resolution No. 92-011, dated March 10, 1992, and ratified and codified as Title 12 by Tribal Council Resolution No. 94-023, dated July 12, 1994. All of Title 12, Sales and Use Tax Act, was removed to be inserted into existing Title 11, Taxation, pursuant to Tribal Council Resolution No. 95-___, dated _____, 1995.

[Res. 95, 1995; Res. 94-023, 1994; Res. 92-011, 1992. Prior Code § 11-30-270.]

11.30.050 Fuel used to propel motor vehicle.

There are exempted from the taxes imposed by this chapter the gross receipts from the sale and distribution of, and the storage, use or other consumption in the jurisdiction of the Tribe of, any combustible gas, liquid or material of a kind used in an internal com-

bustion or diesel engine for the generation of power to propel a motor vehicle on the highways.

Comment: This section was approved by Tribal Council Resolution No. 92-011, dated March 10, 1992, and ratified and codified as Title 12 by Tribal Council Resolution No. 94-023, dated July 12, 1994. All of Title 12, Sales and Use Tax Act, was removed to be inserted into existing Title 11, Taxation, pursuant to Tribal Council Resolution No. 95-___, dated _____, 1995.

[Res. 95, 1995; Res. 94-023, 1994; Res. 92-011, 1992. Prior Code § 11-30-275.]

11.30.060 Native American arts and crafts.

There are exempted from taxes imposed by this chapter the gross receipts from the sale and distribution of Native American arts and crafts.

Comment: This section was approved by Tribal Council Resolution No. 92-011, dated March 10, 1992, and ratified and codified as Title 12 by Tribal Council Resolution No. 94-023, dated July 12, 1994. All of Title 12, Sales and Use Tax Act, was removed to be inserted into existing Title 11, Taxation, pursuant to Tribal Council Resolution No. 95-___, dated _____, 1995.

[Res. 95, 1995; Res. 94-023, 1994; Res. 92-011, 1992. Prior Code § 11-30-276.]

11.30.070 Farming and ranching.

There are exempted from the taxes imposed by this chapter the gross receipts from the sale and distribution of any agricultural products and livestock.

Comment: This section was approved by Tribal Council Resolution No. 92-011, dated March 10, 1992, and ratified and codified as Title 12 by Tribal Council Resolution No. 94-023, dated July 12, 1994. All of Title 12, Sales and Use Tax Act, was removed to be inserted into existing Title 11, Taxation, pursuant to Tribal Council Resolution No. 95-___, dated _____, 1995.

[Res. 95, 1995; Res. 94-023, 1994; Res. 92-011, 1992. Prior Code § 11-30-277.]

11.30.080 Animals and plants intended for human consumption – Feed – Fertilizers.

There are exempted from the taxes imposed by this chapter the gross receipts from sales of, and the storage, use or other consumption of:

(a) Any form of animal life of a kind the products of which ordinarily constitute food for human consumption.

(b) Feed for any form of animal life of a kind the products of which ordinarily constitute food for human consumption or are to be sold in the regular course of business.

(c) Seeds and annual plants the products of which ordinarily constitute food for human consumption or are to be sold in the regular course of business.

(d) Fertilizer to be applied to land the products of which are to be used as food for human consumption or sold in the regular course of business.

Comment: This section was approved by Tribal Council Resolution No. 92-011, dated March 10, 1992, and ratified and codified as Title 12 by Tribal Council Resolution No. 94-023, dated July 12, 1994. All of Title 12, Sales and Use Tax Act, was removed to be inserted into existing Title 11, Taxation, pursuant to Tribal Council Resolution No. 95-___, dated _____, 1995.

[Res. 95, 1995; Res. 94-023, 1994; Res. 92-011, 1992. Prior Code § 11-30-280.]

11.30.090 Prosthetic devices – Appliances and supplies relating to ostomy, products for hemodialysis – Medicine.

(a) There are exempted from the taxes imposed by this chapter the gross receipts from sales and storage, use or other consumption of:

(1) Prosthetic devices for human use.

(2) Appliances and supplies relating to an ostomy.

(3) Products for hemodialysis.

(4) Medicines:

(A) Prescribed for the treatment of a human being by a person authorized to prescribe medicines, and dispensed on a pre-

scription filled by a registered pharmacist in accordance with law;

(B) Furnished by a licensed physician, dentist or podiatrist to his own patient for the treatment of the patient;

(C) Furnished by a hospital for treatment of any person pursuant to the order of a licensed physician, dentist, podiatrist; or

(D) Sold to a licensed physician, dentist, podiatrist or hospital for the treatment of a human being.

(b) "Medicine" means any substance or preparation intended for use by external or internal application to the human body in the diagnosis, cure, mitigation, treatment or prevention of disease or affliction of the human body and which is commonly recognized as a substance or preparation intended for such use.

(c) "Medicine" does not include:

(1) Any auditory, ophthalmic or ocular device or appliance.

(2) Articles which are in the nature of splints, bandages, pads, compresses, supports, dressings, instruments, crutches, canes, braces, devices or other mechanical, electronic, optical or physical equipment.

(3) Any alcoholic beverage, except where the alcohol merely provides a solution in the ordinary preparation of a medicine as defined by subsection (b) of this section.

(d) Insulin furnished by a registered pharmacist to a person for treatment of diabetes as directed by a physician shall be deemed to be dispensed on a prescription within the meaning of this section.

Comment: This section was approved by Tribal Council Resolution No. 92-011, dated March 10, 1992, and ratified and codified as Title 12 by Tribal Council Resolution No. 94-023, dated July 12, 1994. All of Title 12, Sales and Use Tax Act, was removed to be inserted into existing Title 11, Taxation, pursuant to Tribal Council Resolution No. 95-___, dated _____, 1995.

[Res. 95, 1995; Res. 94-023, 1994; Res. 92-011, 1992. Prior Code § 11-30-283.]

11.30.100 Food for human consumption.

(a) There are exempted from the taxes imposed by this chapter the gross receipts from sales and the storage, use or other consumption of food for human consumption.

(b) "Food for human consumption" does not include:

(1) Alcoholic beverages.

(2) Pet foods.

(3) Tonics and vitamins.

(4) Prepared food intended for immediate consumption.

Comment: This section was approved by Tribal Council Resolution No. 92-011, dated March 10, 1992, and ratified and codified as Title 12 by Tribal Council Resolution No. 94-023, dated July 12, 1994. All of Title 12, Sales and Use Tax Act, was removed to be inserted into existing Title 11, Taxation, pursuant to Tribal Council Resolution No. 95-___, dated _____, 1995.

[Res. 95, 1995; Res. 94-023, 1994; Res. 92-011, 1992. Prior Code § 11-30-284.]

11.30.110 Meals and food products sold to students or teachers by school organization of students or parent-teacher association.

There are exempted from the taxes imposed by this chapter the gross receipts from the sale of, and the storage, use or other consumption in this state of, meals and food products for human consumption served by public or private schools, school districts, student organizations and parent-teacher associations to the students or teachers of a school.

Comment: This section was approved by Tribal Council Resolution No. 92-011, dated March 10, 1992, and ratified and codified as Title 12 by Tribal Council Resolution No. 94-023, dated July 12, 1994. All of Title 12, Sales and Use Tax Act, was removed to be inserted into existing Title 11, Taxation, pursuant to Tribal Council Resolution No. 95-___, dated _____, 1995.

[Res. 95, 1995; Res. 94-023, 1994; Res. 92-011, 1992. Prior Code § 11-30-285.]

11.30.120 Containers.

(a) There are exempted from the taxes imposed by this chapter the gross receipts from sales of, and the storage, use or other consumption within the jurisdiction of the Tribe of:

(1) Nonreturnable containers when sold without the contents to persons who place the contents in the container and sell the contents together with the container.

(2) Containers when sold with the contents if the sales price of the contents is not required to be included in the measure of the taxes imposed by this chapter.

(3) Returnable containers when sold with the contents in connection with a retail sale of the contents or when resold for refilling.

(b) As used in this section the term "returnable containers" means containers of a kind customarily returned by the buyer of the contents for reuse. All other containers are "nonreturnable containers."

Comment: This section was approved by Tribal Council Resolution No. 92-011, dated March 10, 1992, and ratified and codified as Title 12 by Tribal Council Resolution No. 94-023, dated July 12, 1994. All of Title 12, Sales and Use Tax Act, was removed to be inserted into existing Title 11, Taxation, pursuant to Tribal Council Resolution No. 95-___, dated _____, 1995.

[Res. 95, 1995; Res. 94-023, 1994; Res. 92-011, 1992. Prior Code § 11-30-290.]

11.30.130 Gas, electricity and water.

There are exempted from the taxes imposed by this chapter the gross receipts from the sales, furnishing or service of, and the storage, use or other consumption in this state of gas, electricity and water when delivered to consumers through mains, lines or pipes.

Comment: This section was approved by Tribal Council Resolution No. 92-011, dated March 10, 1992, and ratified and codified as Title 12 by Tribal Council Resolution No. 94-023, dated July 12, 1994. All of Title 12, Sales and Use Tax Act, was removed to be inserted into existing Title 11, Taxation, pursuant to Tribal Council Resolution No. 95-___, dated _____, 1995.

[Res. 95, 1995; Res. 94-023, 1994; Res. 92-011, 1992. Prior Code § 11-30-295.]

11.30.140 Domestic fuels.

There are exempted from the taxes imposed by this chapter the gross receipts from the sale, furnishing or service of, and the storage, use or other consumption in this state of, any matter used to produce domestic heat by burning, including, without limitation, wood, coal, petroleum and gas.

Comment: This section was approved by Tribal Council Resolution No. 92-011, dated March 10, 1992, and ratified and codified as Title 12 by Tribal Council Resolution No. 94-023, dated July 12, 1994. All of Title 12, Sales and Use Tax Act, was removed to be inserted into existing Title 11, Taxation, pursuant to Tribal Council Resolution No. 95-___, dated _____, 1995.

[Res. 95, 1995; Res. 94-023, 1994; Res. 92-011, 1992. Prior Code § 11-30-300.]

11.30.150 Newspapers.

There are exempted from the taxes imposed by this chapter the gross receipts from the sale of, and the storage, use or other consumption in this state of, tangible personal property which becomes an ingredient or component part of any newspaper regularly issued at average intervals not exceeding one week and any such newspaper.

Comment: This section was approved by Tribal Council Resolution No. 92-011, dated March 10, 1992, and ratified and codified as Title 12 by Tribal Council Resolution No. 94-023, dated July 12, 1994. All of Title 12, Sales and Use Tax Act, was removed to be inserted into existing Title 11, Taxation, pursuant to Tribal Council Resolution No. 95-___, dated _____, 1995.

[Res. 95, 1995; Res. 94-023, 1994; Res. 92-011, 1992. Prior Code § 11-30-315.]

11.30.160 Manufactured homes and mobile homes.

(a) There are exempted from the taxes imposed by this chapter, an amount equal to 40 percent of the gross receipts from sales and storage, use or other consumption of new manufactured homes and new mobile homes.

(b) There are exempted from the taxes imposed by this chapter the gross receipts from the sales and storage, use or other consumption of used manufactured homes and used mobile homes for which taxes under this chapter have been paid as a result of a previous sale, storage, use or consumption.

(c) As used in this section: "manufactured or mobile home" means a structure which is:

(1) Built on a permanent chassis;

(2) Designed to be used with or without a permanent foundation as a dwelling when connected to utilities;

(3) Transportable in one or more sections;

(4) The term includes the body and frame and the plumbing, heating, air-conditioning and electrical systems.

Comment: This section was approved by Tribal Council Resolution No. 92-011, dated March 10, 1992, and ratified and codified as Title 12 by Tribal Council Resolution No. 94-023, dated July 12, 1994. All of Title 12, Sales and Use Tax Act, was removed to be inserted into existing Title 11, Taxation, pursuant to Tribal Council Resolution No. 95-___, dated _____, 1995.

[Res. 95, 1995; Res. 94-023, 1994; Res. 92-011, 1992. Prior Code § 11-30-316.]

11.30.170 Occasional sales.

There are exempted from the taxes imposed by this chapter the gross receipts from occasional sales of tangible personal property and the storage, use or other consumption within the jurisdiction of the Tribe of tangible personal property, the transfer of which to the purchaser is an occasional sale.

Comment: This section was approved by Tribal Council Resolution No. 92-011, dated March 10, 1992, and ratified and codified as Title 12 by Tribal Council Resolution No. 94-023, dated July 12, 1994. All of Title 12, Sales and Use Tax Act, was removed to be inserted into existing Title 11, Taxation, pursuant to Tribal Council Resolution No. 95-___, dated _____, 1995.

[Res. 95, 1995; Res. 94-023, 1994; Res. 92-011, 1992. Prior Code § 11-30-320.]

11.30.180 Gold, silver, platinum and other precious metals.

There are exempted from the taxes imposed by this chapter the gross receipts from the sale, storage, use or other consumption within the jurisdiction of the Tribe of:

(a) Gold, silver or platinum medallions or bars which are statutorily authorized to bear the Tribe's seal; and

(b) Gold, silver, platinum and other precious metals sold at retail as bullion, ingots, bars or bullion coins.

Comment: This section was approved by Tribal Council Resolution No. 92-011, dated March 10, 1992, and ratified and codified as Title 12 by Tribal Council Resolution No. 94-023, dated July 12, 1994. All of Title 12, Sales and Use Tax Act, was removed to be inserted into existing Title 11, Taxation, pursuant to Tribal Council Resolution No. 95-___, dated _____, 1995.

[Res. 95, 1995; Res. 94-023, 1994; Res. 92-011, 1992. Prior Code § 11-30-321.]

11.30.190 Sale to United States, tribe, state, political subdivision or religious or eleemosynary organization.

There are exempted from the computation of the amount of the sales tax the gross receipts from the sale of any tangible personal property to:

(a) The United States of America, its unincorporated agencies and instrumentalities.

(b) A federally recognized Indian tribe.

(c) Any incorporated agency or instrumentality of the United States wholly owned by the United States or by a corporation wholly owned by the United States.

(d) The state of Nevada, its unincorporated agencies and instrumentalities.

(e) Any county, city, district or other political subdivision of the state of Nevada.

(f) Any organization created for religious, charitable or eleemosynary purposes; provided, that no part of the net earnings of any such organization inures to the benefit of any private shareholder or individual.

Comment: This section was approved by Tribal Council Resolution No. 92-011, dated March 10, 1992, and ratified and codified as Title 12 by Tribal Council Resolution No. 94-023, dated July 12, 1994. All of Title 12, Sales and Use Tax Act, was removed to be inserted into existing Title 11, Taxation, pursuant to Tribal Council Resolution No. 95-___, dated _____, 1995.

[Res. 95, 1995; Res. 94-023, 1994; Res. 92-011, 1992. Prior Code § 11-30-325.]

11.30.200 Loan or donation to United States, tribe, state, political subdivision or religious or eleemosynary organization.

There are exempted from the taxes imposed by this chapter on the storage, use or other consumption of tangible personal property any such property loaned or donated to:

(a) The United States, its unincorporated agencies and instrumentalities.

(b) A federally recognized Indian tribe.

(c) Any incorporated agency or instrumentality of the United States wholly owned by the United States or by a corporation wholly owned by the United States.

(d) The state of Nevada, its unincorporated agencies and instrumentalities.

(e) Any county, city, district or other political subdivision of the state of Nevada.

(f) Any organization created for religious, charitable or eleemosynary purposes; provided, that no part of the net earnings of any such organization inures to the benefit of any private shareholder or individual.

Comment: This section was approved by Tribal Council Resolution No. 92-011, dated March 10, 1992, and ratified and codified as Title 12 by Tribal Council Resolution No. 94-023, dated July 12, 1994. All of Title 12, Sales and Use Tax Act, was removed to be inserted into existing Title 11, Taxation, pursuant to Tribal Council Resolution No. 95-___, dated _____, 1995.

[Res. 95, 1995; Res. 94-023, 1994; Res. 92-011, 1992. Prior Code § 11-30-327.]

11.30.210 Personal property sold to or used by contractor who is constituent part of governmental, religious or charitable entity.

The taxes imposed under this chapter apply to the sale of tangible personal property to and the storage, use or other consumption in this state of tangible personal property by a contractor for a governmental, religious or charitable entity which is otherwise exempted from the tax unless the contractor is a constituent part of that entity.

Comment: This section was approved by Tribal Council Resolution No. 92-011, dated March 10, 1992, and ratified and codified as Title 12 by Tribal Council Resolution No. 94-023, dated July 12, 1994. All of Title 12, Sales and Use Tax Act, was removed to be inserted into existing Title 11, Taxation, pursuant to Tribal Council Resolution No. 95-___, dated _____, 1995.

[Res. 95, 1995; Res. 94-023, 1994; Res. 92-011, 1992. Prior Code § 11-30-340.]

11.30.220 Liability of purchaser who uses property declared exempt for purpose not exempt.

If a purchaser certifies in writing to a seller that the property purchased will be used in a manner or for a purpose entitling the seller to regard the gross receipts from the sale as exempted by this chapter from the computation of the amount of the sales tax, and uses the property in some other manner or for some other purpose the purchaser shall be liable for payment of sales tax as if he were a retailer, making a retail sale of the property at the time of such use and the cost of the property to him

shall be deemed the gross receipts from such retail sale.

Comment: This section was approved by Tribal Council Resolution No. 92-011, dated March 10, 1992, and ratified and codified as Title 12 by Tribal Council Resolution No. 94-023, dated July 12, 1994. All of Title 12, Sales and Use Tax Act, was removed to be inserted into existing Title 11, Taxation, pursuant to Tribal Council Resolution No. 95-___, dated _____, 1995.

[Res. 95, 1995; Res. 94-023, 1994; Res. 92-011, 1992. Prior Code § 11-30-350.]

Title 12

GAMING TAXES

Chapters:

12.10 Title, Purpose and Interpretation
12.20 Definitions
12.30 Quarterly and Annual Taxes
12.40 Administrative Provisions – Refunds – Deficiencies

Chapter 12.10

TITLE, PURPOSE AND INTERPRETATION

Sections:

12.10.010 Short title.
12.10.020 Purpose and interpretation.

12.10.010 Short title.

This title is known and may be cited as the Las Vegas Paiute Gaming Taxes Act. [Res. 95-039, 1995. Prior Code § 13-10-010.]

12.10.020 Purpose and interpretation.

This title is intended to implement the provisions of Section H of the Tribal/State Gaming Compact between the Tribe and the state of Nevada, which provides, in part: "...the Tribe shall adopt and impose a system of taxation and licensing fees with respect to the conduct of Gaming on the Reservation that is at least as stringent as the system of taxation and licensing fees adopted by Nevada and imposed upon gaming licensees pursuant to the Gaming Laws." To that end, the provisions of this title shall be interpreted and applied in a manner consistent with the interpretation and application of the comparable provisions of Nevada law by the state of Nevada. [Res. 95-039, 1995. Prior Code § 13-10-020.]

Chapter 12.20

DEFINITIONS

Sections:

12.20.010 Definitions.
12.20.015 Board.
12.20.020 Commission.
12.20.025 Controller.
12.20.030 Credit instrument.
12.20.035 Establishment.
12.20.040 Game and gambling game.
12.20.045 Gaming and gambling.
12.20.050 Gaming license or license.
12.20.055 Reserved.
12.20.060 Licensee.
12.20.065 Nonrestricted license and nonrestricted operation.
12.20.070 Operation.
12.20.075 Reserved.
12.20.080 Quarter and calendar quarter.
12.20.085 Restricted license and restricted operation.
12.20.090 Slot machine.
12.20.095 Tribal Council.
12.20.100 Tribe.
12.20.105 Tribe's territory.

12.20.010 Definitions.

Except where the context otherwise requires, the definitions given in this section govern the construction of this title. [Res. 95-039, 1995. Prior Code § 13-20-010.]

12.20.015 Board.

"Board" means the Nevada State Gaming Control Board. [Res. 95-039, 1995. Prior Code § 13-20-015.]

12.20.020 Commission.

"Commission" means the Nevada Gaming Commission. [Res. 95-039, 1995. Prior Code § 13-20-020.]

12.20.025 Controller.

"Controller" means the Controller of the Las Vegas Paiute Tribe. [Res. 95-039, 1995. Prior Code § 13-20-025.]

12.20.030 Credit instrument.

"Credit instrument" means a writing which evidences a gaming debt owed to a person who holds a nonrestricted license at the time the debt is created, and includes any writing taken in consolidation, redemption or payment of a previous credit instrument. [Res. 95-039, 1995. Prior Code § 13-20-030.]

12.20.035 Establishment.

"Establishment" means any premises wherein or whereon any gaming is done. [Res. 95-039, 1995. Prior Code § 13-20-035.]

12.20.040 Game and gambling game.

"Game" or "gambling game" means any game played with cards, dice, equipment or any mechanical, electromechanical or electronic device or machine for money, property, checks, credit or any representative of value, including, without limiting the generality of the foregoing, faro, monte, roulette, keno, bingo, fan-tan, twenty-one, blackjack, seven-and-a-half, big injun, klondike, craps, poker, chuck-a-luck, Chinese chuck-a-luck (dai shu), wheel of fortune, chemin de fer, baccarat, pai gow, beat the banker, panguingui, slot machine, any banking or percentage game or any other game or device approved by the Commission, but does not include games played with cards in private homes or residences in which no person makes money for operating the game, except as a player, or games operated by charitable or educational organizations which are approved by the Board pursuant to the provisions of NRS 463.409. [Res. 95-039, 1995. Prior Code § 13-20-040.]

12.20.045 Gaming and gambling.

"Gaming" or "gambling" means to deal, operate, carry on, conduct, maintain or expose for play, within the Tribe's territory, any game as defined in LVPTC 12.20.040. [Res. 95-039, 1995. Prior Code § 13-20-045.]

12.20.050 Gaming license or license.

"Gaming license" or "license" means any license issued by the Commission pursuant to Chapter 463 NRS which authorizes the person named therein to engage in gaming. [Res. 95-039, 1995. Prior Code § 13-20-050.]

12.20.055 Reserved.

[Res. 95-039, 1995. Prior Code § 13-20-055.]

12.20.060 Licensee.

"Licensee" means any person to whom a valid license has been issued by the Commission pursuant to Chapter 463 NRS authorizing the person to engage in gaming within the Tribe's territory. [Res. 95-039, 1995. Prior Code § 13-20-060.]

12.20.065 Nonrestricted license and nonrestricted operation.

"Nonrestricted license" or "nonrestricted operation" means a gaming license issued by the Commission for, or an operation consisting of, 16 or more slot machines or a license for or operation of any number of slot machines together with any other game, gaming device, race book or sports pool at one establishment within the Tribe's territory. [Res. 95-039, 1995. Prior Code § 13-20-065.]

12.20.070 Operation.

"Operation" means the conduct of gaming. [Res. 95-039, 1995. Prior Code § 13-20-070.]

12.20.075 Reserved.

[Res. 95-039, 1995. Prior Code § 13-20-075.]

12.20.080 Quarter and calendar quarter.

"Quarter" or "calendar quarter" means a period of three consecutive months commencing on the first day of January, April, July or October in any year. [Res. 95-039, 1995. Prior Code § 13-20-080.]

12.20.085 Restricted license and restricted operation.

"Restricted license" or "restricted operation" means a gaming license for, or an operation consisting of, not more than 15 slot machines and no other game or gaming device at an establishment within the Tribe's territory in which the operation of slot machines is incidental

to the primary business of the establishment. [Res. 95-039, 1995. Prior Code § 13-20-085.]

12.20.090 Slot machine.

"Slot machine" means any mechanical, electrical or other device, contrivance or machine which, upon insertion of a coin, token or similar object, or upon payment of any consideration, is available to play or operate, the play or operation of which, whether by reason of the skill of the operator in playing a gambling game which is presented for play by the machine or application of the element of chance, or both, may deliver or entitle the person playing or operating the machine to receive cash, premiums, merchandise, tokens or any thing of value, whether the payoff is made automatically from the machine or in any other manner. [Res. 95-039, 1995. Prior Code § 13-20-090.]

12.20.095 Tribal Council.

"Tribal Council" means the Las Vegas Paiute Tribal Council, which is the governing body of the Las Vegas Paiute Tribe. [Res. 95-039, 1995. Prior Code § 13-20-095.]

12.20.100 Tribe.

"Tribe" means the Las Vegas Paiute Tribe. [Res. 95-039, 1995. Prior Code § 13-20-100.]

12.20.105 Tribe's territory.

"Tribe's territory" means the area within the exterior boundaries of the Colony or Reservation of the Las Vegas Paiute Tribe, including all lands within those limits whether held in fee or in trust and all other Tribal lands whether on or off the Reservation held in trust. [Res. 95-039, 1995. Prior Code § 13-20-105.]

Chapter 12.30

QUARTERLY AND ANNUAL TAXES

Sections:

12.30.010 Slot machines – Counting for purposes of administering taxes.
12.30.020 Quarterly fee for restricted operation.
12.30.030 Annual excise tax upon slot machines – Imposition – Collection.

12.30.010 Slot machines – Counting for purposes of administering taxes.

For purposes of administering the taxes imposed by LVPTC 12.40.020 through 12.40.070, inclusive, the Comptroller shall apply any regulation prescribed by the Commission under NRS 463.372 as to the manner of counting slot machines whose operations are related to one another. [Res. 95-039, 1995. Prior Code § 13-40-010.]

12.30.020 Quarterly fee for restricted operation.

(a) A tax is hereby imposed upon each new licensee of a restricted operation, within 10 days after the issuance of a license, for each slot machine for each quarter year:

(1) In the amount of $61.00 for each slot machine if he will have at least one but not more than five slot machines.

(2) In the amount of $305.00 plus $106.00 for each slot machine in excess of five if he will have at least six but not more than 15 slot machines.

(b) The Tribe shall charge and collect the tax prescribed in subsection (a) of this section:

(1) On or before the last day of the last month in a calendar quarter, for the ensuing calendar quarter, from a licensee whose operation is continuing.

(2) In advance from a licensee who begins operation or puts additional slot machines into play during a calendar quarter.

(c) Except as otherwise provided in LVPTC 13.70.010, no proration of the tax prescribed

in subsection (a) of this section may be allowed for any reason.

(d) The operator of the location where slot machines are situated shall pay the tax prescribed in subsection (a) of this section upon the total number of slot machines situated in that location, whether or not the machines are owned by one or more licensee-owners. [Res. 95-039, 1995. Prior Code § 13-40-020.]

12.30.030 Annual excise tax upon slot machines – Imposition – Collection.

(a) In addition to any other gaming taxes imposed by this title, there is hereby imposed upon each slot machine operated in the Tribe's territory an annual excise tax of $250.00. If a slot machine is replaced by another, the replacement is not considered a different slot machine for the purpose of imposing this tax.

(b) The Tribe shall:

(1) Collect the tax annually on or before June 20th, for the ensuing fiscal year beginning July 1st, from a licensee whose operation is continuing.

(2) Collect the tax in advance from a licensee who begins operation or puts additional slot machines into play during the fiscal year, prorated monthly after July 31st. [Res. 95-039, 1995. Prior Code § 13-40-060.]

Chapter 12.40

ADMINISTRATIVE PROVISIONS – REFUNDS – DEFICIENCIES

Sections:

12.40.010 Credit for prepaid taxes upon transfer of corporate gaming operations.
12.40.020 Refund of taxes erroneously collected – Action against Tribe – Interest – Time limited for claim or action.
12.40.030 Determination of deficiency – Recomputation or estimate of taxes – Offsetting overpayments – Refund of excess.
12.40.040 Determination of deficiency – Notice.
12.40.050 Determination of deficiency – Lien.
12.40.060 Redetermination – Time for filing and contents of petition – Hearing – Finality of order – Judicial review.
12.40.070 Remedies of Tribe are cumulative.
12.40.080 Penalty for willful evasion of payment of taxes and other acts and omissions.
12.40.090 Regulations.

12.40.010 Credit for prepaid taxes upon transfer of corporate gaming operations.

(a) If the Commission approves the issuance of a license for gaming operations at the same location, or locations if the license is for the operation of a slot machine route, within 30 days following a change described in NRS 463.386, subsection 2, for the purposes of LVPTC 12.30.020 and 12.30.030, inclusive, the gaming license shall be deemed transferred and the previously licensed operation shall be deemed a continuing operation.

(b) Except as otherwise provided in this section, no credit or refund of taxes may be made because a gaming establishment

ceases operation. [Res. 95-039, 1995. Prior Code § 13-70-010.]

12.40.020 Refund of taxes erroneously collected – Action against Tribe – Interest – Time limited for claim or action.

(a) Gaming taxes erroneously collected may be refunded, upon the approval of the Tribal Council, as other claims against the Tribe are paid.

(b) Any claim for refund of gaming taxes paid in excess of the amount required to be reported and paid, must be filed with the Controller within five years after the date of overpayment and not thereafter.

(c) The provisions of this title must not be construed to permit the proration of gaming taxes for purposes of a refund. [Res. 95-039, 1995. Prior Code § 13-70-020.]

12.40.030 Determination of deficiency – Recomputation or estimate of taxes – Offsetting overpayments – Refund of excess.

(a) If any person fails to make a report of the gaming taxes as required by this title, or if the Controller is not satisfied with the report of the taxes required to be paid to the Tribe pursuant to this title by any person, the Controller may compute and determine the amount required to be paid upon the basis of:

(1) The facts contained in the report, if any;

(2) An audit conducted by the Tribe;

(3) An estimate of the amount of taxes due pursuant to the provisions of this title;

(4) Any information within his possession or that may come into his possession; or

(5) Any combination of the methods described in subsections (a)(1) through (4) of this section, inclusive.

(b) In making such a determination, the Controller may offset overpayments and interest due thereon against underpayments and interest or penalties due thereon for the period of the audit.

(c) If overpayments and interest thereon exceed underpayments, penalties and interest thereon, the excess must be refunded to the licensee except where otherwise expressly provided. [Res. 95-039, 1995. Prior Code § 13-70-030.]

12.40.040 Determination of deficiency – Notice.

(a) The Controller shall give written notice of any determination pursuant to LVPTC 12.40.030 to the licensee or other person responsible for the payment of the tax.

(b) The notice may be served by sending it by certified mail, addressed to the licensee or other person at the licensed location as it appears in the records of the Tribe. A copy of any such notice shall be sent to the Board.

(c) Except in the case of fraud or intent to evade the payment of any tax imposed by this title, every notice of a determination of deficiency must be mailed within five years after the last day of the calendar month following the applicable reporting period in which the deficiency occurred or within five years after the report is filed by the licensee, whichever period expires later.

(d) If, before the expiration of the time prescribed in this section for the mailing of a notice of a determination of deficiency, the licensee has consented in writing to the mailing of the notice after that time, the notice may be mailed at any time before the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing before the expiration of the period previously agreed upon.

(e) If the reasons for the deficiency are not apparent, the Controller shall include a brief explanation of those reasons in the notice of a determination of deficiency. [Res. 95-039, 1995. Prior Code § 13-70-040.]

12.40.050 Determination of deficiency – Lien.

(a) Upon the expiration of 30 days after the service of notice of a deficiency determination, the amount of gaming taxes due, together with all interest and penalties, constitutes a lien on any right, title or interest in all real and personal property where the gaming establishment is located, or that is

directly connected with gaming, which is in the Tribe's territory and owned by the person against whom the determination has been made unless he files a petition for a redetermination which complies with the provisions of LVPTC 12.40.060.

(b) If a proper petition for a redetermination is filed, any amount due pursuant to a final order or decision upon the petition for redetermination constitutes a lien on all such property within the Tribe's territory owned by the debtor upon service of the final order or decision.

(c) The filing of a petition for judicial review with the Las Vegas Paiute Tribal Court does not affect the lien or stay any action for the enforcement of the lien. If the amount due is modified upon review, the Controller shall record a notice of the modification of the amount of the lien.

(d) A debtor continues to be responsible for a deficiency determination although he is no longer licensed pursuant.

(e) The lien is discharged upon:

(1) Payment or cancellation of the underlying debt; or

(2) The conveyance to the Tribe of property which satisfied the underlying debt. [Res. 95-039, 1995. Prior Code § 13-70-050.]

12.40.060 Redetermination – Time for filing and contents of petition – Hearing – Finality of order – Judicial review.

(a) Any person against whom a determination is made pursuant to LVPTC 12.40.030 may petition the Controller for a redetermination within 30 days after service of notice of the determination upon him. If a petition for redetermination satisfying the requirements of subsection (c) of this section is not filed within 30 days, the determination becomes final at the expiration of the period.

(b) If a petition for redetermination satisfying the requirements of subsection (c) of this section is filed within the 30-day period, the Controller shall reconsider the determination and, if the petitioner has so requested, shall grant the petitioner a hearing.

(c) A petition for redetermination must:

(1) Specify the contested portions of the determination of deficiency;

(2) Specify the grounds for redetermination;

(3) State whether a hearing is requested; and

(4) Be accompanied by payment in full of the uncontested portion of the determination, including any interest and penalties.

(d) An order or decision of the Controller upon a petition for redetermination is final 10 days after service upon the petitioner. [Res. 95-039, 1995. Prior Code § 13-70-060.]

12.40.070 Remedies of Tribe are cumulative.

The remedies of the Tribe for the collection and payment of gaming taxes, penalties and interest provided for in this title are cumulative and any action taken by the Tribe does not constitute an election by the Tribe to pursue any remedy to the exclusion of any other remedy for which provision is made in this title. [Res. 95-039, 1995. Prior Code § 13-70-070.]

12.40.080 Penalty for willful evasion of payment of taxes and other acts and omissions.

Any person who willfully fails to report, pay or truthfully account for and pay over any of the taxes imposed by this title, or willfully attempts in any manner to evade or defeat any such tax or payment thereof, or fails to remit any such tax when due is, in addition to the amount due, liable for a penalty of the amount of the tax evaded or not paid, collected or paid over. The penalty must be assessed and collected in the same manner as are other charges, taxes and penalties under this title. [Res. 95-039, 1995. Prior Code § 13-70-080.]

12.40.090 Regulations.

The Controller shall adopt regulations to interpret and implement the provisions of this title; provided, however, that such regulations shall not be inconsistent with the interpretation of the comparable provisions of Nevada law by the Commission. [Res. 95-039, 1995. Prior Code § 13-70-090.]

Title 13

LIQUOR CODE

Chapters:

13.10 Findings and Purpose
13.20 Definitions
13.30 Sales, Distribution, Possession, Consumption
13.40 Penalties
13.50 Abatement of Continuing Violations
13.60 Severability and Effective Date

[Res. 95-012, 1995.]

Chapter 13.10

FINDINGS AND PURPOSE

Sections:

13.10.010 Legislative control.
13.10.020 Control desired.
13.10.030 Goals of regulation.

13.10.010 Legislative control.

Federal law currently prohibits the introduction of liquor into Indian Country and expressly delegates to tribes the decision regarding when and to what extent liquor transactions shall be permitted on their reservations. The Las Vegas Tribe of Paiute Indians has decided to open all lands within its jurisdiction to the possession, consumption, and sale of liquor by enacting this title ("LVPTC Title 13") to the Tribal Law and Order Code. This title is adopted pursuant to the Act of August 15, 1953 (Pub. L. 83-277, 67 Stat. 588, 18 U.S.C. § 1161) and shall serve as the "liquor ordinance" referenced therein.

Comment: This section amends and supersedes the liquor ordinance adopted pursuant to Tribal Council Resolution No. 94-017, dated June 7, 1994. Approval of Title 13 was published in the Federal Register on June 12, 1995.

[Res. 95-012, 1995. Prior Code § 12-10-010.]

13.10.020 Control desired.

This title shall govern all liquor sales and distribution on the Reservation, will increase the ability of the Tribe to control Reservation liquor distribution and possession and will provide an additional source of revenue for Tribal operations.

Comment: This section amends and supersedes the liquor ordinance adopted pursuant to Tribal Council Resolution No. 94-017, dated June 7, 1994. Approval of Title 13 was published in the Federal Register on June 12, 1995.

[Res. 95-012, 1995. Prior Code § 12-10-020.]

13.10.030 Goals of regulation.

Tribal regulation of the sale, possession, and consumption of liquor on the Reservation is necessary to protect the health, security, and general welfare of the Tribe, and to address Tribal concerns relating to alcohol use on the Reservation. In order to further these goals and to provide an additional source of governmental revenue, the Tribe has adopted this title, which shall be liberally construed to fulfill the purposes for which it has been adopted. This title is authorized by Article VII, Section 1(g) of the Constitution and Bylaws of the Tribe which provides that the Tribal Council shall have the power "[t]o enact legislation for the purpose of safeguarding and promoting the peace, safety, morals, and general welfare of the members of the Las Vegas Paiute Tribe."

Comment: This section amends and supersedes the liquor ordinance adopted pursuant to Tribal Council Resolution No. 94-017, dated June 7, 1994. Approval of Title 13 was published in the Federal Register on June 12, 1995.

[Res. 95-012, 1995. Prior Code § 12-10-030.]

Chapter 13.20

DEFINITIONS

Sections:
13.20.010 Definitions of words.

13.20.010 Definitions of words.

As used in this title, the following words shall have the following meanings unless the context clearly requires otherwise:

"Alcohol" means that substance known as ethyl alcohol, hydrated oxide of ethyl, or spirit of wine which is commonly produced by the fermentation or distillation of grain, starch, molasses, or sugar, or other substances including all dilutions and mixtures of this substance.

"Alcoholic beverage" is synonymous with the term "liquor" as defined in this section.

"Beer" means any beverage obtained by the fermentation or infusion or decoction of pure hops, or pure extract of hops and pure barley malt or other wholesome grain or cereal in water and which contains not more than four percent of alcohol by volume.

"Liquor" includes the four varieties of liquor herein defined (alcohol, spirits, wine, and malt liquor), and all fermented, spirituous, vinous, or malt liquor or combinations thereof, and mixed liquor, a part of which is fermented, spirituous, vinous, or malt liquor, or otherwise intoxicating. Every liquid or solid or semisolid or other substance, patented or not, containing alcohol, spirits, wine or malt liquor, and all drinks or drinkable liquids and all preparations or mixtures capable of human consumption and any liquid, semisolid, solid, or other substances, containing more than one percent of alcohol by weight shall be conclusively deemed to be intoxicating.

"Malt liquor" means beer, strong beer, ale, stout, and porter.

"Package" means any container or receptacle used for holding liquor.

"Reservation" means all lands of the Tribe described or referenced in the Tribe's Constitution, including, but not limited to, all lands described in United States Public Law 98-203, and any lands which may in the future come within the jurisdiction of the Tribe by any lawful means.

"Sale" and "sell" mean exchange, barter, and traffic; and also include the selling or supplying or distributing, by any means whatsoever, of liquor, or of any liquid known or described as "beer" or by any name whatsoever commonly used to describe "malt liquor" or "liquor" or "wine" by any person to any person.

"Spirits" means any beverage which contains alcohol obtained by distillation, including wines exceeding 17 percent of alcohol by weight.

"Strong beer" means any beverage obtained by the alcoholic fermentation or infusion or decoction of pure hops, or pure extract of hops and pure barley malt or other wholesome grain or cereal in water, including ale, stout, and porter, containing more than four percent of alcohol by weight.

"Title 13" means this liquor code, which shall serve the Tribe as the liquor ordinance referenced at 18 U.S.C. § 1161.

"Tribal Council" shall mean the duly elected Tribal Council of the Tribe, which is the governing body of the Tribe.

"Tribal Court" means the Tribal Courts of the Tribe as established pursuant to LVPTC Title 1.

"Tribe" means, and "Tribal" refers to, the Las Vegas Paiute Tribe, a federally recognized tribe of Native American Indians, listed at 58 Federal Register 54364, 67 as the "Las Vegas Tribe of Paiute Indians of the Las Vegas Indian Colony, Nevada."

"Wine" means any alcoholic beverage obtained by fermentation of fruits (grapes, berries, apples, etc.) or other agricultural product containing sugar, to which any saccharine substances may have been added before, during, or after fermentation, and containing not more than 17 percent of alcohol by weight, including sweet wines fortified with wine spirits, such as port, sherry, muscatel, and angelica, not exceeding 17 percent of alcohol by weight.

Comment: This section amends and supersedes the liquor ordinance adopted pursuant to Tribal

Council Resolution No. 94-017, dated June 7, 1994. Approval of Title 13 was published in the Federal Register on June 12, 1995.

[Res. 95-012, 1995. Prior Code § 12-20-010.]

Chapter 13.30

SALES, DISTRIBUTION, POSSESSION, CONSUMPTION

Sections:

13.30.010 Authorization.
13.30.020 Distribution of taxes and fees.
13.30.030 Tribal liquor license elements.

13.30.010 Authorization.

The Tribe, its members and other persons including, but not limited to, corporations, partnerships, associations and natural persons are hereby authorized to introduce, sell, distribute, warehouse, possess and consume alcoholic beverages within the Reservation, in accordance with the laws of the state of Nevada (including Nevada liquor licensing provisions); provided, however, that any person or entity, other than the Tribe, which sells alcoholic beverages within the Reservation must first obtain a Tribal liquor license from the Tribal Council and such sales shall be subject to taxes and license fees as may be established by duly enacted resolution of the Tribal Council.

Comment: This section amends and supersedes the liquor ordinance adopted pursuant to Tribal Council Resolution No. 94-017, dated June 7, 1994. Approval of Title 13 was published in the Federal Register on June 12, 1995.

[Res. 95-012, 1995. Prior Code § 12-30-010.]

13.30.020 Distribution of taxes and fees.

All taxes and license fees related to the sale or introduction of alcoholic beverages on the Reservation shall be remitted to the Tribal Council through the Tribal Secretary, who shall keep accurate records of all such receipts, and shall be subject to distribution by the Tribal Council in accordance with its usual appropriation procedures for governmental and social services.

Comment: This section amends and supersedes the liquor ordinance adopted pursuant to Tribal Council Resolution No. 94-017, dated June 7,

1994. Approval of Title 13 was published in the Federal Register on June 12, 1995.

[Res. 95-012, 1995. Prior Code § 12-30-020.]

13.30.030 Tribal liquor license elements.

Tribal liquor licenses shall authorize the holder thereof to sell alcoholic beverages at wholesale or at retail in cans, bottles or any other package within a defined area; provided, however, that a Tribal liquor license shall be valid only if the holder thereof is in compliance with the laws of any other jurisdiction which may have any authority with regard to liquor sales and regulation on the Reservation.

Tribal liquor licenses shall set forth the location and description of the building and premises for which each license is issued and shall define the area where the holder of each Tribal liquor license may sell alcoholic beverages for a period of one year.

Comment: This section amends and supersedes the liquor ordinance adopted pursuant to Tribal Council Resolution No. 94-017, dated June 7, 1994. Approval of Title 13 was published in the Federal Register on June 12, 1995.

[Res. 95-012, 1995. Prior Code § 12-30-030.]

Chapter 13.40

PENALTIES

Sections:

13.40.010 General.
13.40.020 Illegal transportation, still, or sale without permit.
13.40.030 Illegal purchase of liquor.
13.40.040 Furnishing liquor to minors.
13.40.050 Sales of liquor to minors.
13.40.060 Unlawful transfer of identification.
13.40.070 Possession of false or altered identification.
13.40.080 General penalties.
13.40.090 Identification – Proof of minimum age.
13.40.100 Illegal items declared contraband.
13.40.110 Non-Indian violations.

13.40.010 General.

Notwithstanding any other provision of this title, no penalty may be imposed pursuant or related to this title in contravention or in excess of any limitation imposed by the Indian Civil Rights Act of 1968, 82 Stat. 77, 25 U.S.C. § 1301 et seq. (“ICRA”) or other applicable federal law.

Comment: This section amends and supersedes the liquor ordinance adopted pursuant to Tribal Council Resolution No. 94-017, dated June 7, 1994. Approval of Title 13 was published in the Federal Register on June 12, 1995.

[Res. 95-012, 1995. Prior Code § 12-40-010.]

13.40.020 Illegal transportation, still, or sale without permit.

Any person who, within the Reservation and without a valid Tribal liquor license, sells or offers for sale or transport in any manner any liquor within the boundaries of the Reservation in violation of this title, or who operates or has in his possession any spirit distillation device or any substance meant or specifically concocted to be distilled into liquor (not including devices or mash related to the home

manufacture of beer, strong beer, or wine solely for the purpose of personal consumption and not for sale), shall be guilty of a Class A offense as defined in the Tribal Law and Order Code.

Comment: This section amends and supersedes the liquor ordinance adopted pursuant to Tribal Council Resolution No. 94-017, dated June 7, 1994. Approval of Title 13 was published in the Federal Register on June 12, 1995.

[Res. 95-012, 1995. Prior Code § 12-40-020.]

13.40.030 Illegal purchase of liquor.

Any person who buys liquor within the boundaries of the Reservation other than from an individual or entity properly licensed pursuant to this title shall be guilty of a Class A offense as defined in the Tribal Law and Order Code.

Comment: This section amends and supersedes the liquor ordinance adopted pursuant to Tribal Council Resolution No. 94-017, dated June 7, 1994. Approval of Title 13 was published in the Federal Register on June 12, 1995.

[Res. 95-012, 1995. Prior Code § 12-40-030.]

13.40.040 Furnishing liquor to minors.

Except in the case of liquor given or administered to a person by his physician or dentist for medicinal purposes, no person under the age of 21 years shall consume, acquire or have in his possession any alcoholic beverages except when such beverages are used in connection with religious services. No person shall permit any other person under the age of 21 to consume liquor on his premises or on any premises under his control except in those situations set out in this section. Any person violating this section shall be guilty of a Class A offense as defined in the Tribal Law and Order Code.

Comment: This section amends and supersedes the liquor ordinance adopted pursuant to Tribal Council Resolution No. 94-017, dated June 7, 1994. Approval of Title 13 was published in the Federal Register on June 12, 1995.

[Res. 95-012, 1995. Prior Code § 12-40-040.]

13.40.050 Sales of liquor to minors.

Any person who shall sell any liquor to any person under the age of 21 years shall be guilty of a Class A offense as defined in the Tribal Law and Order Code and shall be further subject to forfeit any license issued pursuant to this title; provided, however, that the forfeiture of any license issued pursuant to this title may occur only after notice and a hearing according to the procedures set forth in LVPTC 13.50.020.

Comment: This section amends and supersedes the liquor ordinance adopted pursuant to Tribal Council Resolution No. 94-017, dated June 7, 1994. Approval of Title 13 was published in the Federal Register on June 12, 1995.

[Res. 95-012, 1995. Prior Code § 12-40-050.]

13.40.060 Unlawful transfer of identification.

Any person who transfers in any manner an identification of age to a minor for the purpose of permitting such minor to obtain liquor shall be guilty of a Class A offense as defined in the Tribal Law and Order Code. Corroborative testimony of a witness other than the minor shall be a requirement of conviction under this section.

Comment: This section amends and supersedes the liquor ordinance adopted pursuant to Tribal Council Resolution No. 94-017, dated June 7, 1994. Approval of Title 13 was published in the Federal Register on June 12, 1995.

[Res. 95-012, 1995. Prior Code § 12-40-060.]

13.40.070 Possession of false or altered identification.

Any person who attempts to purchase an alcoholic beverage through the use of false or altered identification which falsely purports to show the individual to be over the age of 21 years shall be guilty of a Class D offense as defined in the Tribal Law and Order Code.

Comment: This section amends and supersedes the liquor ordinance adopted pursuant to Tribal Council Resolution No. 94-017, dated June 7, 1994. Approval of Title 13 was published in the Federal Register on June 12, 1995.

[Res. 95-012, 1995. Prior Code § 12-40-070.]

13.40.080 General penalties.

Any person guilty of a violation of this title for which no penalty has been specifically provided shall be liable upon conviction for the penalty prescribed for Class A offenses in the Tribal Law and Order Code.

Comment: This section amends and supersedes the liquor ordinance adopted pursuant to Tribal Council Resolution No. 94-017, dated June 7, 1994. Approval of Title 13 was published in the Federal Register on June 12, 1995.

[Res. 95-012, 1995. Prior Code § 12-40-080.]

13.40.090 Identification – Proof of minimum age.

Where there may be a question of a person's right to purchase liquor by reason of his age, such person shall be required to present any one of the following officially issued cards of identification which shows his correct age and bears his signature and photograph:

(a) Liquor control authority card of identification of any state;

(b) Driver's license of any state or "Identicard" issued by any state Department of Motor Vehicles;

(c) United States active duty military identification;

(d) Passport; or

(e) Las Vegas Paiute Tribal identification or enrollment card.

Comment: This section amends and supersedes the liquor ordinance adopted pursuant to Tribal Council Resolution No. 94-017, dated June 7, 1994. Approval of Title 13 was published in the Federal Register on June 12, 1995.

[Res. 95-012, 1995. Prior Code § 12-40-090.]

13.40.100 Illegal items declared contraband.

Alcoholic beverages which are possessed contrary to the terms of this title are hereby declared to be contraband. Any officer who shall make an arrest under this section shall seize all contraband which he shall have the authority to seize consistent with the Tribe's Constitution, the Tribal Law and Order Code, the ICRA and any other applicable federal law.

Comment: This section amends and supersedes the liquor ordinance adopted pursuant to Tribal Council Resolution No. 94-017, dated June 7, 1994. Approval of Title 13 was published in the Federal Register on June 12, 1995.

[Res. 95-012, 1995. Prior Code § 12-40-100.]

13.40.110 Non-Indian violations.

Nothing in this title shall be construed to require or authorize the criminal trial and punishment by the Tribal Court of any non-Indian except to the extent allowed under federal law. In general, when any provision of this title is violated by a non-Indian, he or she shall be referred to state and/or federal authorities for prosecution under applicable law. It is the expressed intent of the Tribe that any non-Indian referred to state and/or federal authorities pursuant to this section be prosecuted to the furthest extent of applicable law.

Comment: This section amends and supersedes the liquor ordinance adopted pursuant to Tribal Council Resolution No. 94-017, dated June 7, 1994. Approval of Title 13 was published in the Federal Register on June 12, 1995.

[Res. 95-012, 1995. Prior Code § 12-40-110.]

Chapter 13.50

ABATEMENT OF CONTINUING VIOLATIONS

Sections:

13.50.010 Declaration of nuisance.
13.50.020 Institution of action.
13.50.030 Abatement of nuisance.

13.50.010 Declaration of nuisance.

Any room, house, building, boat, vessel, vehicle, structure, or other place where liquor is sold, manufactured, bartered, exchanged, given away, furnished, or otherwise disposed of in violation of the provisions of this title and all property kept in and used in maintaining such place, including Tribal liquor licenses related to any such property, are hereby declared to be a common nuisance.

Comment: This section amends and supersedes the liquor ordinance adopted pursuant to Tribal Council Resolution No. 94-017, dated June 7, 1994. Approval of Title 13 was published in the Federal Register on June 12, 1995.

[Res. 95-012, 1995. Prior Code § 12-50-010.]

13.50.020 Institution of action.

The Chairman of the Tribal Council or the Chief of the Tribal Law Enforcement Department may institute and maintain an action in the Tribal Court in the name of the Tribe to abate and perpetually enjoin any nuisance declared under this chapter or any other violation of this title. The plaintiff shall be required to file grounds in the action, and restraining orders, temporary injunctions, and permanent injunctions may be granted in the case as in other injunction proceedings. Upon final judgment against the defendant, the Tribal Court may order the forfeiture of any license issued pursuant to this title and that the offending room, house, building, boat, vessel, vehicle, structure, or place be closed for a period of one year or until the owner, lessee, tenant, or occupant thereof shall give bond of sufficient sum of not less than $1,000 payable to the Tribe, which bond shall be conditioned on the agreement of such person that liquor will not be thereafter manufactured, kept, sold, bartered, exchanged, given away, furnished, or otherwise disposed of thereof in violation of the provisions of this title and that such person will pay all fines, costs and damages assessed against him for any violation of this title. If any conditions of the bond are violated, the whole amount may be recovered as a penalty for the use of the Tribe. Any action taken under this section shall be in addition to any criminal penalties provided for under this title or any other applicable provision of the Tribal Law and Order Code.

Comment: This section amends and supersedes the liquor ordinance adopted pursuant to Tribal Council Resolution No. 94-017, dated June 7, 1994. Approval of Title 13 was published in the Federal Register on June 12, 1995.

[Res. 95-012, 1995. Prior Code § 12-50-020.]

13.50.030 Abatement of nuisance.

In all cases where any person has been convicted of a violation of this title, an action may be brought in Tribal Court to abate as a nuisance any real estate or other property involved in the commission of the offense, and in any such action a certified copy of the record of such conviction shall be admissible in evidence and prima facie evidence that the room, house, vessel, boat, building, vehicle, structure, or place against which such action is brought is a public nuisance.

Comment: This section amends and supersedes the liquor ordinance adopted pursuant to Tribal Council Resolution No. 94-017, dated June 7, 1994. Approval of Title 13 was published in the Federal Register on June 12, 1995.

[Res. 95-012, 1995. Prior Code § 12-50-030.]

Chapter 13.60

SEVERABILITY AND EFFECTIVE DATE

Sections:

13.60.010 Severability.
13.60.020 Effective date.
13.60.030 Inconsistent enactments rescinded.
13.60.040 Application of 18 U.S.C. § 1161.
13.60.050 Jurisdiction and sovereign immunity.

13.60.010 Severability.

If any application or provision, or any portion of any provisions, of this title is determined by review of any court of competent jurisdiction to be invalid, such adjudication shall not render ineffectual the remaining portions of this title or render such provisions automatically inapplicable to other persons or circumstances.

Comment: This section amends and supersedes the liquor ordinance adopted pursuant to Tribal Council Resolution No. 94-017, dated June 7, 1994. Approval of Title 13 was published in the Federal Register on June 12, 1995.

[Res. 95-012, 1995. Prior Code § 12-60-010.]

13.60.020 Effective date.

This title shall be effective as a matter of Tribal law on the date of its adoption by the Tribal Council and effective as a matter of federal law on such date as the Secretary of the Interior certifies and publishes the same in the Federal Register.

Comment: This section amends and supersedes the liquor ordinance adopted pursuant to Tribal Council Resolution No. 94-017, dated June 7, 1994. Approval of Title 13 was published in the Federal Register on June 12, 1995.

[Res. 95-012, 1995. Prior Code § 12-60-020.]

13.60.030 Inconsistent enactments rescinded.

Any and all prior enactments of the Tribal Council which are inconsistent with the provisions of this title are hereby rescinded to the extent of such inconsistency.

Comment: This section amends and supersedes the liquor ordinance adopted pursuant to Tribal Council Resolution No. 94-017, dated June 7, 1994. Approval of Title 13 was published in the Federal Register on June 12, 1995.

[Res. 95-012, 1995. Prior Code § 12-60-030.]

13.60.040 Application of 18 U.S.C. § 1161.

All acts and transactions under this title shall be in conformity with the laws of the state of Nevada to the extent required under 18 U.S.C. § 1161.

Comment: This section amends and supersedes the liquor ordinance adopted pursuant to Tribal Council Resolution No. 94-017, dated June 7, 1994. Approval of Title 13 was published in the Federal Register on June 12, 1995.

[Res. 95-012, 1995. Prior Code § 12-60-040.]

13.60.050 Jurisdiction and sovereign immunity.

Nothing in this title shall be construed to limit the jurisdiction of the Tribe, the Tribal Court or Tribal law enforcement personnel and nothing herein shall limit or constitute a waiver of the sovereign immunity of the Tribe or its officers, instrumentalities and agents or authorize in any form a prospective waiver of such sovereign immunity.

Nothing in this title shall be construed as an admission that any body politic, other than the Tribe, has jurisdiction over any matter arising from or related to the Reservation, except to the extent such jurisdiction is confirmed by federal law.

Comment: This section amends and supersedes the liquor ordinance adopted pursuant to Tribal Council Resolution No. 94-017, dated June 7, 1994. Approval of Title 13 was published in the Federal Register on June 12, 1995.

[Res. 95-012, 1995. Prior Code § 12-60-050.]

Title 14

MARIJUANA

Chapters:

Division I. Cannabis Authority

14.10 Purpose and Authority
14.20 Board of Commissioners
14.30 Powers
14.40 Borrowing
14.50 Sovereign Immunity
14.60 Assets and Liabilities

Division II. Medical Marijuana Control

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Division I. Cannabis Authority

Chapter 14.10

PURPOSE AND AUTHORITY

Sections:

14.10.010 Purpose and authority.

14.10.010 Purpose and authority.

Pursuant to Article VII, Sections 1(e) and 1(h) of the Constitution and Bylaws of the Las Vegas Paiute Tribe, the Las Vegas Paiute Tribal Council hereby enacts this title, the Las Vegas Paiute Cannabis Authority ordinance (hereinafter "authority ordinance"). By the enactment of this authority ordinance, the Las Vegas Paiute Cannabis Authority (hereinafter "LVPCA" or "the Authority") is established as an instrumentality of the Tribe with the powers expressly delegated to it by the Tribal Council. The LVPCA is established for the construction and operation of cannabis grow, production and dispensary facilities. Nothing in this section or any other section or provision of this title shall constitute a waiver of the sovereign immunity of the Tribe or of officials of the Tribe acting in their official capacity, and nothing in this section or any other section or provision of this title shall authorize, imply or allow the application of the laws of the state of Nevada or any other political body other than the Tribe except as explicitly set forth herein. [Res. 17-019, 2017; Res. 16-004 (Exh. A), 2016. Prior Code § 18-10-10.]

Chapter 14.20

BOARD OF COMMISSIONERS

Sections:

14.20.010 Board of Commissioners.
14.20.015 Eligibility to serve.
14.20.020 Terms.
14.20.025 Officers of the Board.
14.20.030 No compensation for Commissioners.
14.20.035 Expense reimbursement.
14.20.040 Quorum.
14.20.045 Chairperson's vote.
14.20.050 Record of meetings and actions.
14.20.055 Financial records and reports.
14.20.060 Meetings.

14.20.010 Board of Commissioners.

The affairs of the LVPCA shall be managed by a Board of Commissioners. The Board of Commissioners (hereinafter "Board") shall be comprised of the Tribal Chairperson and the other Tribal Council members. [Res. 17-019, 2017; Res. 16-004 (Exh. A), 2016. Prior Code § 18-20-10.]

14.20.015 Eligibility to serve.

All Tribal Council members of the Las Vegas Paiute Tribe, 21 years of age or older, shall be eligible to serve as a Commissioner. [Res. 17-019, 2017; Res. 16-004 (Exh. A), 2016. Prior Code § 18-20-15.]

14.20.020 Terms.

The term of office for the Chairperson of the Board shall be in concurrence with his/her term of Tribal Chairperson and he/she shall serve until his/her successor is elected and seated. Each Commissioner shall hold office until his/her successor has been elected and seated pursuant to a Tribal Council election. [Res. 16-004 (Exh. A), 2016. Prior Code § 18-20-20.]

14.20.025 Officers of the Board.

The Tribal Chairperson shall also serve as the Chairperson of the Board. The Commissioners shall elect from within their own members a Vice-Chairperson. The Tribal Executive

Secretary shall serve as Secretary to the Board, but shall have no vote in the Board and his/her presence shall not contribute to the existence of a quorum. In the absence of the Chairperson, the Vice-Chairperson shall preside. [Res. 16-004 (Exh. A), 2016. Prior Code § 18-20-25.]

14.20.030 No compensation for Commissioners.

The Commissioners shall not receive compensation for their services but shall be entitled to reimbursement of certain expenses as detailed in LVPTC 14.20.035. [Res. 16-004 (Exh. A), 2016. Prior Code § 18-20-30.]

14.20.035 Expense reimbursement.

The Commissioners shall be entitled to compensation for their expenses, including travel expenses, incurred in the discharge of their duties. All requests for reimbursement must be made in accordance with Tribal policy and must be approved by the Tribal Chairperson. [Res. 16-004 (Exh. A), 2016. Prior Code § 18-20-35.]

14.20.040 Quorum.

A quorum of the Board shall consist of five of its members. For the transaction of business, a majority of the Commissioners must be present but no Board action shall be taken without the majority vote of the full Board. [Res. 16-004 (Exh. A), 2016. Prior Code § 18-20-40.]

14.20.045 Chairperson's vote.

The Board Chairperson shall vote only in the case of a tie. [Res. 16-004 (Exh. A), 2016. Prior Code § 18-20-45.]

14.20.050 Record of meetings and actions.

The Board Secretary shall keep full and accurate records of all meetings and actions taken by the Board, shall make periodic reports to the Tribal Chairperson and shall submit a complete annual report, in written form, to the Tribal Council. [Res. 16-004 (Exh. A), 2016. Prior Code § 18-20-50.]

14.20.055 Financial records and reports.

The Tribe's accounting office shall keep full and accurate financial records, make periodic reports to the Board and submit a complete annual report, in written form, to the Tribal Council. [Res. 16-004 (Exh. A), 2016. Prior Code § 18-20-55.]

14.20.060 Meetings.

The Board shall hold meetings as necessary with an agenda prepared in advance by the Board Chairperson. Special meetings may be called, either by the Board Chairperson or the majority vote of the Board, at any time upon 24 hours' actual notice. All proceedings of the Board shall be open to the members of the Las Vegas Paiute Tribe except when an executive session is authorized by either the Chairperson or the majority of the Board. [Res. 16-004 (Exh. A), 2016. Prior Code § 18-20-60.]

Chapter 14.30

POWERS

Sections:

14.30.010 Enumerated powers.

14.30.010 Enumerated powers.

The Board, acting for the Authority, shall have the following specifically enumerated powers:

(a) To adopt and use an official seal;

(b) To enter into any contracts or agreements with any federal, state, local or tribal government or governmental agency, with any person, partnership, firm or corporation;

(c) To lease property from the Tribe and others for such periods and to hold and manage, or to sublease the same;

(d) To borrow or lend money and to issue indebtedness in accordance with the provisions of Chapter 14.40 LVPTC;

(e) To pledge the assets and receipts of the Authority as security for debts;

(f) To purchase land or interests in land or take the same by gift; to lease land or interests in land to the extent provided by law;

(g) To invest such funds as are not required for immediate disbursement;

(h) To establish and maintain such bank accounts as may be necessary or convenient;

(i) To employ such officers and employees, permanent or temporary, as the Authority may require, and to delegate to such officers and employees such powers and duties as the Commissioners deem proper; and

(j) To take such further actions as are necessary to carry out the purposes as described in LVPTC 14.10.010. [Res. 16-004 (Exh. A), 2016. Prior Code § 18-30-10.]

Chapter 14.40

BORROWING

Sections:

14.40.010 Borrowing.
14.40.015 Obligations.
14.40.020 Pledge or encumbrance of Authority's revenues, income, assets, and/or interest.
14.40.025 Refunds.
14.40.030 Sovereign immunity – Issuance of obligations and consent to be sued.

14.40.010 Borrowing.

Subject to the limitations set forth in this chapter, the Authority shall have the power to borrow money and incur indebtedness by issuing its obligations in its own name or in the name of and on behalf of the Las Vegas Paiute Tribe for purposes outlined in this title, constructing, maintaining, managing and improving any facilities within the territorial jurisdiction of the Tribe consistent with the purposes of the Authority. Such obligations shall be issued and sold in such manner and shall be in the amount and form and bear interest at the rate or rates set by the Authority. [Res. 16-004 (Exh. A), 2016. Prior Code § 18-40-10.]

14.40.015 Obligations.

All such obligations shall be payable solely from revenues, income, receipts and profits derived by the Authority from projects operated by it whether or not such projects were financed in whole or in part with the proceeds of such obligations; from the proceeds of evidences of indebtedness issued and sold by the Authority which are payable solely from any of such revenues, income, receipts and profits; or from federal or state grants or other money received by the Authority which are available therefor. The Authority may further secure such obligations with any assets of the Authority as the Authority may specifically pledge to the payment of the obligations. [Res. 16-004 (Exh. A), 2016. Prior Code § 18-40-15.]

14.40.020 Pledge or encumbrance of Authority's revenues, income, assets, and/or interest.

The Authority may pledge to the repayment of any such obligations and the interest coming due thereon any or all of the sources set forth in LVPTC 14.40.015, but is without power to pledge or encumber any other revenues, income or assets of the Las Vegas Paiute Tribe, or any other organization or instrumentality of the Tribe, to the repayment of such obligations. The Tribal Council may, if it deems it to be in the best interests of the Tribe to do so, pledge to the payment of any such obligations such specific revenues, income or assets of the Tribe as it may deem appropriate. In any event, no such obligations shall be payable from, nor be a charge upon, any funds other than the revenues specifically pledged to the payment thereof, nor shall the Tribe be liable thereon other than to the extent specifically provided in accordance with this section, and such limitation shall be expressly stated in each such obligation. [Res. 16-004 (Exh. A), 2016. Prior Code § 18-40-20.]

14.40.025 Refunds.

The Authority, with the approval of the Tribal Council, may provide for the refunding of any obligation of the Authority through the issuance of other obligations of the Authority, entitled to rights and priorities similar in all respects to those held by the obligations that are refunded. [Res. 16-004 (Exh. A), 2016. Prior Code § 18-40-25.]

14.40.030 Sovereign immunity – Issuance of obligations and consent to be sued.

In connection with the issuance of any such obligation, the Authority has the limited authority to consent to be sued in accordance with and subject to LVPTC 14.50.020, but only within the following restrictions:

(a) Any such consent may only be in order to permit an action to enforce the terms of an obligation of the Authority; and

(b) In connection with any such action, the Authority may consent to the jurisdiction of any court of the United States of America or any state of competent jurisdiction; and

(c) Any consent must be given only with the express restriction and understanding that the Authority is without power to waive the sovereign immunity of the Las Vegas Paiute Tribe, to consent to the jurisdiction of any court over the Tribe, or to the levy of any judgment, lien or attachment upon any property or income of the Authority, the Tribe or any other organization or instrumentality of the Tribe other than that specifically pledged pursuant to this chapter. [Res. 16-004 (Exh. A), 2016. Prior Code § 18-40-30.]

Chapter 14.50

SOVEREIGN IMMUNITY

Sections:

14.50.010 Statement of Tribal sovereign immunity – Las Vegas Paiute Tribe's denial of any waiver of sovereign immunity.
14.50.015 No waiver of sovereign immunity implied.
14.50.020 Restrictions under which Authority may consent to be sued.
14.50.025 Authority's consent to suit shall not be deemed a waiver of Tribal sovereign immunity.

14.50.010 Statement of Tribal sovereign immunity – Las Vegas Paiute Tribe's denial of any waiver of sovereign immunity.

As an instrumentality of the Las Vegas Paiute Tribe, the Authority shall be clothed by federal and Tribal law with all the privileges and immunities of the Tribe, except as specifically limited by this authority division, including sovereign immunity from suit in any state, federal or tribal court. Nothing contained in this authority division shall be deemed or construed to be a waiver of sovereign immunity by the Authority from suit; the Authority may consent to be sued only in accordance with this authority division. [Res. 16-004 (Exh. A), 2016. Prior Code § 18-50-10.]

14.50.015 No waiver of sovereign immunity implied.

Nothing in this chapter or any other chapter or provision of this title shall be deemed or construed to be:

(a) A waiver of sovereign immunity by the LVPCA, the Tribal Council, the Tribe or any of its members, agents and employees; or

(b) A consent to the jurisdiction of any court over the Authority, the Tribal Council, the Tribe or any of its members, agents and employees; or

(c) A consent to the levy of any judgment, lien or attachment upon any property or income of the Authority, the Tribal Council, the Las Vegas Paiute Tribe or any of its members, agents or employees. [Res. 16-004 (Exh. A), 2016. Prior Code § 18-50-15.]

14.50.020 Restrictions under which Authority may consent to be sued.

The Authority may consent to be sued only by formal resolution approved by a majority of the full Board of Commissioners. Consents to suit are disfavored and shall be granted only when necessary to secure a substantial advantage or benefit to the Authority. Any consent to suit shall be specific and limited as to:

(a) Duration;

(b) The grantee;

(c) The particular transaction;

(d) Definite property or funds, if any, of the Authority;

(e) A particular court having jurisdiction pursuant thereto; and

(f) The law that shall be applicable thereto. [Res. 16-004 (Exh. A), 2016. Prior Code § 18-50-20.]

14.50.025 Authority's consent to suit shall not be deemed a waiver of Tribal sovereign immunity.

Any express consent to suit by resolution of the Board shall not be deemed a waiver of the sovereign immunity of the Tribe, a consent to the jurisdiction of any court over the Tribe, or a consent to the levy of any judgment, lien or attachment upon any property or income of the Authority, the Tribe or any other organization or instrumentality of the Tribe other than that specifically pledged or assigned. [Res. 16-004 (Exh. A), 2016. Prior Code § 18-50-25.]

Chapter 14.60

ASSETS AND LIABILITIES

Sections:

14.60.010 Assets.
14.60.015 Property.
14.60.020 Taxation.
14.60.025 Exemptions.
14.60.030 Liability.
14.60.035 Disposition of property upon dissolution of Authority.

14.60.010 Assets.

The Authority shall have only those assets specifically assigned to it by the Tribe or acquired in its name by the Tribe or the Authority or on its own behalf. Nothing in this authority division nor any activity of the Authority shall implicate or in any way involve the credit or assets of the Tribe or obligate the Tribe for the obligations of this Authority except for any liability or obligation specifically assumed in writing. [Res. 16-004 (Exh. A), 2016. Prior Code § 18-60-10.]

14.60.015 Property.

The property of the Authority is declared to be public property used for essential public and governmental purposes and such property and the Authority are exempt from all taxes and special assessments of the Tribe. [Res. 16-004 (Exh. A), 2016. Prior Code § 18-60-15.]

14.60.020 Taxation.

Nothing in this chapter shall in any way limit the power of the Tribe to:

(a) Tax the use of the property of the Authority by entities other than the Authority; or

(b) Impose sales or use taxes on the sale of goods or the performance of services on the property of the Authority. [Res. 16-004 (Exh. A), 2016. Prior Code § 18-60-20.]

14.60.025 Exemptions.

All property of the Authority, including funds acquired or held by the Authority pursuant to this authority division, shall be exempt from levy and sale by virtue of an execution, and no execution or other judicial powers shall or lien upon such property. The provisions of this section shall not apply to or limit the right of a secured party to pursue any remedies for the enforcement of any pledge or lien given by the Authority on its revenues or properties. [Res. 16-004 (Exh. A), 2016. Prior Code § 18-60-25.]

14.60.030 Liability.

No member of the Board of Commissioners of the Authority, no member of the Tribal Council, and no officer, employee or agent of the Authority or the Tribe shall be personally liable for any of the obligations or indebtedness of the Authority. [Res. 16-004 (Exh. A), 2016. Prior Code § 18-60-30.]

14.60.035 Disposition of property upon dissolution of Authority.

Upon dissolution of the Authority, the title to all property owned by it shall vest in and become the property of the Tribe. [Res. 16-004 (Exh. A), 2016. Prior Code § 18-60-35.]

Division II. Medical Marijuana Control

Chapter 14.70

GENERAL PROVISIONS

Sections:

14.70.010 Short title.
14.70.020 Findings and purpose.
14.70.030 Control of marijuana.
14.70.040 Sovereign immunity.
14.70.050 Definitions.

14.70.010 Short title.

This division may be cited as the medical marijuana control ordinance. [Res. 16-005 (Exh. A), 2016. Prior Code § 19-1-10.]

14.70.020 Findings and purpose.

The Las Vegas Paiute Tribe hereby finds and declares that:

(a) The United States recognizes Indian tribes as domestic dependent nations with sovereignty over their members and territories.

(b) Pursuant to the Tribe's Constitution, the Tribal Council has the authority to adopt ordinances and to promote the general welfare of the Tribe.

(c) The federal Controlled Substances Act, 21 U.S.C. § 801 et seq., classifies marijuana as a Schedule 1 drug and prohibits any possession or use of marijuana except in the course of federally approved research projects. The Controlled Substances Act makes it unlawful, under federal law, for any person to cultivate, manufacture, distribute or dispense, or possess with intent to manufacture, distribute or dispense, marijuana.

(d) The voters of the state of Nevada approved a constitutional amendment known as the Medical Marijuana Initiative at the 1998 General Election and at the 2000 General Election. Article IV, Section 38 of the Constitution of the state of Nevada, as amended, permits the possession and use of medical marijuana for the treatment of specified illnesses upon the advice of a physician and authorizes the Legislature to provide for appropriate methods of supply. The Nevada State Legislature has enacted legislation, codified in NRS 453A, regulating the cultivation, processing and distribution of marijuana grown for medical purposes within the state.

(e) The Tribe has decided to open certain lands within its jurisdiction to the possession, consumption, cultivation, processing and distribution of medical marijuana by enacting this division. [Res. 16-005 (Exh. A), 2016. Prior Code § 19-1-20.]

14.70.030 Control of marijuana.

(a) This division shall govern the cultivation, processing and distribution of medical marijuana on the Reservation, will increase the ability of the Tribe to control the possession and consumption of medical marijuana on the Reservation, which will provide an additional source of revenue for Tribal operations.

(b) Tribal regulation of the possession, consumption, cultivation, processing and distribution of medical marijuana on the Reservation is necessary to protect the health, security, and general welfare of the Tribe, and to address Tribal concerns relating to use of medical marijuana on the Reservation. In order to further these goals and to provide an additional source of governmental revenue, the Tribe has adopted this division, which shall be liberally construed to fulfill the purposes for which it has been adopted.

(c) This division is authorized by Article VII, Section 1 of the Constitution of the Tribe which provides that the Tribal Council shall have the power to enact legislation for the purpose of safeguarding and promoting the peace, safety, morals, and general welfare of the members of the Tribe.

(d) This division is not intended to and does not authorize conduct that is otherwise prohibited by state law, or to prohibit conduct that is authorized by the state of Nevada. This division shall be deemed to comply with Nevada law, as established by Article IV, Section 38 of the Constitution of the state of Nevada and as codified in Chapter 453A NRS.

(e) Nothing in this division shall be deemed to be in positive conflict with the Controlled Substances Act, 21 U.S.C. § 801 et seq.

(f) Nothing in this division shall be deemed to create a right to grow and distribute marijuana. [Res. 16-005 (Exh. A), 2016. Prior Code § 19-1-30.]

14.70.040 Sovereign immunity.

Nothing in this division shall be construed to limit the jurisdiction of the Tribe, the Tribal Courts or Tribal law enforcement personnel and nothing herein shall limit or constitute a waiver of the sovereign immunity of the Tribe or its officers, instrumentalities and agents or authorize in any form a prospective waiver of such sovereign immunity. [Res. 16-005 (Exh. A), 2016. Prior Code § 19-1-40.]

14.70.050 Definitions.

As used in this division, the following words shall have the following meanings unless the context clearly requires otherwise:

"Critical fluid extraction medical marijuana concentrate" means a medical marijuana concentrate that was produced by extracting cannabinoids from medical marijuana through the use of a hydrocarbon solvent, such as butane or propane, or CO_2.

"Cultivation" means the preparing and growing of marijuana for medical purposes.

"Cultivation facility" means any business under the jurisdiction of the Tribe that acquires, possesses, cultivates, delivers, transfers, transports, supplies or sells marijuana and related supplies to another cultivation facility, a processing facility or distribution facility.

"Designated primary caregiver" means a person, 18 years of age or older, who has significant responsibility for managing the well-being of a person diagnosed with a chronic or debilitating medical condition and is designated as such in the manner required pursuant to NRS 453A.250.

"Distribution facility" means any business under the jurisdiction of the Tribe that acquires, possesses, delivers, transfers, transports, supplies, sells or dispenses medical marijuana or related supplies and educational materials to the holder of a valid registry identification card or valid nonresident card.

"Fat-based medical marijuana concentrate" means a medical marijuana concentrate that was produced by extracting cannabinoids from medical marijuana through the use of butter, olive oil or other typical cooking fats as a solvent.

"Foreign cultivation facility" means a cultivation facility that is not under the jurisdiction of the Tribe.

"Inventory control" means a process that may be used to monitor the chain of custody of medical marijuana from the point of cultivation to the consumer.

"Management employees" means those employees who serve in a supervisory role of some nature and are at least 25 years old.

"Medical marijuana" refers to the use of marijuana, including constituents of marijuana, as a physician-recommended form of medicine.

"Medical marijuana business" means a cultivation facility, processing facility, distribution facility or any combination thereof.

"Medical marijuana concentrate" means a specific subset of medical marijuana that was produced by extracting cannabinoids from medical marijuana. Types of medical marijuana concentrates include water-based medical marijuana concentrates, solvent-based medical marijuana concentrates, critical fluid extraction medical marijuana concentrates and fat-based medical marijuana concentrates.

"Medical marijuana product" means a product that contains marijuana or an extract thereof and is intended for use or consumption other than by inhalation, including but not limited to foodstuffs, extracts, oils, tinctures and other similar products.

"Nonresident card" means a card or other identification that is issued by a state or jurisdiction other than Nevada and is the functional equivalent of a registry identification card.

"Package" means the sealed container in which medical marijuana or medical marijuana products are placed.

"Processing" means the harvesting of marijuana or the use of any process or equipment, including but not limited to dehydrators or humidifiers that may be necessary to convert raw marijuana plants or plant parts into a consumable product.

"Processing facility" means any business under the jurisdiction of the Tribe at which medical marijuana is processed for supply to a distribution facility.

"Registry identification card" means a document issued by any competent jurisdiction, Department of Health and Human Services, Division of Public and Behavioral Health or its designee that identifies a person who is exempt from state prosecution for engaging in the medical use of marijuana or the designated primary caregiver of such a person.

"Reservation" means all lands described or referenced in the Tribe's Constitution; all lands over which the Tribe retains jurisdiction; all lands held by the United States of America in trust for the Tribe; and any lands which may in the future come within the jurisdiction of the Tribe by any lawful means.

"Shipping container" means any container or wrapping used solely for the transport of medical marijuana product to a distribution facility.

"Solvent-based medical marijuana concentrate" means a medical marijuana concentrate that was produced by extracting cannabinoids from medical marijuana through the use of glycerin, isopropyl alcohol, ethanol, or propylene glycol as a solvent.

"State" means the state of Nevada.

"Tribal Council" means the duly elected Tribal Council of the Las Vegas Paiute Tribe, which is the governing body of the Tribe.

"Tribal Courts" means the Tribal Courts of the Tribe as established pursuant to this Code.

"Tribe" means, and "Tribal" refers to, the Las Vegas Paiute Tribe, a federally recognized Indian tribe.

"Water-based medical marijuana concentrate" means a medical marijuana concentrate that was produced by extracting cannabinoids from medical marijuana through the use of only water or ice. [Res. 16-005 (Exh. A), 2016. Prior Code § 19-1-50.]

Chapter 14.80

PROHIBITED ACTS AND AFFIRMATIVE DEFENSES

Sections:

14.80.010 Exemption from prosecution for certain acts.
14.80.020 No exemption from prosecution for certain acts.
14.80.030 Minors.
14.80.040 Deleterious outcomes.

14.80.010 Exemption from prosecution for certain acts.

(a) A person who holds a valid registry identification card or a valid nonresident card is exempt from prosecution or civil penalty in the Tribal Court for:

(1) Possession, delivery or production of marijuana.

(2) Aiding and abetting another in the possession, delivery or production of marijuana.

(3) Any other criminal offense in which the possession, delivery or production of marijuana is an element.

(b) No person may be subject to prosecution or civil penalty in the Tribal Court for constructive possession, conspiracy or any other criminal offense solely for being in the presence or vicinity of the medical use of marijuana in accordance with the provisions of this chapter.

(c) No employee of a medical marijuana business shall be subject to prosecution or civil penalty in the Tribal Court for the cultivation, production or distribution of marijuana in accordance with this chapter. [Res. 16-005 (Exh. A), 2016. Prior Code § 19-2-10.]

14.80.020 No exemption from prosecution for certain acts.

(a) A person who holds a valid registry identification card or a valid nonresident card is not exempt from prosecution or civil penalty in the Tribal Court for:

(1) Driving, operating or being in actual physical control of a vehicle under power while under the influence of marijuana.

(2) Possessing marijuana in violation in any public place or in any place open to the public or exposed to public view.

(3) Knowingly delivering marijuana to another person who does not lawfully hold a valid registry identification card or a valid nonresident card.

(4) Delivering marijuana for consideration to any person, regardless of whether the recipient lawfully holds a valid registry identification card or a valid nonresident card. [Res. 16-005 (Exh. A), 2016. Prior Code § 19-2-20.]

14.80.030 Minors.

(a) It shall be unlawful for any cultivation facility, distribution facility or processing facility to employ any person who is not at least 21 years of age.

(b) Persons under the age of 18 years shall not be allowed on the premises of any cultivation facility, distribution facility or processing facility, unless such individual holds a valid registry identification card or valid nonresident card and is accompanied by their parent or documented legal guardian. [Res. 16-005 (Exh. A), 2016. Prior Code § 19-2-30.]

14.80.040 Deleterious outcomes.

The Tribe, including its officers, employees, agents, representatives, successors, and assigns, shall not be held responsible for any deleterious outcomes from the medical use of marijuana by any person. [Res. 16-005 (Exh. A), 2016. Prior Code § 19-2-40.]

Chapter 14.90

LICENSING

Sections:

14.90.010 Medical marijuana businesses – Operating fee.
14.90.020 Licensure requirement.
14.90.030 Term, renewals and fees.
14.90.040 Eligibility determination.
14.90.050 Grounds for denial of medical marijuana license.
14.90.060 Reconsideration of denial.
14.90.070 License suspension.
14.90.080 Reinstatement.

14.90.010 Medical marijuana businesses – Operating fee.

(a) Each medical marijuana business under the jurisdiction of the Tribe shall be organized under Tribal law.

(b) The Tribal Council shall determine the appropriate number of medical marijuana businesses.

(c) A person who wishes to operate a medical marijuana business shall be required to meet all employment licensing requirements under this chapter.

(d) All operating fees shall be remitted to the Tribe, who shall keep accurate records of all such receipts, and shall be subject to distribution by the Tribal Council in accordance with its usual appropriation procedures for governmental and social services. [Res. 16-005 (Exh. A), 2016. Prior Code § 19-3-10.]

14.90.020 Licensure requirement.

(a) Every employee of a medical marijuana business shall be required to obtain from the Tribal Council or its designee a medical marijuana license as a prerequisite to such employment within the exterior boundaries of the Reservation.

(b) The application for a medical marijuana license shall include the following information:

(1) The name, address, telephone number, email address, social security number and date of birth of the applicant;

(2) Proof that the applicant is at least 21 years of age;

(3) A current photograph of the applicant;

(4) Documentation establishing that the applicant has never been convicted of any felony offense or within the past 10 years of a misdemeanor involving a drug-related offense. For each conviction, the name and address of the court involved and the date and disposition. A “conviction,” within the meaning of this subsection, means a plea or verdict of guilty or a conviction following a plea of nolo contendere;

(5) Currently and for the previous five years: business and employment positions held, ownership interests in those businesses, business and residence addresses, and driver’s license numbers;

(6) A complete set of the applicant’s fingerprints and written permission of the applicant authorizing the Tribal Council or its designee to forward the fingerprints to the Federal Bureau of Investigation for its report;

(7) The names, telephone numbers, email address and current physical address of at least three references, including at least one professional reference;

(8) Written permission of the applicant authorizing the Tribal Council or its designee to seek verification of the information contained within the application; a statement in writing that the applicant pledges to not dispense or otherwise divert marijuana to any person or entity that is not allowed to lawfully possess marijuana;

(9) A statement in writing that the applicant certifies under penalty of perjury that all the information contained in the application is true and correct; and

(10) Any other information the Tribal Council deems relevant.

(c) The medical marijuana license that is issued to the applicant shall include the following printed statement and the application for the license shall require the individual applicant to acknowledge the following warning:

> CAUTION: Federal and tribal laws on the cultivation of marijuana and possession of marijuana and marijuana products differ. In the absence of a federal license, federal

law prohibits the cultivation and possession of marijuana and marijuana products even pursuant to a tribal license. If you are in violation of federal law, you may be prosecuted in federal court, imprisoned, required to pay a fine and restitution and your real and personal property deemed related to the cultivation or violation may be forfeited. A tribal license is not a defense to a federal prosecution and forfeiture.

[Res. 16-005 (Exh. A), 2016. Prior Code § 19-3-20.]

14.90.030 Term, renewals and fees.

(a) Unless otherwise suspended or revoked, a medical marijuana license shall expire three years following its issuance. A person may reapply for a medical marijuana license for subsequent periods of three years.

(b) Every application for a medical marijuana license or renewal shall be accompanied by a nonrefundable license fee, as established by resolution adopted by the Tribal Council from time to time.

(c) All license fees shall be remitted to the Tribal Council through the Tribal Secretary, who shall keep accurate records of all such receipts, and shall be subject to distribution by the Tribal Council in accordance with its usual appropriation procedures for governmental and social services.

(d) The license fee shall not include fingerprinting, photographing or background check costs and shall be in addition to any other fees imposed by the Tribal Council. [Res. 16-005 (Exh. A), 2016. Prior Code § 19-3-30.]

14.90.040 Eligibility determination.

The Tribal Council or its designee shall review an applicant's prior activities, criminal record, if any, and reputation, habits and associations to make a finding concerning the eligibility for employment in a cultivation facility, distribution facility or processing facility. [Res. 16-005 (Exh. A), 2016. Prior Code § 19-3-40.]

14.90.050 Grounds for denial of medical marijuana license.

(a) The grounds for denial of a medical marijuana license shall include, but not be limited to, one or more of the following:

(1) The applicant, within the past 10 years, has violated this division or any state law, statute, rule or regulation relating to the cultivation, processing or distribution of medical marijuana.

(2) The applicant has knowingly made a false statement of material fact or has knowingly omitted to state a material fact in the application for a medical marijuana license.

(3) The applicant has been convicted of a felony offense or within the past 10 years of a misdemeanor involving a drug-related offense. A conviction within the meaning of this subsection means a plea or verdict of guilty or a conviction following a plea of nolo contendere.

(4) A determination by the Tribal Council that employment of the applicant poses a threat to the public interest or to the effective regulation of medical marijuana.

(5) The applicant is under 21 years of age.

(6) The required application or renewal fees have not been paid within a reasonable time. [Res. 16-005 (Exh. A), 2016. Prior Code § 19-3-50.]

14.90.060 Reconsideration of denial.

(a) A person aggrieved by the decision of the Tribal Council or its designee to deny a medical marijuana license may seek reconsideration of such decision to the Tribal Council by filing a written petition for reconsideration with the Tribal Chairman within 30 calendar days of service of the written notice of decision. If a petition for reconsideration is not filed within such time, the decision shall be final.

(b) Following review of a petition for reconsideration, the Tribal Council may issue the medical marijuana license subject to such conditions as it deems reasonable under the circumstances to protect the public health, safety, and welfare of the Tribe and its Tribal members or it may deny the issuance of the

medical marijuana license for any of the grounds specified in this division. The decision of the Tribal Council shall be final and not subject to judicial review. [Res. 16-005 (Exh. A), 2016. Prior Code § 19-3-60.]

14.90.070 License suspension.

(a) If, after the issuance of a license, the Tribal Council receives reliable information indicating that an employee is not eligible for employment under LVPTC 14.90.040, the Tribal Council shall suspend such license and shall notify in writing the licensee of the suspension and the proposed revocation.

(b) The Tribal Council shall notify the licensee of a time and a place for a hearing on the proposed revocation of a license.

(c) After a revocation hearing, the Tribal Council shall decide to revoke or to reinstate a medical marijuana license. The decision of the Tribal Council shall be final and not subject to judicial review. [Res. 16-005 (Exh. A), 2016. Prior Code § 19-3-70.]

14.90.080 Reinstatement.

(a) No person who has had a medical marijuana license revoked may have the license restored except upon order of the Tribal Council after the filing of a petition for reinstatement.

(b) No person may petition for reinstatement until the expiration of at least two years from the effective date of the revocation.

(c) The petition for reinstatement will have the burden of proving by clear, cogent, and convincing evidence that:

(1) The petitioner meets the criteria requirements of LVPTC 14.90.020;

(2) The petitioner has reformed, rehabilitated or otherwise overcome the issue or issues underpinning the revocation;

(3) Permitting the petitioner to resume employment will not be detrimental to the integrity of the Tribe or to the public interest; and

(4) The petitioner paid all fees required under LVPTC 14.90.030. [Res. 16-005 (Exh. A), 2016. Prior Code § 19-3-80.]

Chapter 14.100

CULTIVATING MEDICAL MARIJUANA

Sections:

14.100.010 Cultivation facility operating procedures.
14.100.020 On-site consumption.
14.100.030 Reserved.
14.100.040 Quality assurance – Adulteration prohibited.
14.100.050 Research and development.
14.100.060 Precautions and specific requirements.

14.100.010 Cultivation facility operating procedures.

(a) Each cultivation facility shall establish written operating procedures for the cultivation of medical marijuana. The operating procedures must include the minimum following information:

(1) The manner in which all pesticide and other agricultural chemicals are to be applied during its cultivation process;

(2) The equipment and methods employed in the cultivation of the medical marijuana;

(3) How the cultivated medical marijuana will be transported to a processing facility or distribution facility;

(4) The measures taken to minimize or offset energy use from the cultivation of medical marijuana;

(5) The manner in which chemicals will be stored and used at the premises;

(6) The type and quantity of all effluent discharged into the Tribe's wastewater or stormwater system;

(7) The hours and days of the week the cultivation facility will be open;

(8) The number of persons, per shift, who will be working at the cultivation facility;

(9) The security measures that will be employed at the premises, including but not limited to licensed and uniformed guards, lighting, alarms, and automatic law enforcement notification; and

(10) Any other information required by the Tribal Council.

(b) A copy of all operating procedures must be maintained at every cultivation facility. [Res. 16-005 (Exh. A), 2016. Prior Code § 19-4-10.]

14.100.020 On-site consumption.

The use or consumption of medical marijuana shall be prohibited at each cultivation facility. [Res. 16-005 (Exh. A), 2016. Prior Code § 19-4-20.]

14.100.030 Reserved.

[Res. 16-005 (Exh. A), 2016. Prior Code § 19-4-30.]

14.100.040 Quality assurance – Adulteration prohibited.

All medical marijuana cultivated must be tested for safety and quality assurance. A cultivation facility may not treat or otherwise adulterate medical marijuana with any chemical or other compound whatsoever to alter its color, appearance, weight or smell. [Res. 16-005 (Exh. A), 2016. Prior Code § 19-4-40.]

14.100.050 Research and development.

(a) Research, testing, or other similar facilities located within the exterior boundaries of the Reservation that cultivate medical marijuana for research, testing or distribution to patients or primary caregivers shall be considered a cultivation facility and shall be subject to all applicable regulations and limitations for a cultivation facility.

(b) The cultivation of locally grown and organic marijuana is encouraged. [Res. 16-005 (Exh. A), 2016. Prior Code § 19-4-50.]

14.100.060 Precautions and specific requirements.

(a) Every cultivation facility shall take all reasonable measures and precautions to ensure that the following requirements are met:

(1) All cultivation of marijuana that a cultivation facility carries out or causes to be carried out must take place in an enclosed, locked structure or building.

(2) Any person who, by medical examination or supervisory observation, is shown to have, or appears to have, an illness, open lesion, including boils, sores, or infected wounds, or any other abnormal source of microbial contamination for whom there is a reasonable possibility of contact with medical marijuana shall be excluded from any operations which may be expected to result in such contamination until the condition is corrected.

(3) All persons working in direct contact with medical marijuana shall conform to hygienic practices while on duty, including but not limited to maintaining sufficient personal cleanliness.

(4) Litter and waste shall be properly removed and the operating systems for waste disposal shall be maintained in an adequate manner so that they do not constitute a source of contamination in areas where medical marijuana is exposed.

(5) All floors, walls, and ceilings shall be constructed in such a manner that they may be adequately cleaned and kept clean and in good repair.

(6) Adequate lighting shall be required in all areas where medical marijuana is stored.

(7) Adequate screening or other protection against the entry of pests shall be made. Rubbish shall be disposed of so as to minimize the development of odor and minimize the potential for the waste becoming an attractant, harborage, or breeding place for pests.

(8) All buildings, fixtures, and other facilities shall be maintained in a sanitary condition.

(9) Pesticide chemicals shall be identified, held, and stored in a manner that protects against contamination of medical marijuana, and in a manner that is in accordance with this division and any applicable Tribal, state, or federal law, rule, or regulation.

(b) Cultivation facilities shall be subject to the following specific regulations:

(1) The display or sale of paraphernalia employed in the use or consumption of marijuana or any implement that may be used to administer, use, inhale, consume, smoke or ingest medical marijuana, is prohibited at the cultivation facility.

(2) The cultivation of medical marijuana shall not adversely affect the health or safety of the employees, or the facility in which it is cultivated or processed, or nearby properties through creation of mold, mildew, dust, glare, heat, noise, noxious gases, odor, smoke, traffic, vibration, or other impacts, or be hazardous because of the use or storage of materials, processes, products or wastes.

(3) The cultivation area shall occur only within a self-contained structure that is adequately ventilated.

(4) The cultivation facility shall comply with stormwater, wastewater, and other requirements of the Tribal Council.

(5) The water supply shall be sufficient for the operations intended and shall be derived from a source that is a regulated water system. Private water supplies shall be derived from a water source that is capable of providing a safe, potable, and adequate supply of water to meet the facility's needs.

(6) The plumbing shall be of adequate size and design and adequately installed and maintained to carry sufficient quantities of water and that shall properly convey sewage and liquid disposable waste from the cultivation facility. There shall be no cross-connections between the potable and wastewater lines.

(7) All operations in the receiving, inspecting, transporting, segregating, preparing, manufacturing, packaging, and storing of medical marijuana or medical marijuana product shall be conducted in accordance with adequate sanitation principles.

(8) Every cultivation facility shall provide its employees with adequate and readily accessible toilet facilities that are maintained in a sanitary condition and good repair.

(9) All handwashing facilities shall be adequate and convenient and be furnished with running water at a suitable temperature. Handwashing facilities shall be located in the cultivation facility and where good sanitary practices require employees to wash and/or sanitize their hands, and provide effective hand-cleaning and sanitizing preparations and sanitary towel service or suitable drying devices.

(10) Medical marijuana that can support the rapid growth of undesirable microorganisms shall be held in a manner that prevents the growth of these microorganisms. [Res. 16-005 (Exh. A), 2016. Prior Code § 19-4-60.]

Chapter 14.110

PROCESSING MEDICAL MARIJUANA

Sections:

14.110.010 Processing facility operating procedures.
14.110.020 Food safety course.
14.110.030 Quality assurance.
14.110.040 Precautions and specific requirements.
14.110.050 Medical marijuana concentrates.

14.110.010 Processing facility operating procedures.

Each processing facility shall establish written operating procedures for the processing of medical marijuana. The operating procedures must include the minimum following information:

(a) All applicable provisions contained in LVPTC 14.100.010.

(b) How the medical marijuana will be transported from a processing facility to a distribution facility.

(c) The procedure and documentation process for determining patient dosage including testing for the major active agents in the medical marijuana product (e.g., cannabinoids tetrahydrocannabinol (THC), cannabidiol (CBD) and cannabinol (CBN)).

(d) Require standards for the processing of medical marijuana into food and other edibles by cooking, baking, infusing, or grinding. Such standards shall be no less stringent than the standards of the United States Public Health Service.

(e) Require standards for the packaging of edibles and other similar products. Such packaging shall be nondescript and shall not mimic, resemble or be representational of candy, cookies or other food products that might attract or entice children. [Res. 16-005 (Exh. A), 2016. Prior Code § 19-5-10.]

14.110.020 Food safety course.

(a) Any person who processes medical marijuana into food and other edibles shall be required to provide evidence of completion of a food safety course that includes basic food handling training and is comparable to or is a course given by a state or county public health agency.

(b) Any course taken pursuant to this section must last at least two hours and cover the following subjects:

(1) Causes of foodborne illness, highly susceptible populations and worker illness;

(2) Personal hygiene and food handling practices;

(3) Approved sources of food;

(4) Potentially hazardous foods and food temperatures;

(5) Sanitization and chemical use; and

(6) Emergency procedures (fire, flood, sewer backup). [Res. 16-005 (Exh. A), 2016. Prior Code § 19-5-20.]

14.110.030 Quality assurance.

All medical marijuana processed and each medical marijuana product must be tested for safety and quality assurance, including, but limited to, potency testing, residual solvents testing, microbial testing, aflatoxin testing, pesticide testing, and heavy metal testing. [Res. 16-005 (Exh. A), 2016. Prior Code § 19-5-30.]

14.110.040 Precautions and specific requirements.

(a) Every processing facility shall take all reasonable measures and precautions to ensure that the following requirements are met:

(1) All processing of marijuana that a processing facility carries out or causes to be carried out must take place in an enclosed, locked structure or building.

(2) Any person who, by medical examination or supervisory observation, is shown to have, or appears to have, an illness, open lesion, including boils, sores, or infected wounds, or any other abnormal source of microbial contamination for whom there is a reasonable possibility of contact with medical marijuana shall be excluded from any operations which may be expected to result in such contamination until the condition is corrected.

(3) All persons working in direct contact with medical marijuana shall conform to hygienic practices while on duty, including, but

not limited to, maintaining sufficient personal cleanliness.

(4) Litter and waste shall be properly removed and the operating systems for waste disposal shall be maintained in an adequate manner so that they do not constitute a source of contamination in areas where medical marijuana is exposed.

(5) All floors, walls, and ceilings shall be constructed in such a manner that they may be adequately cleaned and kept clean and kept in good repair.

(6) Adequate lighting shall be required in all areas where medical marijuana is stored.

(7) Adequate screening or other protection against the entry of pests shall be made. Rubbish shall be disposed of so as to minimize the development of odor and minimize the potential for the waste becoming an attractant, harborage, or breeding place for pests.

(8) All buildings, fixtures, and other facilities shall be maintained in a sanitary condition.

(9) Toxic cleaning compounds, sanitizing agents, and solvents used in the production of medical marijuana concentrates shall be identified, held, and stored in a manner that protects against contamination of medical marijuana, and in a manner that is in accordance with this division and any applicable Tribal, state, or federal law, rule, or regulation.

(b) Processing facilities shall be subject to the following specific regulations:

(1) There shall be no on-site use or consumption of medical marijuana.

(2) The display or sale of paraphernalia employed in the use or consumption of marijuana or any implement that may be used to administer, use, inhale, consume, smoke or ingest medical marijuana, is prohibited at the processing facility.

(3) The processing of medical marijuana shall not adversely affect the health or safety of the employees, or the facility in which it is cultivated or processed, or nearby properties through creation of mold, mildew, dust, glare, heat, noise, noxious gases, odor, smoke, traffic, vibration, or other impacts, or be hazardous because of the use or storage of materials, processes, products or wastes.

(4) The processing area shall occur only within a self-contained structure that is adequately ventilated.

(5) The processing facility shall comply with stormwater, wastewater, and other requirements of the Tribe.

(6) The water supply shall be sufficient for the operations intended and shall be derived from a source that is a regulated water system. Private water supplies shall be derived from a water source that is capable of providing a safe, potable, and adequate supply of water to meet the facility's needs.

(7) The plumbing shall be of adequate size and design and adequately installed and maintained to carry sufficient quantities of water and that shall properly convey sewage and liquid disposable waste from the processing facility.

(8) There shall be no cross-connections between the potable and wastewater lines.

(9) All operations in the receiving, inspecting, transporting, segregating, preparing, manufacturing, packaging, and storing of medical marijuana or medical marijuana product shall be conducted in accordance with adequate sanitation principles.

(10) Every processing facility shall provide its employees with adequate and readily accessible toilet facilities that are maintained in a sanitary condition and good repair.

(11) All handwashing facilities shall be adequate and convenient and be furnished with running water at a suitable temperature. Handwashing facilities shall be located in the cultivation facility and where good sanitary practices require employees to wash and/or sanitize their hands, and provide effective hand-cleaning and sanitizing preparations and sanitary towel service or suitable drying devices.

(12) All contact surfaces, including utensils and equipment used for the preparation of a medical marijuana product, shall be cleaned and sanitized as frequently as necessary to protect against contamination. Equipment and utensils shall be so designed and of such ma-

terial and workmanship as to be adequately cleanable, and shall be properly maintained. [Res. 16-005 (Exh. A), 2016. Prior Code § 19-5-40.]

14.110.050 Medical marijuana concentrates.

(a) A processing facility may produce the following concentrates:

(1) Water-based medical marijuana concentrates;

(2) Fat-based medical marijuana concentrates;

(3) Solvent-based medical marijuana concentrate.

(b) A processing facility that engages in the production of medical marijuana concentrates, regardless of the method of extraction or type of concentrate being produced, must:

(1) Ensure that the space in which any medical marijuana concentrate is to be produced is a fully enclosed room and clearly designated.

(2) Establish a standard operating procedure for each method used to produce a medical marijuana concentrate.

(3) Establish written quality control procedures designed to minimize any potential risks to employees or contamination of medical marijuana products.

(4) Ensure that all equipment used in the production of a medical marijuana concentrate is food-grade, including ensuring that all counters and surface areas were constructed in such a manner that it reduces the potential for the development of microbials and mold and can be easily cleaned.

(5) Ensure that all equipment, counters, and surfaces used in the production of a medical marijuana concentrate are thoroughly cleaned after the completion of each production of a medical marijuana concentrate.

(6) Have a comprehensive training manual that provides step-by-step instructions for each method used to produce a medical marijuana concentrate. The training manual must include, but need not be limited to, all standard operating procedures, quality control procedures and safety procedures for each method of production, instructions on the appropriate use and maintenance of all equipment involved in each process, and any cleaning required to comply with all applicable sanitary rules.

(7) Provide adequate training prior to an individual engaging in the production of a medical marijuana concentrate. Adequate training must include, but need not be limited to, providing the appropriate employee or volunteer with the training manual and live, in-person instruction detailing safety procedures for each method of production, instructions on the appropriate use and maintenance of all equipment involved in the process, and any cleaning required to maintain compliance with all applicable sanitary rules.

(8) Maintain clear and comprehensive records that document every phase of each step in the production of the medical marijuana concentrate, which must include the name and license number of every employee or volunteer that worked on the production of that medical marijuana concentrate.

(9) Ensure that the room in which medical marijuana concentrate shall be produced contains an emergency eyewash station.

(c) With respect to critical fluid extraction medical marijuana concentrates, the processing facility must also ensure that the facility and all equipment used in production of the critical fluid extraction medical marijuana concentrate meets the following requirements:

(1) A professional grade, closed-loop extraction system capable of recovering the solvent used.

(2) If a pressurized extraction system is utilized, then every vessel in the system must be rated to a minimum of 900 pounds per square inch.

(3) A sufficient fume hood and exhaust system is installed in the room in which a critical fluid extraction medical marijuana concentrate shall be produced and that the system is fully functioning prior to the production of a critical fluid extraction medical marijuana concentrate.

(4) All flammable material used in the production of a critical fluid extraction medical marijuana concentrate is stored in a storage

tank designed to hold flammable material and is outside of the room in which the concentrates are to be produced.

(5) A sufficient fire-suppression system is installed in the room in which a critical fluid extraction medical marijuana concentrate shall be produced and that the system is fully functioning prior to the production of a critical fluid extraction medical marijuana concentrate.

(6) A hydrocarbon gas monitoring system, a CO_2 gas monitoring system or both, depending on the type of medical marijuana concentrate to be produced, with emergency shutdown relays is installed in the room in which a critical fluid extraction medical marijuana concentrate shall be produced and that the system is fully functioning prior to the production of a critical fluid extraction medical marijuana concentrate.

(7) The room in which a critical fluid extraction medical marijuana concentrate shall be produced is a spark-free environment.

(8) The room in which a critical fluid extraction medical marijuana concentrate shall be produced contains an emergency shower.

(9) Ensure that all fluids used in the extraction process are food-grade and 99 percent pure.

(10) Establish a standard operating procedure for each type of critical fluid extraction medical marijuana concentrate to be produced that is designed to maximize employee safety and minimize potential contamination of products with residual solvents or microbials and mold. [Res. 16-005 (Exh. A), 2016. Prior Code § 19-5-50.]

Chapter 14.120

DISTRIBUTING MEDICAL MARIJUANA

Sections:

14.120.010 Distribution facility operating procedures.
14.120.020 Access.
14.120.030 Duties of distribution facility.
14.120.040 Precautions and specific requirements.
14.120.050 Packaging.
14.120.060 Electronic verification system.

14.120.010 Distribution facility operating procedures.

(a) Each distribution facility shall establish written operating procedures for the distribution of medical marijuana. The operating procedures must include the minimum following information:

(1) All applicable provisions contained in LVPTC 14.100.010 and 14.110.010.

(2) A description of the screening, registration and validation process for consumers.

(3) A description of consumer records acquisition and retention procedures.

(4) The process for tracking medical marijuana quantities and inventory controls including on-site cultivation, processing, and/or medical marijuana products received from outside sources.

(5) The procedure and documentation process for assuring the safety and quality of all medical marijuana and medical marijuana products (including, but not limited to, testing for bacteria, mold, pesticides and other contaminants).

(6) The procedure and documentation process for determining patient dosage including testing for the major active agents in the medical marijuana (e.g., cannabinoids tetrahydrocannabinol (THC), cannabidiol (CBD) and cannabinol (CBN)). [Res. 16-005 (Exh. A), 2016. Prior Code § 19-6-10.]

14.120.020 Access.

(a) Only distribution facility employees, holders of a valid registry identification card or valid nonresident card and persons with bona

fide purposes for visiting the premises shall be permitted access into a distribution facility.

(b) Potential customers shall not visit any distribution facility without first having obtained a valid registry identification card or valid nonresident card.

(c) All other visitors shall remain in a designated waiting area outside of the distribution facility.

(d) Notwithstanding these requirements, nothing shall prohibit law enforcement from entering any area of the facility upon presentation of official credentials identifying them as such. [Res. 16-005 (Exh. A), 2016. Prior Code § 19-6-20.]

14.120.030 Duties of distribution facility.

(a) Each distribution facility shall ensure all of the following:

(1) The weight, concentration and content of THC in all marijuana and edible marijuana products that the distribution facility sells is clearly and accurately stated on the product sold.

(2) That the distribution facility does not sell to a person, in any one 14-day period, an amount of marijuana for medical purposes that exceeds:

(A) One ounce of usable marijuana;

(B) Three mature marijuana plants; and

(C) Four immature marijuana plants.

(3) That, posted clearly and conspicuously within the distribution facility, are the limits on the possession of marijuana for medical purposes, as set forth in subsection (a)(2) of this section.

(b) Each distribution facility shall be staffed with at least one person during hours of operation who shall not be responsible for dispensing medical marijuana. The distribution facility shall have a responsible person who shall be at least 21 years of age and shall be on the premises to act as manager at all times during which the distribution facility is open to the public or any portion thereof. [Res. 16-005 (Exh. A), 2016. Prior Code § 19-6-30.]

14.120.040 Precautions and specific requirements.

(a) The distribution facility shall be subject to the following specific regulations:

(1) The distribution facility shall not have a storefront.

(2) The distribution facility shall only distribute medical marijuana or medical marijuana products to a holder of a valid registry identification card or valid nonresident card or a designated primary caregiver.

(3) The distribution facility shall display rules and regulations in a conspicuous place that is readily seen by all persons entering the distribution facility.

(4) There shall be no on-site use or consumption of medical marijuana. Each building entrance to the distribution facility shall be clearly and legibly posted with a notice indicating that smoking, ingesting or consuming medical marijuana on the premises or in the vicinity of the distribution facility is prohibited.

(5) Alcohol shall not be provided, stored, kept, located, sold, dispensed, or used on the premises.

(6) Each building entrance to the distribution facility shall be clearly and legibly posted with a notice indicating that persons under the age of 18 are precluded from entering the premises unless they are the holder of a valid registry identification card or valid nonresident card and under the supervision of their parent or legal guardian.

(7) The distribution facility shall only distribute medical marijuana or medical marijuana products during normal business hours.

(8) The distribution facility shall strongly discourage and avoid daily or weekly visits by consumers as a routine practice and shall not distribute medical marijuana to any person more than twice a day.

(9) The on-site display of medical marijuana plants visible from the outside shall be prohibited, including live plants or graphic representations of the medical marijuana plant.

(10) The distribution of medical marijuana shall not adversely affect the health or safety of the employees, volunteers or the facility in which it is distributed, or nearby prop-

erties through creation of mold, mildew, dust, glare, heat, noise, noxious gases, odor, smoke, traffic, vibration, or other impacts, or be hazardous because of the use or storage of materials, processes, products or wastes. [Res. 16-005 (Exh. A), 2016. Prior Code § 19-6-40.]

14.120.050 Packaging.

(a) The distribution of medical marijuana or a medical marijuana product is prohibited unless placed within a container designed or constructed to be significantly difficult for children under five years of age to open and not difficult for normal adults to use properly and that does not allow the product to be seen without opening the packaging material.

(b) Every package or unit of medical marijuana or medical marijuana product distributed shall have a label or labels that state the following, as may be applicable:

(1) The name of the consumer.

(2) The name and contact information of the distribution facility.

(3) An identification and tracking number for the specific package or unit of medical marijuana, or medical marijuana product.

(4) The species or strain of the medical marijuana.

(5) Identification of the strength and dosage of the medical marijuana.

(6) A statement that the medical marijuana or medical marijuana product has been tested for safety and quality assurance and that the testing results, and chain of custody information are available by contacting the distribution facility.

(c) The following warning placed in a conspicuous location on the package:

> Medicinal product – keep out of reach of children. Smoking may be hazardous to the health of the user, and smoking by pregnant women may result in fetal injury, premature birth and low birth weight. Further, ingestion of marijuana in any form may be hazardous to the health of the user and may impair the judgment of the user.

(d) The following specific requirements for edible medical marijuana products:

(1) List of all ingredients used to manufacture the edible medical marijuana product; which may include a list of any potential allergens contained within, or used in the manufacture of, the product.

(2) A statement that the medical marijuana product, if perishable, must be refrigerated.

(3) A product expiration date, for perishable medical marijuana products, upon which the product will no longer be fit for consumption, or a use-by date, upon which the product will no longer be optimally fresh. Once a label with a use-by or expiration date has been affixed to a container of a medical marijuana product, it may not be altered in any way or have a new label affixed with a later use-by or expiration date. [Res. 16-005 (Exh. A), 2016. Prior Code § 19-6-50.]

14.120.060 Electronic verification system.

(a) Each distribution facility shall maintain an electronic verification system.

(b) The electronic verification system must be able to monitor and report information, including, without limitation:

(1) For each person who holds a valid registry identification card or a nonresident card and who purchased marijuana from the dispensary in the immediately preceding 60-day period;

(2) The number of the card;

(3) The date on which the card was issued;

(4) The date on which the card will expire;

(5) Verification of the identity of a person to whom marijuana or medical marijuana products are sold or otherwise distributed; and

(6) Such other information as the Tribal Council may require.

(c) Nothing in this section prohibits more than one distribution facility from co-owning an electronic verification system in cooperation with another distribution facility, or sharing the information obtained therefrom.

(d) A distribution facility must exercise reasonable care to ensure that the personal identifying information of persons who hold valid

registry identification cards or valid nonresident cards which is contained in an electronic verification system is encrypted, protected and not divulged for any purpose not specifically authorized by law. [Res. 16-005 (Exh. A), 2016. Prior Code § 19-6-60.]

Chapter 14.130

TRANSPORTATION OF MEDICAL MARIJUANA

Sections:

14.130.010 Transportation.
14.130.020 Shipping containers.
14.130.030 Transportation security program.
14.130.040 Transportation outside the state.

14.130.010 Transportation.

(a) Provided, that appropriate in-transit security measures are taken, the delivery or transportation of medical marijuana or medical marijuana products between facilities and laboratories within the exterior boundaries of the Reservation is permitted.

(b) Any person who while transporting or delivering medical marijuana or medical marijuana products shall not possess or carry on his person or in his vehicle (1) an amount of medical marijuana not associated with a specific receipt or invoice, (2) an amount of cash not associated with a specific receipt or invoice, (3) one or more weapons, or (4) illicit drugs. [Res. 16-005 (Exh. A), 2016. Prior Code § 19-7-10.]

14.130.020 Shipping containers.

(a) Every medical marijuana business shall be responsible for sealing all shipping containers of medical marijuana or medical marijuana products immediately upon the conclusion of the safe and secure stuffing process and must keep a record of each seal number.

(b) Only management employees at a receiving facility or federal, state and local government officials having custody of a shipping container of medical marijuana or medical marijuana products may break the seal for legitimate reasons. [Res. 16-005 (Exh. A), 2016. Prior Code § 19-7-20.]

14.130.030 Transportation security program.

(a) Every medical marijuana business shall establish a detailed transportation security program, approved by the Tribal Council,

which shall include at a minimum the following:

(1) Standards and procedures to enhance the physical security of shipping containers, including standards for seals and locks.

(2) Standards and procedures for screening and evaluating shipping containers prior to transportation and upon delivery at the distribution facility.

(3) Standards and procedures for securing shipping containers and monitoring that security while in transit.

(4) Standards and procedures for allowing government officials to ensure and validate compliance with this program.

(5) Any other measures the Tribal Council considers necessary to ensure the security and integrity of transporting medical marijuana or medical marijuana products. [Res. 16-005 (Exh. A), 2016. Prior Code § 19-7-30.]

14.130.040 Transportation outside the state.

Delivery or transportation of medical marijuana or medical marijuana products outside of the state of Nevada is prohibited. [Res. 16-005 (Exh. A), 2016. Prior Code § 19-7-40.]

Chapter 14.140

SECURITY, SITE MANAGEMENT AND INVENTORY CONTROL

Sections:

14.140.010 Security and site management.
14.140.020 Disturbances of the peace.
14.140.030 Inventory control system.
14.140.040 Audits.
14.140.050 Training.

14.140.010 Security and site management.

(a) Every medical marijuana business shall provide adequate security for all facilities and laboratories, which shall include at a minimum the following:

(1) All employees shall be required to hold and properly display a current identification badge issued by the Tribe at all times. Proper display of the license badge shall consist of wearing the badge in a plainly visible manner, at or above the waist, and with the photo of the holder visible. The holder shall not alter, obscure, damage, or deface the badge in any manner.

(2) Security surveillance cameras shall be installed and maintained in good working condition to monitor the main entrance and exterior of all facilities and laboratories to discourage loitering, crime, illegal or nuisance activities. Security video shall be maintained for a minimum of 72 hours.

(3) Professionally monitored robbery alarm and burglary alarm systems shall be installed and maintained in good working condition.

(4) Professionally monitored fire alarm and fire suppression systems shall be installed and maintained in good working condition.

(5) At all times, there shall be at least one licensed, uniformed security guard or a Tribal police officer present and visible on the premises of all facilities and laboratories.

(6) All points of ingress and egress shall have commercial-grade, nonresidential door locks. [Res. 16-005 (Exh. A), 2016. Prior Code § 19-8-10.]

14.140.020 Disturbances of the peace.

Every medical marijuana business shall take all reasonable steps to discourage and correct disturbances of peace, open public consumption of marijuana or alcohol, excessive pedestrian or vehicular traffic, illegal drug activity, harassment of passersby, excessive littering, excessive loitering, illegal parking, excessive loud noises, especially late at night or early in the morning hours, lewd conduct or police detentions and arrests. [Res. 16-005 (Exh. A), 2016. Prior Code § 19-8-20.]

14.140.030 Inventory control system.

(a) Every medical marijuana business shall maintain an inventory control system.

(b) The inventory control system must be able to monitor and report information, including, without limitation:

(1) Insofar as is practicable, the chain of custody and current whereabouts, in real time, of medical marijuana from the point that it is harvested at a cultivation facility until it is sold at a distribution facility and, if applicable, if it is processed at a facility for the production of medical marijuana products;

(2) The name of any person or foreign cultivation facility from whom the distribution facility purchased marijuana;

(3) The name of each person to whom the medical marijuana business sold marijuana;

(4) The date on which the distribution facility sold marijuana to a person who holds a registry identification card or nonresident card and, if any, the quantity of medical marijuana products sold, measured both by weight and potency; and

(5) Such other information as the Tribal Council may require.

Nothing in this section prohibits a cultivation facility, processing facility or distribution facility from co-owning an inventory control system in cooperation with other facilities, or sharing the information obtained therefrom. [Res. 16-005 (Exh. A), 2016. Prior Code § 19-8-30.]

14.140.040 Audits.

(a) Each medical marijuana business shall cause to be prepared an annual financial statement of every cultivation facility, processing facility and distribution facility using generally accepted accounting principles that are audited by an independent certified public accountant in conformity with generally accepted auditing standards.

(b) Every medical marijuana business shall undergo an annual health and sanitary audit of any facility by an independent consultant. The scope of the audit may include, but not be limited to, whether each facility and laboratory is in compliance with the requirements set forth in this division and other applicable health, sanitary or food handling laws, rules and regulations. Failure to perform the independent audit may result in suspension of operations until the completion of the independent audit and the implementation of any required remedial measures is made. [Res. 16-005 (Exh. A), 2016. Prior Code § 19-8-40.]

14.140.050 Training.

All employees shall receive appropriate training for their intended duties to ensure understanding of rules and procedures regarding medical marijuana in compliance with this division. [Res. 16-005 (Exh. A), 2016. Prior Code § 19-8-50.]

Chapter 14.150

MISCELLANEOUS PROVISIONS

Sections:

14.150.010 Severability.
14.150.020 Interpretation and applicability.
14.150.030 Renumbering and redesignation.
14.150.040 Effective date.
14.150.050 Violations.

14.150.010 Severability.

The provisions of this title are declared to be separate and severable. If the Tribal Court shall adjudge to be invalid or unconstitutional any clause, sentence, paragraph, section, article or part of this title, such judgment or decree shall not affect, impair, invalidate or nullify the remainder of this title, but the effect thereof shall be confined to the clause, sentence, paragraph, section, article or chapter of this title adjudged to be invalid or unconstitutional. [Res. 16-005 (Exh. A), 2016. Prior Code § 19-9-10.]

14.150.020 Interpretation and applicability.

(a) No part of this title shall be deemed to be in positive conflict with federal law as contained in the Controlled Substances Act, 21 U.S.C. § 800 et seq., nor to otherwise permit any activity that is prohibited under that Act or any other Tribal, state or federal law, statute, rule or regulation.

(b) Nothing in this title is intended, nor shall it be construed, to burden any defense to criminal prosecution otherwise afforded by Tribal or state law.

(c) Nothing in this title is intended, nor shall it be construed, to make legal any cultivation, transportation, sale, or other use of marijuana that is otherwise prohibited under Tribal or state law. [Res. 16-005 (Exh. A), 2016. Prior Code § 19-9-20.]

14.150.030 Renumbering and redesignation.

Authority is given to the compiler of the laws of the Tribe to renumber, redesignate, or to cite the provisions of this title as necessary for uniformity and accessibility. [Res. 16-005 (Exh. A), 2016. Prior Code § 19-9-30.]

14.150.040 Effective date.

This title shall be in full force and effect according to its terms upon adoption by the Tribal Council. [Res. 16-005 (Exh. A), 2016. Prior Code § 19-9-40.]

14.150.050 Violations.

Any violation of this title is subject to administrative, civil, or criminal penalties, in addition to being subject to other remedies provided by law, including but not limited to injunctive relief and revocation of the medical marijuana license. [Res. 16-005 (Exh. A), 2016. Prior Code § 19-9-50.]

Chapter 14.160

REGULATION OF DELIVERY

Sections:

14.160.010 Delivery to consumer – General requirements.
14.160.020 Delivery to consumer – Duties of retail marijuana store.
14.160.030 Delivery to consumer – Restrictions – Duties of marijuana establishment agent making delivery.
14.160.040 Delivery to consumer – Requirements for motor vehicles used to make deliveries – Adequate temperature control of products required – Inspection of motor vehicles authorized.

14.160.010 Delivery to consumer – General requirements.

Deliveries shall not occur from a Tribal marijuana establishment or a third party shall not deliver marijuana or marijuana products to a consumer unless:

(a) The delivery is made by a marijuana establishment agent who holds a marijuana establishment agent registration card in the category of retail marijuana store;

(b) The delivery is made by a marijuana establishment agent employed by a retail marijuana store or by an independent contractor:

(1) Which has entered into a service agreement with a retail marijuana store to perform deliveries to consumers using only agents who hold a marijuana establishment agent registration card in the category of retail marijuana store; and

(2) Whose name has been disclosed to the Authority before any deliveries are made;

(c) The name of the retail marijuana store and all independent contractors who perform deliveries on behalf of the retail marijuana store have been published on the website of the Las Vegas Paiute Tribe;

(d) The Authority has received confirmation from the retail marijuana store, before a person engages in the delivery process, including, without limitation, accepting an order or physically delivering marijuana or marijuana products, that the person is employed by, volunteers at or provides labor as a marijuana establishment agent at the retail marijuana store and holds a valid marijuana establishment agent registration card in the appropriate category;

(e) The marijuana establishment agent who delivers marijuana or marijuana products to a consumer obtains verification of the identity and age of the consumer by scanning one of the following identification documents before providing the marijuana or marijuana products to the consumer:

(1) Driver's license or instruction permit issued by any state or territory of the United States;

(2) Identification card issued by any state or territory of the United States for the purpose of proof of age of the holder of the card;

(3) United States military identification card;

(4) A merchant mariner credential or other similar document issued by the United States Coast Guard;

(5) A passport issued by the United States government or a permanent resident card issued by the United States Citizenship and Immigration Services of the Department of Homeland Security; or

(6) A tribal identification card issued by a tribal government, which requires proof of the age of the holder of the card for issuance;

(f) The marijuana establishment agent who delivers marijuana or marijuana products to a consumer does not also deliver any other item to the consumer unless the item is marijuana paraphernalia or merchandise, packaging or a promotional item directly related to the marijuana or marijuana product;

(g) The delivery is conducted only during the hours that the retail marijuana store is open for business;

(h) The delivery is conducted only within the borders of the state of Nevada. The marijuana establishment agent who delivers marijuana or marijuana products only travels to and from the retail marijuana store and the delivery destination and does not make any

unnecessary stops that are not disclosed in the trip plan and delivery manifest. If the marijuana establishment agent makes a stop for fuel, the stop must be documented in the trip plan and maintained for review; and

(i) If the retail marijuana store contracts with a service that provides a digital or other platform used in conjunction with an agreement to facilitate deliveries to consumers, the digital or other platform is approved by the Authority. [Res. 19-009 (Exh. A), 2019. Prior Code § 19-10-10.]

14.160.020 Delivery to consumer – Duties of retail marijuana store.

(a) A retail marijuana store delivering marijuana or marijuana products to a consumer shall:

(1) Ensure that all marijuana and marijuana products are secured at all times during delivery; and

(2) Maintain a physical or electronic copy of a delivery manifest generated using the seed-to-sale tracking system that contains all the information required by this section in a format approved by the Authority.

(b) A retail marijuana store may deliver marijuana or marijuana products to more than one consumer in a single trip if the delivery manifest correctly reflects the specific inventory destined for each specific consumer and location.

(c) Before delivering marijuana or marijuana products to a consumer, the retail marijuana store shall enter the information required to indicate that the marijuana or marijuana products will be delivered to a consumer into the seed-to-sale tracking system.

(d) A retail marijuana store shall not alter the information which has been entered into the seed-to-sale tracking system pursuant to subsection (c) of this section.

(e) If a marijuana establishment agent is not able to deliver marijuana or marijuana products directly to the consumer who ordered the marijuana or marijuana products, the marijuana establishment agent shall return the marijuana or marijuana products to the retail marijuana store.

(f) A retail marijuana store shall provide a copy of the delivery manifest generated using the seed-to-sale tracking system to each consumer who receives a delivery of marijuana or marijuana products. The copy of a delivery manifest provided to a consumer pursuant to this subsection must be generated separately for each consumer and not contain the information of any other consumer.

(g) The delivery manifest generated using the seed-to-sale tracking system must include, without limitation:

(1) The date and approximate time of the delivery;

(2) The name, location, address and license number of the retail marijuana store;

(3) The name, location and address of each consumer;

(4) The name and quantity, by weight and unit, of each item to be delivered to each consumer;

(5) The make, model, license plate number and number of the identification card of the vehicle used for delivery; and

(6) The name, number of the marijuana establishment agent registration card and signature of each marijuana establishment agent performing or accompanying the delivery of the marijuana or marijuana products.

(h) In addition to the requirements of this section, the retail marijuana store shall ensure that each delivery satisfies the requirements for seed-to-sale tracking and inventory control established in these regulations.

(i) Before marijuana or marijuana products leave the retail marijuana store for delivery, the retail marijuana store shall adjust its records to reflect the removal of the marijuana or marijuana products in a manner that reflects the information included in the delivery manifest generated using the seed-to-sale tracking system and that can be easily reconciled, by the name and quantity of the marijuana or marijuana products, with the delivery manifest.

(j) After delivery of marijuana or marijuana products, the retail marijuana store shall ensure that the trip plan, including any changes to the trip plan, is accurate.

(k) Any marijuana or marijuana product which is damaged, undeliverable to the consumer or refused by the consumer must be delivered back to the retail marijuana store and reconciled by the retail marijuana store in the seed-to-sale tracking system.

(l) A retail marijuana store shall not deliver any marijuana or marijuana products unless the retail marijuana store can reconcile the delivery of marijuana or marijuana products with the seed-to-sale tracking system and all associated transaction history and order receipts.

(m) A retail marijuana store must reconcile all transactions to the seed-to-sale tracking system at the close of business each day.

(n) A retail marijuana store shall ensure that all information contained in a delivery manifest generated using the seed-to-sale tracking system is accurate for each delivery that is completed.

(o) A retail marijuana store shall maintain all documents required by this section. [Res. 19-009 (Exh. A), 2019. Prior Code § 19-10-20.]

14.160.030 Delivery to consumer – Restrictions – Duties of marijuana establishment agent making delivery.

(a) A retail marijuana store shall not deliver more than five ounces of marijuana or an equivalent amount of marijuana products to any combination of consumers within a single trip.

(b) A retail marijuana store shall not deliver marijuana or marijuana products to a consumer at any location that has been issued a gaming license, as defined in NRS 463.0159.

(c) A retail marijuana store may only deliver marijuana or marijuana products to a private residence and shall not deliver more than one ounce of marijuana or an equivalent amount of marijuana products to any consumer.

(d) A retail marijuana store shall not deliver marijuana or marijuana products to any person other than the consumer who ordered the marijuana or marijuana products. Before delivering marijuana or marijuana products to a consumer, the marijuana establishment agent delivering the marijuana or marijuana products for a retail marijuana store shall:

(1) Confirm by telephone that the consumer ordered the marijuana or marijuana products and verify the identity of the consumer; and

(2) Enter the details of such a confirmation in a log which must be made available for inspection by the Authority.

(e) A retail marijuana store shall not allow a marijuana establishment agent to deliver marijuana or marijuana products unless the marijuana or marijuana products are:

(1) Stored in a lockbox or locked cargo area within the vehicle being used for delivery;

(2) Not visible from outside the vehicle; and

(3) Contained in sealed packages and containers which remain unopened during delivery.

For the purpose of this subsection, the trunk of a vehicle is not considered to be a lockbox or locked cargo area unless the trunk cannot be accessed from within the vehicle and can only be accessed using a key which is different from the key used to access and operate the vehicle.

(f) A retail marijuana store shall ensure that a marijuana establishment agent delivering marijuana or marijuana products for the retail marijuana store has a means of communicating with the retail marijuana store while he or she provides delivery.

(g) A person shall not be present within any vehicle while it is being used for the delivery of marijuana or marijuana products unless the person is a marijuana establishment agent for the retail marijuana store providing delivery of the marijuana or marijuana products or an independent contractor retained by the retail marijuana store to provide delivery.

(h) Each marijuana establishment agent delivering marijuana or marijuana products must:

(1) Report to a person designated by the marijuana establishment to receive such reports any motor vehicle crash that occurs dur-

ing the delivery within two hours after the crash occurs;

(2) Report to the Authority any unauthorized stop that lasts longer than two hours; and

(3) Report to a person designated by the marijuana establishment to receive such reports any loss or theft of marijuana or marijuana products that occurs during the delivery immediately after the marijuana establishment agent becomes aware of the loss or theft. A retail marijuana store that receives a report of loss or theft pursuant to this subsection must immediately report the loss or theft to the Authority and the Las Vegas Paiute Tribal Police Department. [Res. 19-009 (Exh. A), 2019. Prior Code § 19-10-30.]

14.160.040 Delivery to consumer – Requirements for motor vehicles used to make deliveries – Adequate temperature control of products required – Inspection of motor vehicles authorized.

(a) A retail marijuana store may use any motor vehicle that can legally be operated on the highways of the state of Nevada and that meets the requirements of this section to deliver marijuana and marijuana products.

(b) Before using a motor vehicle to deliver marijuana or marijuana products, a retail marijuana store must obtain the approval of the Authority for the use of the motor vehicle. Upon approving a motor vehicle for use to deliver marijuana or marijuana products, the Authority will issue an identification card containing such information as the Authority determines to be necessary, which must be kept inside the motor vehicle at all times.

(c) A retail marijuana store shall ensure that each motor vehicle used to deliver marijuana or marijuana products:

(1) Has no advertising, signage or other markings relating to marijuana; and

(2) Is equipped with an audible car alarm.

(d) A retail marijuana store shall provide adequate care for perishable marijuana products including, without limitation, refrigeration during delivery, if required. Any method for temperature control used during delivery must be approved by the Authority before use. If a potentially hazardous marijuana product is being delivered, the potentially hazardous marijuana product must be maintained at a temperature of less than 41°F (5°C) throughout delivery.

(e) The Authority may inspect each motor vehicle used for delivery of marijuana or marijuana products by a retail marijuana store. [Res. 19-009 (Exh. A), 2019. Prior Code § 19-10-40.]

Division III. Regulation and Taxation of Recreational Marijuana

Chapter 14.170

GENERAL PROVISIONS

Sections:

14.170.010 Short title.
14.170.020 Findings and purpose.
14.170.030 Definitions.
14.170.040 Effect.
14.170.050 Exemption from prosecution for certain acts.
14.170.060 Additional exemptions from prosecutions for certain acts.
14.170.070 No crime for certain acts involving marijuana paraphernalia.

14.170.010 Short title.

This division may be cited as the regulation and taxation of recreational marijuana ordinance. [Res. 17-011, 2017. Prior Code § 19A-1-10.]

14.170.020 Findings and purpose.

The Las Vegas Paiute Tribe hereby finds and declares that:

(a) The United States recognizes Indian tribes as domestic dependent nations with sovereignty over their members and territories.

(b) Pursuant to the Tribe's Constitution, the Tribal Council has the authority to adopt ordinances and to promote the general welfare of the Tribe.

(c) The federal Controlled Substances Act, 21 U.S.C. § 801 et seq., classifies marijuana as a Schedule 1 drug and prohibits any possession or use of marijuana except in the course of federally approved research projects. The Controlled Substances Act makes it unlawful under federal law for any person to cultivate, manufacture, distribute, disperse or possess with intent to manufacture, distribute or disperse, marijuana.

(d) In November 2016, the voters of the state of Nevada passed Question 2, an initiative to legalize, regulate and tax recreational marijuana in Nevada. The language of Question 2 is codified at Chapter 453D NRS.

(e) The Tribe has decided to open certain lands within its jurisdiction to the possession, consumption, cultivation, processing and distribution of recreational marijuana by enacting this division.

(f) It is in the interest of public health and public safety to declare that the use of marijuana should be legal for persons 21 years of age and older and that the cultivation and sale of marijuana should be regulated similar to other legal businesses.

(g) The cultivation and sale of marijuana should be taken away from criminals and regulated under a controlled system where businesses will be taxed and the revenue will be dedicated to education, economic opportunity, and the enforcement of the regulations in this title.

(h) Marijuana shall be regulated in a manner similar to alcohol so that:

(1) All marijuana businesses on Tribal land shall be owned and/or operated by the Tribe.

(2) Cultivating, manufacturing, testing, transporting and selling marijuana will be strictly controlled through licensing and regulation.

(3) Selling or providing marijuana to persons under 21 years of age shall remain illegal.

(4) Marijuana sold on Tribal lands will be tested and labeled. [Res. 17-011, 2017. Prior Code § 19A-1-20.]

14.170.030 Definitions.

"Concentrated marijuana" means the separated resin, whether crude or purified, obtained from marijuana.

"Consumer" means a person who is 21 years of age or older who purchases marijuana or marijuana products for use by persons 21 years of age or older, but not for resale to others.

"Department" means the Nevada Department of Taxation.

"Dual licensee" means a person or group of persons who possess a current, valid registra-

tion certificate to operate a medical marijuana establishment pursuant to this title.

"Excluded felony offense" means a conviction of an offense that would constitute a Category A felony if committed in the state of Nevada or convictions for two or more offenses that would constitute felonies if committed in Nevada. It does not include:

(1) A criminal offense for which the sentence, including probation, incarceration or supervised release, was completed more than 10 years ago; or

(2) An offense involving conduct that would be immune from arrest, prosecution or penalty under this title or Chapter 493A NRS.

"Marijuana" means all parts of any plant of the genus Cannabis, whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. "Marijuana" does not include:

(1) The mature stems of the plant, fiber produced from the stems, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stems (except the resin extracted therefrom), fiber, oil, or cake, the sterilized seed of the plant which is incapable of germination; or

(2) The weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other products.

"Marijuana cultivation facility" means an entity that cultivates, processes and packages marijuana, that has marijuana tested by a marijuana testing facility, and that sells marijuana to retail stores, to marijuana product manufacturing facilities, and to other marijuana cultivation facilities, but not to consumers.

"Marijuana distributor" means an entity that transports marijuana from a marijuana establishment to another marijuana establishment.

"Marijuana establishment" means a marijuana cultivation facility, a marijuana testing facility, a marijuana product manufacturing facility, a marijuana distributor, or a marijuana retail store.

"Marijuana paraphernalia" means any equipment, products, and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, preparing, testing, analyzing, packaging, repacking, storing, or containing marijuana, or for ingesting, inhaling or otherwise introducing marijuana into the human body.

"Marijuana product manufacturing facility" means an entity that purchases marijuana, manufactures, processes and packages marijuana and marijuana products, and sells marijuana and marijuana products to other marijuana product manufacturing facilities and to retail marijuana stores, but not to consumers.

"Marijuana products" means products composed of marijuana or concentrated marijuana and other ingredients that are intended for use or consumption, such as, but not limited to, edible products, ointments and tinctures.

"Marijuana testing facility" means an entity licensed by the Department to test marijuana and marijuana products, including for potency and contaminants.

"NRS" refers to Nevada Revised Statutes.

"Process" means to harvest, dry, cure, trim, and separate parts of the marijuana plant.

"Retail marijuana store" means an entity that purchases marijuana from marijuana cultivation facilities, that purchases marijuana and marijuana products from marijuana product manufacturing facilities and retail marijuana stores, and that sells marijuana and marijuana products to consumers.

"State" refers to the state of Nevada.

"Unreasonably impracticable" means that the measure necessary to comply with the regulations requires such a high investment of risk, money, time or any other resource or asset that the operation of a marijuana establishment is not worthy of being carried out in practice by a reasonably prudent businessperson. [Res. 17-011, 2017. Prior Code § 19A-1-30.]

14.170.040 Effect.

(a) The provisions of this division do not permit any person to engage in and do not prevent the imposition of any civil, criminal, or other penalty for:

(1) Driving, operating, or being in actual physical control of a vehicle, aircraft, or vessel under power or sail while under the influence of marijuana or while impaired by marijuana;

(2) Knowingly delivering, giving, selling, administering, or offering to sell, administer, give, or deliver marijuana to a person under 21 years of age, unless:

(A) The recipient is permitted to possess marijuana pursuant to this title or Chapter 453A NRS; or

(B) The person demanded and was shown bona fide documentary evidence of the majority and identity of the recipient issued by a federal, state, county, or municipal government, or subdivision or agency thereof;

(3) Undertaking any task under the influence of marijuana that constitutes negligence or professional malpractice.

(b) The provisions of this division do not prohibit:

(1) A public or private employer from maintaining, enacting, and enforcing a workplace policy prohibiting or restricting actions or conduct otherwise permitted under this division;

(2) A state or local government agency that occupies, owns, or controls a building from prohibiting or otherwise restricting the consumption, cultivation, processing, manufacture, sale, delivery, or transfer of marijuana in that building; or

(3) A person who occupies, owns, or controls a privately owned property from prohibiting or otherwise restricting the smoking, cultivation, processing, manufacture, sale, delivery, or transfer of marijuana on that property.

(c) Nothing in the provisions of this division shall be construed as in any manner affecting the provisions of this title or Chapter 453A NRS relating to the medical use of marijuana. [Res. 17-011, 2017. Prior Code § 19A-1-40.]

14.170.050 Exemption from prosecution for certain acts.

Notwithstanding any other provision of Tribal law, state law and the law of any political subdivision of the state, except as otherwise provided in this division, it is lawful, and must not be used as the basis for prosecution or penalty by the Tribe, and must not be a basis for seizure or forfeiture of assets for persons 21 years of age or older to:

(a) Possess, use, consume, purchase, obtain, process, or transport marijuana paraphernalia, one ounce or less of marijuana other than concentrated marijuana, or one-eighth of an ounce or less of concentrated marijuana;

(b) Give or otherwise deliver one ounce or less of marijuana, other than concentrated marijuana, or one-eighth of an ounce or less of concentrated marijuana without remuneration to a person; provided, that the transaction is not advertised or promoted to the public; or

(c) Assist another person who is 21 years of age or older in any of the acts described in this section. [Res. 17-011, 2017. Prior Code § 19A-1-50.]

14.170.060 Additional exemptions from prosecutions for certain acts.

Notwithstanding any other provision of Tribal law, state law and the law of any political subdivision of the state, except as otherwise provided in this division or the regulations adopted pursuant to this division, it is lawful and must not be used as the basis for prosecution or penalty by the Tribe or be a basis for seizure or forfeiture of assets for persons 21 years of age or older to:

(a) Possess marijuana and marijuana products, purchase marijuana from a marijuana cultivation facility, purchase marijuana and marijuana products from a marijuana product manufacturing facility, return marijuana or marijuana products to a facility from which they were purchased, transport marijuana and marijuana products to or from a marijuana testing facility, use the services of a marijuana distributor to transport marijuana or marijuana products to or from marijuana establishments, or sell marijuana and marijuana

products to consumers, if the person conducting the activities described in this subsection has a current, valid license to operate a retail marijuana store or is acting in the person's capacity as an agent of a retail marijuana store.

(b) Cultivate, harvest, process, package, or possess marijuana, sell marijuana to a marijuana cultivation facility, a marijuana product manufacturing facility, or a retail marijuana store, transport marijuana to or from a marijuana cultivation facility, a marijuana product manufacturing facility, or a marijuana testing facility, use the services of a marijuana distributor to transport marijuana to or from marijuana establishments, or purchase marijuana from a marijuana cultivation facility, if the person conducting the activities described in this subsection has a current, valid license to operate a marijuana cultivation facility or is acting in his or her capacity as an agent of a marijuana cultivation facility.

(c) Package, process, manufacture, or possess marijuana and marijuana products, transport marijuana and marijuana products to or from a marijuana testing facility, a marijuana cultivation facility, or a marijuana product manufacturing facility, use the services of a marijuana distributor to transport marijuana or marijuana products to or from marijuana establishments, sell marijuana and marijuana products to a retail marijuana store or a marijuana product manufacturing facility, purchase marijuana from a marijuana cultivation facility, or purchase marijuana and marijuana products from a marijuana product manufacturing facility, if the person conducting the activities described in this subsection has a current, valid license to operate a marijuana product manufacturing facility or is acting in his or her capacity as an agent of a marijuana product manufacturing facility.

(d) Possess marijuana and marijuana products and transfer and transport marijuana and marijuana products between marijuana establishments, if the person transporting the marijuana and marijuana products has a current, valid license to operate as a marijuana distributor or is acting in his or her capacity as an agent of a marijuana distributor.

(e) Possess, process, repackage, transport, or test marijuana and marijuana products if the person has a current, valid license to operate a marijuana testing facility or is acting in his or her capacity as an agent of a marijuana testing facility.

(f) Lease or otherwise allow property owned, occupied, or controlled by any person, corporation, or other entity to be used for any of the activities conducted lawfully in accordance with this section. [Res. 17-011, 2017. Prior Code § 19A-1-60.]

14.170.070 No crime for certain acts involving marijuana paraphernalia.

Notwithstanding any other provision of Tribal law, state law and the law of any political subdivision of the state, it is not unlawful and shall not be an offense or be a basis for seizure or forfeiture of assets for persons 21 years of age or older to manufacture, possess, use, transport, or purchase marijuana paraphernalia, or to distribute or sell marijuana paraphernalia to a person who is 21 years of age or older. [Res. 17-011, 2017. Prior Code § 19A-1-70.]

Chapter 14.180

REGULATIONS

Sections:

14.180.010 Enforcement of contracts.
14.180.020 Ownership of marijuana establishments.
14.180.030 Regulations.
14.180.040 Individual privacy.
14.180.050 No marijuana establishments by school.
14.180.060 Prohibitions on operators of marijuana establishments.

14.180.010 Enforcement of contracts.

It is the public policy of the Tribe that contracts related to marijuana under this division and under Chapter 453D NRS should be enforceable and shall not be deemed unenforceable on the basis that the actions or conduct permitted pursuant to the license are prohibited by federal law. [Res. 17-011, 2017. Prior Code § 19A-2-10.]

14.180.020 Ownership of marijuana establishments.

All marijuana establishments on Tribal lands shall be owned by the Tribe. Neither non-Tribal members nor individual Tribal members may own such marijuana establishments. [Res. 17-011, 2017. Prior Code § 19A-2-20.]

14.180.030 Regulations.

The Tribe shall adopt regulations as necessary to carry out the provisions of this division. These regulations must not prohibit the operation of marijuana establishments, either expressly or through regulations that make their operation unreasonably impracticable.

For the classes of regulations identified below, the Tribe's regulations shall be at least as restrictive as those of the state:

(a) Requirements for the security of marijuana establishments;

(b) Requirements to prevent the sale or diversion of marijuana and marijuana products to persons under 21 years of age;

(c) Requirements for the packaging of marijuana and marijuana products, including requirements for child-resistant packaging;

(d) Requirements for the testing and labeling of marijuana and marijuana products sold by marijuana establishments including a numerical indication of potency based on the ratio of THC to the weight of a product intended for oral consumption;

(e) Requirements for record keeping by marijuana establishments;

(f) Procedures for the collection of taxes, fees, and penalties imposed by this division; and

(g) Procedures and requirements to enable a dual licensee to operate medical marijuana establishments and marijuana establishments at the same location. [Res. 17-011, 2017. Prior Code § 19A-2-30.]

14.180.040 Individual privacy.

To ensure that individual privacy is protected:

(a) The Tribe shall not require a consumer to provide a retail marijuana store with identifying information other than government-issued identification to determine the consumer's age; and

(b) A retail marijuana store shall not acquire and record personal information about consumers other than information typically acquired in a financial transaction conducted at a retail liquor store. [Res. 17-011, 2017. Prior Code § 19A-2-40.]

14.180.050 No marijuana establishments by school.

No marijuana establishment shall be located within 1,000 feet of a public or private school that provides formal education traditionally associated with preschool or kindergarten through grade 12 and that existed as of July 31, 2017. [Res. 17-011, 2017. Prior Code § 19A-2-50.]

14.180.060 Prohibitions on operators of marijuana establishments.

Persons who operate marijuana establishments must have not been convicted of an excluded felony offense. [Res. 17-011, 2017. Prior Code § 19A-2-60.]

Chapter 14.190

ESTABLISHMENT REQUIREMENTS

Sections:

14.190.010 Marijuana establishments.
14.190.020 Cultivation, processing and manufacture.

14.190.010 Marijuana establishments.

Marijuana establishments shall:

(a) Employ a combination of Tribal police and private security;

(b) Utilize video surveillance;

(c) Secure every entrance to the establishment so that access to areas containing marijuana is restricted to persons authorized to possess marijuana;

(d) Secure the inventory and equipment of the marijuana establishment during and after operating hours to deter and prevent theft of marijuana; and

(e) Determine the criminal history of any person before the person works or volunteers at the marijuana establishment and prevent any person who has been convicted of an excluded felony offense or who is not 21 years of age or older from working or volunteering for the marijuana establishment. [Res. 17-011, 2017. Prior Code § 19A-3-10.]

14.190.020 Cultivation, processing and manufacture.

(a) All cultivation, processing, and manufacture of marijuana must meet the following requirements:

(1) Must take place at a physical address approved by the Tribe and within an area that is enclosed and locked in a manner that restricts access only to persons authorized to access the area;

(2) Must not be visible from a public place by normal unaided vision; and

(3) Must take place on property in the marijuana establishment's lawful possession or with the consent of the person in lawful physical possession of the property.

(b) The Tribe will not permit outdoor cultivation of marijuana. [Res. 17-011, 2017. Prior Code § 19A-3-20.]

Chapter 14.200

VIOLATIONS AND PENALTIES

Sections:
14.200.010 Violations and penalties.

14.200.010 Violations and penalties.

(a) A person who smokes or otherwise consumes marijuana in a public place not approved by the Tribe, in a retail marijuana store, or in a moving vehicle is guilty of a misdemeanor punished by a fine of not more than $600.00.

(b) A person under 21 years of age who falsely represents himself or herself to be 21 years of age or older to obtain marijuana is guilty of a misdemeanor.

(c) A person under 21 years of age who knowingly enters, loiters, or remains on the premises of a marijuana establishment shall be punished by a fine of not more than $500.00 unless the person is authorized to possess marijuana pursuant to this title or Chapter 453A NRS and the marijuana establishment is a dual licensee.

(d) A person who knowingly gives marijuana to any person under 21 years of age, or who knowingly leaves or deposits any marijuana in any place with the intent that it will be procured by any person under 21 years of age, is guilty of a misdemeanor.

(e) A person who knowingly gives marijuana to any person under 18 years of age, or who knowingly leaves or deposits any marijuana in any place with the intent that it will be procured by any person under 18 years of age, is guilty of a gross misdemeanor. [Res. 17-011, 2017. Prior Code § 19A-4-10.]

Chapter 14.210

TAXATION AND PRODUCT HANDLING

Sections:
14.210.010 Taxes.
14.210.020 Inventory tracking.
14.210.030 Product acquisition.
14.210.040 Packaging, testing and labeling.
14.210.050 Advertising.

14.210.010 Taxes.

The Tribe shall impose a Tribal tax that is equal to at least 100 percent of the state tax on all sales of marijuana products on Tribal lands. The Tribal tax shall not be imposed if (a) the sale is to the Tribe or an enrolled member of the Tribe or (b) the transaction is otherwise exempt from taxation under state or federal law. [Res. 17-011, 2017. Prior Code § 19A-5-10.]

14.210.020 Inventory tracking.

The Tribe will use an electronic verification system and inventory control system that will track marijuana products from seed to sale. For all transactions with state licensees, the Tribe will provide data to the state documenting the purchase or sale of marijuana products within 24 hours of the transaction. [Res. 17-011, 2017. Prior Code § 19A-5-20.]

14.210.030 Product acquisition.

The Tribe shall only acquire marijuana from (a) entities under its control; (b) state-licensed marijuana establishments; and (c) other Nevada tribes who have executed compacts with the state. [Res. 17-011, 2017. Prior Code § 19A-5-30.]

14.210.040 Packaging, testing and labeling.

(a) All marijuana products sold by the Tribe must be packaged, tested and labeled in compliance with the marijuana regulations of the state.

(b) Testing of marijuana products shall be conducted by laboratories licensed by the state/department to the standards of the state.

(c) The Tribe adopts the regulations of the state relating to serving sizes, potency labeling, and packaging limitations. [Res. 17-011, 2017. Prior Code § 19A-5-40.]

14.210.050 Advertising.

Advertising on Tribal lands shall not appeal to minors. Advertisements off of Tribal lands will comply with state regulations. [Res. 17-011, 2017. Prior Code § 19A-5-50.]

Title 15

ELECTIONS

Chapters:

15.10	**Authorization, Purpose and Applicability**
15.20	**Tribal Election Committee**
15.30	**Regular Elections**
15.40	**Special Elections**
15.50	**Registration of Voters**
15.60	**Nominations for Tribal Council**
15.70	**Preparation for Elections**
15.80	**Absentee Ballots**
15.90	**Elections**
15.100	**Counting of Ballots**
15.110	**Challenges of Election Outcome**

[Res. 10-27-77B, 1977.]

Chapter 15.10

AUTHORIZATION, PURPOSE AND APPLICABILITY

Sections:

15.10.010 Authorization.
15.10.020 Purpose.
15.10.030 Applicability.

15.10.010 Authorization.

This title is authorized by Article V, Section 1 of the Constitution and Bylaws of the Las Vegas Paiute Tribe of the Las Vegas Colony which provides that all elections shall be conducted in accordance with rules and regulations adopted by the Las Vegas Paiute Tribal Council.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 14-10-010.]

15.10.020 Purpose.

The purpose of this title is to set forth the rules and procedures for the conduct of orderly Tribal elections, including preelection activities such as registration and nomination.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 14-10-020.]

15.10.030 Applicability.

The provisions of this title apply to all regular and to all special elections.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 14-10-030.]

Chapter 15.20

TRIBAL ELECTION COMMITTEE

Sections:

15.20.010 Establishment and duties of Tribal Election Committee.
15.20.020 Composition and selection of Committee.

15.20.010 Establishment and duties of Tribal Election Committee.

(a) A Tribal Election Committee, hereinafter referred to as "the Committee," is hereby established for the purpose of carrying out the provisions of this title.

(b) The duties and powers of the Committee are:

(1) The Committee shall be in charge of all registration, nomination, and election procedures, including the administration of special elections, except as otherwise stated in this title.

(2) The Committee shall have the power to adopt any rules or regulations necessary to the efficient administration of elections, as long as such rules and regulations are not in conflict with the provisions of this title.

(3) The Committee shall adopt rules concerning the time and place of its meetings.

(4) Actions of the Committee and rules and regulations promulgated by the Committee are subject to the approval of the Tribal Council, and may be overruled by majority vote of the Tribal Council.

(5) The Committee can take action only if a majority of its members are present.

Comment: This section is in its original adopted version.

[Res. LV81-1, 1981; Res. 10-27-77B, 1977. Prior Code § 14-20-010.]

15.20.020 Composition and selection of Committee.

(a) The Committee shall consist of four members, at least one of whom shall be a member of the Tribe.

(b) Committee members shall be appointed by the Tribal Council each year at

the regular November business meeting of the Council. The Council shall designate one member to be Chairperson of the Committee.

(c) In addition to appointing five members, the Tribal Council shall at the same November meeting designate an alternate member to serve if necessary.

(d) Neither Tribal Council members nor candidates for the Tribal Council shall be permitted to serve on the Committee.

(e) Omitted.

Comment: This section entirely restates and supersedes its prior version pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977.

(f) The Tribal Council may, by a two-thirds vote, remove any member of the Committee who fails to carry out his responsibilities as set forth in this title or delegated to him by the Committee. No member may be removed without an opportunity to present his case to the Tribal Council, and any member shall have a right to an immediate appeal to the Tribal Court.

(g) If any member resigns from the Committee, is removed, or becomes unable to fulfill his duties for any reason, the alternate shall become a member. The Tribal Council shall appoint additional alternate members as necessary to replace members.

Comment: This section is in its original adopted version.

[Res. LV81-1, 1981; Res. 10-27-77B, 1977. Prior Code § 14-20-020.]

Chapter 15.30

REGULAR ELECTIONS

Sections:

15.30.010 Time of yearly election.
15.30.020 Special election matters on regular election ballot.

15.30.010 Time of yearly election.

A regular election shall be held every even-numbered year on the second Saturday in July, for the purpose of electing Tribal Council members and voting upon other matters properly considered in accord with the provisions of LVPTC 15.30.020. The Tribal Council can change the date of the regular election for any reason it finds sufficient. When the Tribal Council so changes the date of the election, it must post the date of the new election before December 1st of the preceding year. In an emergency, the Tribal Council may reschedule a regular election; provided, that no less than three weeks' notice of the rescheduled election date must be given to the voters by posting notices in prominent places on the Colony.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 14-30-010.]

15.30.020 Special election matters on regular election ballot.

Matters that could be the subject of a special election, as defined in this title, may be placed on the same ballot as the subject matter of the regular election, as long as all provisions applicable to special elections are complied with.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 14-30-020.]

Chapter 15.40

SPECIAL ELECTIONS

Sections:

15.40.010 Types of special elections.
15.40.020 Effect of vote in special elections.
15.40.030 Initiation of special election.
15.40.040 Procedure for verifying petition.
15.40.050 Time of special election.
15.40.060 Cost of special election.

15.40.010 Types of special elections.

(a) Initiative. Registered voters may enact ordinances, resolutions, or Constitutional amendments in a special initiative election.

(b) Referendum. Registered voters may make a binding decision on any ordinance or resolution proposed or enacted by the Tribal Council in a special referendum election.

(c) Recall. Registered voters may vote on the proposed recall of any Tribal Council member in a special recall election.

(d) Sense-of-the-People. Registered voters express their opinion on any issue in a sense-of-the-people election which is not binding on the Tribal Council.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 14-40-010.]

15.40.020 Effect of vote in special elections.

(a) Initiative and referendum elections in which 30 percent of the registered voters can cast a vote, and a majority of those voting approve the measure, shall have the same force and effect as actions taken by the Tribal Council and shall be binding on the Tribal Council.

(b) When 30 percent of the registered voters cast a vote in a recall election, and a majority vote to recall the Tribal Council member, that Tribal Council member is removed from office.

(c) The result of a sense-of-the-people election is not binding on the Tribal Council, but it is merely an indication of the opinion of the voters on the subject of the election.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 14-40-020.]

15.40.030 Initiation of special election.

(a) Sense-of-the-people and referendum elections can be initiated by a resolution of the Tribal Council.

(b) Initiative, referendum and recall elections can be initiated by a petition which contains the signatures of 25 percent of the registered voters.

(c) All resolutions and petitions must contain a clear statement of the provisions proposed, the type of special election sought, and whether or not the election is binding on the Tribal Council.

Comment: This section entirely restates and supersedes its prior version pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977.

[Res. LV81-1, 1981. Prior Code § 14-40-030.]

15.40.040 Procedure for verifying petition.

(a) Petitions containing the required number of signatures shall be submitted to the Tribal Council.

(b) The Tribal Election Committee shall compare the petition with the official list of registered voters to determine the number of signatures which are those of registered voters. The Tribal Secretary must complete this comparison within 10 days after the Tribal Council receives the petition, and must then notify the Tribal Council of the result of this comparison at the next meeting of the Tribal Council.

(c) If a Tribal Council petition contains the signatures of at least 30 percent of those persons registered to vote, the petition shall be valid and the Tribal Council shall schedule a special election as sought in the petition.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 14-40-040.]

15.40.050 Time of special election.

A special election shall be scheduled not more than 30 days from the time the Tribal Council receives the petition.

Comment: This section entirely restates and supersedes its prior version pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977.

[Res. LV81-1, 1981. Prior Code § 14-40-050.]

15.40.060 Cost of special election.

The costs of a special election, as determined by the Tribal Council, shall be paid out of any available Tribal funds.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 14-40-060.]

Chapter 15.50

REGISTRATION OF VOTERS

Sections:

15.50.010 Registration required.
15.50.020 Registration to be open.
15.50.030 Tribal Secretary to register voters.
15.50.040 Registration procedures.
15.50.050 Official list of registered voters.
15.50.060 Appeal from denial of registration.
15.50.070 Permanent registrations – Effect of failure to vote.

15.50.010 Registration required.

Any member of the Paiute Tribe of the Las Vegas Colony, who is 21 years of age or over, is eligible to register to vote. No person shall be permitted to vote in any regular or special election unless he or she is registered. All properly registered voters shall be entitled to vote in all regular and special elections.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 14-50-010.]

15.50.020 Registration to be open.

Registration shall be open at all times, but shall close 12 days before any election. A list of people who have registered up to this time shall be posted at least 10 days prior to the election.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 14-50-020.]

15.50.030 Tribal Secretary to register voters.

The Tribal Election Committee shall be responsible for registering voters. Persons wishing to register may do so in the Tribal offices during regular business hours if the Tribal Election Committee or a person appointed by the Tribal Election Committee is

available. The Tribal Election Committee is responsible for making sure that someone is available to register voters a reasonable number of hours per week.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 14-50-030.]

15.50.040 Registration procedures.

(a) Written Application. Every person wishing to register must file a written application, the form of which shall be approved by the Tribal Council. The application shall request at least the following information:

(1) The applicant's name;

(2) The applicant's maiden name, if any, and any other name he or she has been known by;

(3) The applicant's current address;

(4) The applicant's birthplace;

(5) The applicant's signature and the signature of a witness, verifying that the person signing the application is in fact the applicant.

(b) Decision as to Qualifications of Applicant.

(1) The person responsible for registering voters shall decide from the facts available whether the applicant is, in fact, qualified under the Tribe's Constitution to vote in Tribal elections.

(2) Anyone deemed not qualified to register shall be given a certificate of ineligibility to register which shall contain:

(A) The name of the applicant;

(B) The date that the applicant attempted to register;

(C) The reason the person responsible for registering voters decided the applicant was not entitled to register;

(D) Notice that the applicant may appeal this decision to the Tribal Council, and that such an appeal must be made more than five days before the election;

(E) The signature of the person responsible for registering voters who decided that the applicant was not entitled to vote.

(c) Addition to List of Registered Voters. When it has been decided that the applicant is entitled to register to vote, his or her name shall be put on the list of registered voters.

(d) Receipt. A receipt will be given to each registered voter. This receipt shall contain:

(1) The number of the registered voter.

(2) The date the registered voter's name was put on the list of registered voters.

(3) The signature of a person responsible for registered voters.

(e) Registration by Mail. A person may register by mail. Any person wishing to do so may either pick up an application at the Tribal offices or request one by mail. The person responsible for registering voters shall promptly send out an application to anyone making a request. A record shall be kept of all applications sent out. Any person applying by mail shall have his or her signature on the application notarized. A receipt or certificate of ineligibility to register shall be promptly mailed to the applicant.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 14-50-040.]

15.50.050 Official list of registered voters.

The Tribal Election Committee is responsible for keeping an accurate and current official list of registered voters. This list shall be posted by the Committee 10 days prior to an election.

Comment: This section entirely restates and supersedes its prior version pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977.

[Res. LV81-1, 1981. Prior Code § 14-50-050.]

15.50.060 Appeal from denial of registration.

(a) Any person not permitted to register or otherwise wrongfully left off the official list of registered voters may appeal to the Tribal Council at least five days before the election.

The Tribal Council shall hold a meeting for the consideration of such appeals no less than five days before the election. After this meeting a corrected list of registered voters shall be posted by the Tribal Council at least four days before the election.

(b) The Tribal Council may make rules regarding the decision of such appeals; but in any event, the person appealing must be permitted an opportunity to speak in his own behalf and to present witnesses or other evidence showing that he is entitled to vote.

(c) The decision of the Tribal Council shall be final on the issue of whether the person appealing is entitled to be on the official list of registered voters and to vote in the upcoming election.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 14-50-060.]

15.50.070 Permanent registrations – Effect of failure to vote.

It is not necessary to register every year. A person's name shall be kept on the official list of registered voters unless he or she fails to vote in two consecutive regular elections. Upon such failure, a person's name shall be dropped from the list of registered voters, and the person shall be required to re-register before voting in any subsequent election.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 14-50-070.]

Chapter 15.60

NOMINATIONS FOR TRIBAL COUNCIL

Sections:

15.60.010 Eligibility for nomination.
15.60.020 Posting of notice.
15.60.030 Statement of intent.

15.60.010 Eligibility for nomination.

(a) In accord with Article V of the Tribal Constitution, any member of the Tribe who is 21 years of age or older is eligible for nomination as a candidate for the Tribal Council.

Comment: This section is in its original adopted version.

(b) Omitted.

Comment: This section entirely restates and supersedes its prior version pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977.

[Res. LV81-1, 1981; Res. 10-27-77B, 1977. Prior Code § 14-60-010.]

15.60.020 Posting of notice.

Nominations for Tribal Council candidacy shall be open beginning 30 and closing 15 days prior to the regular election. The Committee shall post notice of the opening of nominations, which include the specific dates on which nominations open and close. This notice shall be posted on at least two prominent places on the Colony at least 10 days before nominations open.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 14-60-020.]

15.60.030 Statement of intent.

Persons wishing to run for office shall nominate themselves by submitting to the Committee a written statement of their intention to be a candidate at least 15 days prior to the election date. A list of all candidates shall be posted by the Committee at least five days before the election date.

Comment: This section entirely restates and supersedes its prior version pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977.

[Res. LV81-1, 1981. Prior Code § 14-60-030.]

Chapter 15.70

PREPARATION FOR ELECTIONS

Sections:

15.70.010 Finalizing the ballot.
15.70.020 Preparation of ballots.

15.70.010 Finalizing the ballot.

On the day nominations close, the Tribal Council shall hold a special meeting to finalize the ballot. The Tribal Election Committee shall supervise the preparation of the ballot on the next working day.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 14-70-010.]

15.70.020 Preparation of ballots.

The Tribal Secretary shall see that enough ballots are prepared for all persons registered to vote plus at least 10 percent extra.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 14-70-020.]

Chapter 15.80

ABSENTEE BALLOTS

Sections:

15.80.010 Who may get an absentee ballot.
15.80.020 Request of absentee ballot.
15.80.030 Check with official list of registered voters.
15.80.040 Marking of absentee ballots.
15.80.050 Receipt of absentee ballots.

15.80.010 Who may get an absentee ballot.

Properly registered voters who will be absent from the Colony on the day of election, and voters who will be unable to come to the polls because of ill health or other reasons, may apply for an absentee ballot.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 14-80-010.]

15.80.020 Request of absentee ballot.

Persons who want an absentee ballot must request one, in writing, from the Tribal Election Committee, no later than two days before the election.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 14-80-020.]

15.80.030 Check with official list of registered voters.

The Committee shall mark off the names of those receiving absentee ballots on the same copy of the official list of registered voters that will be used the day of the election to mark off the names of those receiving ballots. A different mark shall be used so that the Committee will be able to tell if an absentee or a regular ballot was issued.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 14-80-030.]

15.80.040 Marking of absentee ballots.

All absentee ballots shall bear at the top the words “absentee ballot.” Absentee ballots need not be specially printed; the Committee may individually mark each one as it is issued.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 14-80-040.]

15.80.050 Receipt of absentee ballots.

To be counted, absentee ballots must reach the Committee no later than the time the polls close on the day of the election to be counted. The responsibility for getting absentee ballots to the Committee is solely that of the voter.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 14-80-050.]

Chapter 15.90

ELECTIONS

Sections:

15.90.010 Notice of polling place and times.
15.90.020 Polling place.
15.90.030 Identification of voters.
15.90.040 Signature required.
15.90.050 Challenge.
15.90.060 Ballot box.
15.90.070 Spoiled ballots.

15.90.010 Notice of polling place and times.

The Committee shall post a notice in at least two prominent places on the Colony, stating the location of polling places and the time the polls will open. This information shall be posted at least five days before the election and shall remain posted until the polls close on the day of the election.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 14-90-010.]

15.90.020 Polling place.

The Committee shall select at least one convenient polling place on the Colony. This polling place shall be open continuously from 8:00 a.m. to 7:00 p.m. the day of the election. The Committee may choose additional people to run the polls on the day of the election.

Comment: This section entirely restates and supersedes its prior version pursuant to Tribal Council Resolution No. 10-27-77B, dated October 27, 1977.

[Res. LV81-1, 1981. Prior Code § 14-90-020.]

15.90.030 Identification of voters.

People wishing to vote may be required to provide identification.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 14-90-030.]

15.90.040 Signature required.

As each person is handed a ballot he shall be required to sign his name on a copy of the official list of registered voters, acknowledging that he has received a ballot.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 14-90-040.]

15.90.050 Challenge.

Any person, or the Committee, may challenge the identity of any person appearing to vote. The Committee shall resolve all disputes immediately by majority vote, and the Committee decision shall be final.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 14-90-050.]

15.90.060 Ballot box.

All ballots being voted shall be placed in a receptacle marked “ballot box.”

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 14-90-060.]

15.90.070 Spoiled ballots.

If a person spoils his ballot he shall be given another one. The spoiled ballot shall be marked “void” and initialled by a member of the Committee and placed in an envelope marked “spoiled ballots.” This envelope shall be destroyed as soon as the polls close.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 14-90-070.]

Chapter 15.100

COUNTING OF BALLOTS

Sections:

15.100.010 Tribal Election Committee to tally ballots.
15.100.020 Rejected ballots.
15.100.030 Totals.
15.100.040 Announcement of election outcomes.

15.100.010 Tribal Election Committee to tally ballots.

At the close of the voting, the Chairperson of the Committee shall unlock the ballot box and remove the ballots one by one. As he opens each one, he shall read to the other members of the Committee the choices marked thereupon, shall show them the ballot to ensure that it is tallied correctly, and shall mark it as a counted ballot. At the end of the tally, the Chairperson shall place all counted ballots in the ballot box, together with the envelope of rejected ballots. The box shall be locked and taken intact to the Tribal Council.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 14-100-010.]

15.100.020 Rejected ballots.

If, during the tallying of the votes, the members of the Committee are unable to determine from a ballot the intended choice of the voter, that ballot shall be rejected. A rejected ballot shall be refolded and marked “REJECTED,” in ink. Each member of the Committee shall sign his name below this marking and the rejected ballot shall be placed in an envelope marked “rejected ballots.” The envelope containing all rejected ballots shall be placed in the ballot box and returned to the Tribal Council after the tallying is complete.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 14-100-020.]

15.100.030 Totals.

After the tally is complete, the Committee shall determine the total vote cast for each candidate and on each issue. These results shall be written down, together with the number of rejected ballots, and shall be certified by each member of the Committee, by signing his name thereto. This total and the tally sheets shall be delivered to the Tribal Council.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 14-100-030.]

15.100.040 Announcement of election outcomes.

(a) Reading of Tally Results. The Tribal Council, assembled in an open meeting on the night of election day, shall receive from the Committee the ballot box, the unused ballots, the rejected ballots, the tallying sheets and the totals of the vote. The totals shall be read aloud to the public.

(b) Recounts. With respect to the election of Tribal Council members, if the totals show that the vote cast for two or more candidates for an office is tied, or if the highest vote exceeds the next highest vote by less than one percent of the total vote cast for Council members, there shall be an automatic recount. The Council shall open the ballot box and shall recount the votes for the candidates involved, on all unspoiled and unrejected ballots. A new total shall then be prepared and read aloud to the public.

(c) Contesting Votes. At the time a total is read aloud, each candidate for the Tribal Council shall have an opportunity to contest the vote for Tribal Council. Should a vote be contested, the rejected ballots shall be examined by the Tribal Council. The votes on any improperly rejected ballots shall then be added to those on the corresponding total and a new total prepared and read aloud. If there has not already been a recount of the vote, the candidate, if still unsatisfied, may demand a recount. The result reached from that recount shall be final.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 14-100-040.]

Chapter 15.110

CHALLENGES OF ELECTION OUTCOME

Sections:

15.110.010 Who may challenge.
15.110.020 Procedure for challenge.

15.110.010 Who may challenge.

Any enrolled member or a candidate may challenge the outcome of an election.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 14-110-010.]

15.110.020 Procedure for challenge.

All challenges must be made in writing to the Tribal Election Committee of the Tribal Council within five days after the election. Upon receipt of a properly filed challenge, the Tribal Election Committee shall notify the Tribal Council Chairman, who shall call a special Tribal Council meeting within three days. The Tribal Council shall hear the challenge, and shall make a decision which shall be final. Where a member of the outgoing Tribal Council is a candidate for reelection, he or she shall abstain from voting on any challenge which affects his or her candidacy.

Comment: This section is in its original adopted version.

[Res. 10-27-77B, 1977. Prior Code § 14-110-020.]

Title 16

ANIMAL ORDINANCE

Chapters:

16.10	**Authorization and Definitions**
16.20	**Duties Imposed by This Title**
16.30	**Enforcement**
16.40	**Dogs**
16.50	**Cats**
16.60	**Livestock and Fowl**
16.70	**Impounding Strays**
16.80	**Wild Animals**
16.90	**Running at Large**
16.100	**Rabies Prevention**
16.110	**Nuisances**
16.120	**Cruelty to Animals**
16.130	**Vicious or Dangerous Dogs**
16.140	**Residential Animal Husbandry**
16.150	**Animal Control**
16.160	**Punishment**
16.170	**Animal Ordinance to Be Provided to Owners**

[Res. 94-032, 1994.]

Chapter 16.10

AUTHORIZATION AND DEFINITIONS

Sections:

16.10.010 Purpose and authority.
16.10.015 Short title.
16.10.020 Definitions.

16.10.010 Purpose and authority.

The Tribal Council enacts this title pursuant to Article VII of the Constitution and Bylaws of the Las Vegas Tribe of Paiute Indians and Las Vegas Paiute Tribal Council Resolution No. 92-007 in order to provide regulation and control over animals on Tribal lands. The remedial measures and restrictions of this title are designed and intended to encourage compliance with the Las Vegas Paiute Law and Order Code and to further ensure the peace, security, welfare and resources of Tribal lands. Nothing in this section or any other section or provision of this title shall constitute a waiver of the sovereign immunity of the Tribe or of officials of the Tribe acting in their official capacity, and nothing in this section or any other section or provision of this title shall authorize, imply or allow the application of the laws of the state of Nevada or any other political body other than the Tribe except as explicitly set forth herein.

Comment: This section amends and supersedes the original animal ordinance adopted pursuant to Tribal Council Resolution No. 92-007, dated February 11, 1992.

[Res. 94-032, 1994. Prior Code § 15-10-10.]

16.10.015 Short title.

This title shall be known as the “animal ordinance.”

Comment: This section amends and supersedes the original animal ordinance adopted pursuant to Tribal Council Resolution No. 92-007, dated February 11, 1992.

[Res. 94-032, 1994. Prior Code § 15-10-15.]

16.10.020 Definitions.

Unless otherwise set forth herein or clearly apparent from the context in which they are used, the terms used in this title shall have the same meanings as set forth in LVPTC Title 1. In addition:

“Animal” shall mean every domesticated and tame living creature, except members of the human race;

“Animal regulation officer” shall mean any person appointed by the Chief of Police to act in these matters;

“At large” shall be intended to mean off the leash, cord, chain or otherwise unrestrained;

“Chief of Police” shall mean the Chief or any person designated by him to act in matters relating to this title;

“Colony health officer” shall mean the health officer assigned to the Colony of the Las Vegas Paiute Tribe;

“Dog” shall be intended to mean both male and female of any breed;

“Garbage” is defined as refuse animal matter from a kitchen, market or store, including every refuse accumulation of animal, fruit or vegetable matter, liquid or otherwise, that attends preparation, use, cooking, dealing in or storing of meat, fish, fowl, fruit or vegetable, and all foul, noisome and filthy substances;

“Health officer,” whenever used in this title, shall be construed to mean “Colony health officer” or his representative;

“Owner” shall be intended to mean any person owning, keeping, or harboring a dog or other animal;

“Pound” shall mean any pound currently designated by the Tribal Council or the Chief of Police to receive animals.

Comment: This section amends and supersedes the original animal ordinance adopted pursuant to Tribal Council Resolution No. 92-007, dated February 11, 1992.

[Res. 94-032, 1994. Prior Code § 15-10-20.]

Chapter 16.20

DUTIES IMPOSED BY THIS TITLE

Sections:

16.20.010 Duties of officers.

16.20.010 Duties of officers.

It shall be the duty of the animal regulation officer to enforce the provisions of this title, and it shall be the duty of every police officer in the Tribal Police Department, while on duty, to enforce provisions of this title including the capture and pickup of animals.

Comment: This section amends and supersedes the original animal ordinance adopted pursuant to Tribal Council Resolution No. 92-007, dated February 11, 1992.

[Res. 94-032, 1994. Prior Code § 15-20-10.]

Chapter 16.30

ENFORCEMENT

Sections:

16.30.010 Resisting authorized personnel unlawful.
16.30.015 Violation and penalty.
16.30.020 Collections to be paid to the Tribal Treasury.

16.30.010 Resisting authorized personnel unlawful.

No person shall interfere with or oppose or resist the Chief of Police or any of his officers while engaged in the performance of the duties pertaining to the enforcement of this title. These officers are hereby empowered to enforce all of the provisions of this title.

Comment: This section amends and supersedes the original animal ordinance adopted pursuant to Tribal Council Resolution No. 92-007, dated February 11, 1992.

[Res. 94-032, 1994. Prior Code § 15-30-10.]

16.30.015 Violation and penalty.

Any person owning, possessing or having the care, custody and control of an animal shall be deemed to be in violation of this title if he or she:

(a) Willfully refuses, fails or neglects to furnish to any officer of the Tribal Police Department the required information as provided herein;

(b) Willfully fails, refuses or neglects to cause said animals to be registered and pay any said registration fee at the time and in the manner herein provided; or

(c) Willfully fails, refuses or neglects to perform any act or pay any other fee or charge required by this chapter to be performed or paid;

(d) Willfully resists, interferes with or prevents any officer or his assistants in the exercise of their duties; or

(e) Willfully violates any of the provisions of this chapter. Any person owning, possessing or having the care, custody and control of an animal found in violation of any portion of

this title shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by:

(1) Fine of not more than $300.00 nor less than $5.00; or

(2) By imprisonment in the Peach Springs Facility for not more than six months; or

(3) By both such fine and imprisonment.

Comment: This section amends and supersedes the original animal ordinance adopted pursuant to Tribal Council Resolution No. 92-007, dated February 11, 1992.

[Res. 94-032, 1994. Prior Code § 15-30-15.]

16.30.020 Collections to be paid to the Tribal Treasury.

All monies collected by the Chief of Police of the Court Clerk in accordance with any section or provision of this title shall be paid to the Tribal Treasury for the general fund.

Comment: This section amends and supersedes the original animal ordinance adopted pursuant to Tribal Council Resolution No. 92-007, dated February 11, 1992.

[Res. 94-032, 1994. Prior Code § 15-30-20.]

Chapter 16.40

DOGS

Sections:

16.40.010 Business involving dogs.
16.40.015 Keeping of dogs.
16.40.020 Dog kennel.
16.40.025 Muzzling of dogs.
16.40.030 Dog vaccination required.
16.40.035 Dog revaccination with chick embryo vaccine.
16.40.040 Dog revaccination with tissue phenolized vaccine.
16.40.045 Dog vaccination certificate.
16.40.050 Dog license – Required.
16.40.055 Vaccination tag.
16.40.060 Dog license – Renewal.
16.40.065 Dog license – Fee.
16.40.070 Dog license – Guide dogs.
16.40.075 Dog license – Attaching to animal.
16.40.080 Dog license – Registration.
16.40.085 Dog license – Exceptions.
16.40.090 Dog license – Running at large or other violation.
16.40.095 Dog license – Female running at large.
16.40.100 Disposal of unclaimed dog.
16.40.105 Impounding of dog without license.
16.40.110 Search and seizure in pursuit of dogs.
16.40.115 Conditions for release of impounded dog.

16.40.010 Business involving dogs.

No person shall carry on the business of keeping dogs for breeding purposes, or for the purpose of medical treatment of such dogs, or of caring for hire, without first obtaining a permit from the Tribal Council to do so, and said Council shall have the right to grant or refuse such permit in its discretion; provided, that if said Council shall grant such permit, said Council may prescribe such conditions as it may deem necessary or advisable to prevent such business becoming a nuisance.

Comment: This section amends and supersedes the original animal ordinance adopted pursuant to Tribal Council Resolution No. 92-007, dated February 11, 1992.

[Res. 94-032, 1994. Prior Code § 15-40-10.]

16.40.015 Keeping of dogs.

No person shall keep three or more canine animals over six months of age within Tribal boundaries or at any place or on any premises of Tribal lands within 200 feet of any dwelling house in use or occupied by human beings other than the owner of such dogs, without first obtaining a permit from the Tribal Council to do so. The Council may grant or refuse such permit in its discretion; provided, that if such permit is granted said Council may prescribe such conditions as may be advisable or necessary to prevent the keeping of any or all such dogs from becoming a nuisance.

Comment: This section amends and supersedes the original animal ordinance adopted pursuant to Tribal Council Resolution No. 92-007, dated February 11, 1992.

[Res. 94-032, 1994. Prior Code § 15-40-15.]

16.40.020 Dog kennel.

The term “dog kennel” shall refer to a pack or collection of dogs, exceeding two in number, kept or bred for hunting or sale or boarding and does not mean merely the house or place where dogs are kept. Any person operating or maintaining a dog kennel on Tribal property must first apply for and obtain a permit to do so.

Comment: This section amends and supersedes the original animal ordinance adopted pursuant to Tribal Council Resolution No. 92-007, dated February 11, 1992.

[Res. 94-032, 1994. Prior Code § 15-40-20.]

16.40.025 Muzzling of dogs.

The Tribal Council may by proclamation require the owners of all dogs to securely muzzle them with devices of wire of such design as may be approved by the Council. The Council will designate the length of time such restraints will be necessary based on the necessity for protection and public safety. In addition, the Council may also, under proclamation, order the retention of all dogs on the owner’s premises or at designated public places, and such proclamation may include muzzling the dogs while so restrained.

Comment: This section amends and supersedes the original animal ordinance adopted pursuant to Tribal Council Resolution No. 92-007, dated February 11, 1992.

[Res. 94-032, 1994. Prior Code § 15-40-25.]

16.40.030 Dog vaccination required.

Every person keeping, harboring or having a dog over the age of four months on Tribal lands shall have such dog vaccinated, by a person licensed by the state, or any other state or nation, to practice veterinary medicine, with rabies vaccine within a period of 30 days from the date of harboring, keeping or having said dog within Tribal properties, or from the date said dog attains the age of four months. If chick embryo vaccine was used in such vaccination, it must have been completed within two years prior to the date such dog was kept, harbored or brought onto the Tribal lands. If tissue phenolized vaccine was used, such vaccination must have been completed within one year prior to the date such dog was kept, harbored or brought onto the Tribal lands.

Comment: This section amends and supersedes the original animal ordinance adopted pursuant to Tribal Council Resolution No. 92-007, dated February 11, 1992.

[Res. 94-032, 1994. Prior Code § 15-40-30.]

16.40.035 Dog revaccination with chick embryo vaccine.

Every person keeping, harboring or having a dog on Tribal lands that has been vaccinated with chick embryo vaccine shall have such dog revaccinated within a period of not more than two years after prior vaccination.

Comment: This section amends and supersedes the original animal ordinance adopted pursuant to

Tribal Council Resolution No. 92-007, dated February 11, 1992.

[Res. 94-032, 1994. Prior Code § 15-40-35.]

16.40.040 Dog revaccination with tissue phenolized vaccine.

Every person keeping, harboring or having a dog on Tribal lands that has been vaccinated with tissue phenolized vaccine shall have such dog revaccinated with rabies vaccine within a period not more than one year after prior vaccination.

Comment: This section amends and supersedes the original animal ordinance adopted pursuant to Tribal Council Resolution No. 92-007, dated February 11, 1992.

[Res. 94-032, 1994. Prior Code § 15-40-40.]

16.40.045 Dog vaccination certificate.

It shall be the responsibility of every person keeping, harboring or having a dog on Tribal lands to keep such dog vaccinated in accordance with the procedures outlined in this title and to obtain written proof of such vaccination from a person licensed by the state, or any other state or nation. This certificate shall be signed by the veterinarian and shall contain the name and description of the dog, the date of the vaccination and the type of the vaccination used. It shall be the responsibility of every person keeping, harboring or having a dog on Tribal lands to obtain such certificate and to ensure a copy is on file with the Las Vegas Paiute Tribal Police Department and with the office of the appropriate city or county agency.

Comment: This section amends and supersedes the original animal ordinance adopted pursuant to Tribal Council Resolution No. 92-007, dated February 11, 1992.

[Res. 94-032, 1994. Prior Code § 15-40-45.]

16.40.050 Dog license – Required.

Every person keeping, harboring or having any dog within Tribal lands over the age of six months shall, within 30 days after said dog attains the age of six months or after first bringing said dog onto Tribal lands, obtain for said dog and thereafter continuously maintain for said dog a current and valid dog license issued by the appropriate city or county agency and shall comply with the vaccination provisions of this title. In addition to licensing the dog with the agency above, it shall be the responsibility of every person who keeps, harbors or has a dog within Tribal lands to file a copy of such license with the Las Vegas Paiute Tribal Police Department.

Comment: This section amends and supersedes the original animal ordinance adopted pursuant to Tribal Council Resolution No. 92-007, dated February 11, 1992.

[Res. 94-032, 1994. Prior Code § 15-40-50.]

16.40.055 Vaccination tag.

Every person keeping, harboring or having a dog over the age of six months on Tribal lands shall, at the time of vaccination, obtain a vaccination tag, stamped with the date of vaccination and type of vaccine used; said tag shall be worn by the dog at all times. If a vaccination tag is not issued, the owner shall be responsible for having the dog license stamped and signed by the veterinarian with the date of vaccination and type of vaccine used; said license shall be worn by the dog at all times.

Comment: This section amends and supersedes the original animal ordinance adopted pursuant to Tribal Council Resolution No. 92-007, dated February 11, 1992.

[Res. 94-032, 1994. Prior Code § 15-40-55.]

16.40.060 Dog license – Renewal.

Every person keeping, harboring or having a dog over the age of six months on Tribal lands shall keep said dog's license current and valid in accordance with the procedures and guidelines of the agency from which it was obtained.

Comment: This section amends and supersedes the original animal ordinance adopted pursuant to Tribal Council Resolution No. 92-007, dated February 11, 1992.

[Res. 94-032, 1994. Prior Code § 15-40-60.]

16.40.065 Dog license – Fee.

A fee shall be paid for each license in advance at time of issuance in an amount set by the appropriate agency.

Comment: This section amends and supersedes the original animal ordinance adopted pursuant to Tribal Council Resolution No. 92-007, dated February 11, 1992.

[Res. 94-032, 1994. Prior Code § 15-40-65.]

16.40.070 Dog license – Guide dogs.

The provisions of this chapter relating to dog licenses shall not apply to a dog which has been trained and is actually being used to act as a guide for the blind.

Comment: This section amends and supersedes the original animal ordinance adopted pursuant to Tribal Council Resolution No. 92-007, dated February 11, 1992.

[Res. 94-032, 1994. Prior Code § 15-40-70.]

16.40.075 Dog license – Attaching to animal.

The owner of any dog licensed as aforesaid shall securely fasten about the neck of the dog a collar with the number of the license cut or engraved thereon, or a tag attached bearing the number of such license. It shall be unlawful for any person to remove any license tag issued under the provisions of this chapter from any dog not owned by him or not lawfully in his possession or under his control, or for any person to place on any dog, or to permit any dog in his control or possession to wear, any license tag not issued or provided in this chapter for that particular dog for the then-current calendar year, or to have in possession or to make or to place on a dog, or to have in possession any dog wearing, any counterfeit or imitation of any license tag provided for in this chapter.

Comment: This section amends and supersedes the original animal ordinance adopted pursuant to Tribal Council Resolution No. 92-007, dated February 11, 1992.

[Res. 94-032, 1994. Prior Code § 15-40-75.]

16.40.080 Dog license – Registration.

The Tribal Clerk shall keep a register of all licenses filed with the Clerk's office, showing the name of the issuing agency, the name of the licensee, date of issuance, date of expiration, description of the dog and the number of the tag.

Comment: This section amends and supersedes the original animal ordinance adopted pursuant to Tribal Council Resolution No. 92-007, dated February 11, 1992.

[Res. 94-032, 1994. Prior Code § 15-40-80.]

16.40.085 Dog license – Exceptions.

The provisions of this chapter relating to licensing shall not apply to dogs under six months of age provided they are kept within enclosures and are not allowed to run at large.

Comment: This section amends and supersedes the original animal ordinance adopted pursuant to Tribal Council Resolution No. 92-007, dated February 11, 1992.

[Res. 94-032, 1994. Prior Code § 15-40-85.]

16.40.090 Dog license – Running at large or other violation.

Every dog found running at large or in violation of any section of this title or without a numbered collar or license tag as required by this chapter shall be impounded by the Chief of Police or someone designated by him. The impounded dog shall be kept for a period of 72 hours at an animal facility, within which time, if ownership can be proven, the dog may be released after payment of impound is made to the agency according to the fee schedule in place at the time of impound.

Comment: This section amends and supersedes the original animal ordinance adopted pursuant to Tribal Council Resolution No. 92-007, dated February 11, 1992.

[Res. 94-032, 1994. Prior Code § 15-40-90.]

16.40.095 Dog license – Female running at large.

It shall be unlawful for the owner or any person having the control or possession of any female dog to suffer or permit said dog to run at large while said dog is in the copulating season. Every female dog so found running at large shall be immediately seized and impounded in the public pound. The charge for impounding such a dog shall be the fee schedule in place at the time of impound.

Comment: This section amends and supersedes the original animal ordinance adopted pursuant to Tribal Council Resolution No. 92-007, dated February 11, 1992.

[Res. 94-032, 1994. Prior Code § 15-40-95.]

16.40.100 Disposal of unclaimed dog.

If the ownership is not proven within the time allowed, then such animal shall be destroyed in a humane manner under the direction of the animal regulation officer. However, any unredeemed dog may be given or sold to any person who shall procure the necessary vaccinations and licenses.

Comment: This section amends and supersedes the original animal ordinance adopted pursuant to Tribal Council Resolution No. 92-007, dated February 11, 1992.

[Res. 94-032, 1994. Prior Code § 15-40-100.]

16.40.105 Impounding of dog without license.

The Chief of Police or his designee shall have the right to enter the private property or Tribal property in order to examine or capture any dog thereon; provided, that no such officer or employee enters a house which is in use as a residence without first having secured a search warrant.

Comment: This section amends and supersedes the original animal ordinance adopted pursuant to Tribal Council Resolution No. 92-007, dated February 11, 1992.

[Res. 94-032, 1994. Prior Code § 15-40-105.]

16.40.110 Search and seizure in pursuit of dogs.

Any police officer of the Las Vegas Paiute Tribe shall have the right to enter private or Tribal property in order to examine or capture any dog. However, such officer or employee shall not have the right to enter a house which is in use as a residence without first securing a search warrant.

Comment: This section amends and supersedes the original animal ordinance adopted pursuant to Tribal Council Resolution No. 92-007, dated February 11, 1992.

[Res. 94-032, 1994. Prior Code § 15-40-110.]

16.40.115 Conditions for release of impounded dog.

No dog impounded shall be released to any person unless the following conditions have been met:

(a) Presenting a current license to the animal regulation officer for such dog issued by the City Clerk or the County Clerk.

(b) Payment of impounding fees to the animal regulation officer of the impounding agency as provided by law.

(c) Proof of vaccination to the animal regulation officer that such dog has been vaccinated with rabies vaccine within the time periods prescribed.

(d) Inspection for rabies by the animal regulation officer to determine that such dog does not have or is not reasonably suspected to have rabies.

Release of dog will occur after all the conditions of this chapter have been satisfied by the animal regulation officer. Release will be made to the person making application. If the animal regulation officer suspects that any dog so impounded has rabies he shall hold the dog for inspection by a health officer or doctor. In the event the dog is afflicted with rabies, it shall be disposed of or confined for a time as directed by the health officer. Whenever it has been determined that such dog does not have rabies, it shall be released in accordance with the provisions of this chapter.

Comment: This section amends and supersedes the original animal ordinance adopted pursuant to Tribal Council Resolution No. 92-007, dated February 11, 1992.

[Res. 94-032, 1994. Prior Code § 15-40-115.]

Chapter 16.50

CATS

Sections:

16.50.010 Keeping of cats.
16.50.015 Vaccination of cats – Dictates of prudence.
16.50.020 Vaccination of cats – Inspection.

16.50.010 Keeping of cats.

It shall be unlawful to keep more than three cats over three months of age at any one residence.

Comment: This section amends and supersedes the original animal ordinance adopted pursuant to Tribal Council Resolution No. 92-007, dated February 11, 1992.

[Res. 94-032, 1994. Prior Code § 15-50-10.]

16.50.015 Vaccination of cats – Dictates of prudence.

If the Chief of Police deems it necessary or the Tribal Council feels it prudent to ensure the safety of the residents, the vaccination procedures described in LVPTC 16.40.030 through 16.40.045, and 16.40.055 shall apply to cats.

Comment: This section amends and supersedes the original animal ordinance adopted pursuant to Tribal Council Resolution No. 92-007, dated February 11, 1992.

[Res. 94-032, 1994. Prior Code § 15-50-15.]

16.50.020 Vaccination of cats – Inspection.

Every person securing a permit under the provisions of this chapter shall submit to inspection by the animal regulation officer at reasonable times.

Comment: This section amends and supersedes the original animal ordinance adopted pursuant to Tribal Council Resolution No. 92-007, dated February 11, 1992.

[Res. 94-032, 1994. Prior Code § 15-50-20.]

Chapter 16.60

LIVESTOCK AND FOWL

Sections:

16.60.010 Keeping of pigs and hogs prohibited.
16.60.015 Restraining animals.
16.60.020 Keeping of fowl.
16.60.025 Garbage in coop, runway, or other enclosure.

16.60.010 Keeping of pigs and hogs prohibited.

No person residing on any Tribal lands shall keep any hogs or pigs.

Comment: This section amends and supersedes the original animal ordinance adopted pursuant to Tribal Council Resolution No. 92-007, dated February 11, 1992.

[Res. 94-032, 1994. Prior Code § 15-60-10.]

16.60.015 Restraining animals.

Every person who is the owner or has the care, custody or control of any cow, dog, goat, horse, ox, poultry, rabbits or any other rodent, sheep, or any wild animal, shall keep the same upon the premises under the control of such person, restrained by a fence, cage, coop, chain, leash or other adequate means so that said animal shall not leave the premises upon which he shall be kept.

Comment: This section amends and supersedes the original animal ordinance adopted pursuant to Tribal Council Resolution No. 92-007, dated February 11, 1992.

[Res. 94-032, 1994. Prior Code § 15-60-15.]

16.60.020 Keeping of fowl.

It is unlawful for any person to keep, cause to be kept or permit to be kept on premises over which any such person may have control within the Tribal boundaries the following:

(a) Any rooster or the male species of fowl over the age of three months;

(b) Any fowl or bird within 40 feet of any dwelling owned by another person;

(c) Any fowl or bird that is not at all times confined within a suitable house or coop or enclosed runway;

(d) Any fowl or bird in any basement, subbasement or cellar;

(e) Any fowl or bird in any house, coop or runway which is not at all times kept clean and free from offensive odors.

Comment: This section amends and supersedes the original animal ordinance adopted pursuant to Tribal Council Resolution No. 92-007, dated February 11, 1992.

[Res. 94-032, 1994. Prior Code § 15-60-20.]

16.60.025 Garbage in coop, runway, or other enclosure.

It is unlawful for any person to throw or place or permit to be thrown or placed, any garbage in any coop, runway or other enclosure in which any fowl, animal, or bird is kept.

Comment: This section amends and supersedes the original animal ordinance adopted pursuant to Tribal Council Resolution No. 92-007, dated February 11, 1992.

[Res. 94-032, 1994. Prior Code § 15-60-25.]

Chapter 16.70

IMPOUNDING STRAYS

Sections:

16.70.010 Impounding of stray animals.
16.70.015 Disposal of animals.

16.70.010 Impounding of stray animals.

Any animal, except dogs, running at large or which are not restrained as herein provided, and any wild animal not kept as pursuant to permit, shall be impounded by the Tribal Police Department and transported to a pound for a period of 72 hours. The proven owner of the animal that calls for it shall be able to remove the animal upon payment of the impounding fee and the cost of maintenance at the rate the facility has established.

Comment: This section amends and supersedes the original animal ordinance adopted pursuant to Tribal Council Resolution No. 92-007, dated February 11, 1992.

[Res. 94-032, 1994. Prior Code § 15-70-10.]

16.70.015 Disposal of animals.

If the ownership of the animal is not proven within the time limit, then such animal, whether domestic or wild, shall be destroyed in a humane manner. However, the agency may give or sell to any person the unredeemed animal.

Comment: This section amends and supersedes the original animal ordinance adopted pursuant to Tribal Council Resolution No. 92-007, dated February 11, 1992.

[Res. 94-032, 1994. Prior Code § 15-70-15.]

Chapter 16.80

WILD ANIMALS

Sections:

16.80.010 Exhibiting wild animals.
16.80.015 Permit to exhibit wild animals.
16.80.020 Destruction of dangerous or wild animals.

16.80.010 Exhibiting wild animals.

No wild animal shall be exhibited in public or kept as herein provided until the owner or person having the care, custody or control thereof shall have obtained from the Tribal Council a permit to do so. The Tribal Council shall not issue a permit for the keeping or exhibiting of a wild animal until they have held an investigation to ascertain what precaution shall be necessary to protect the public health, safety and general welfare of all residents.

Comment: This section amends and supersedes the original animal ordinance adopted pursuant to Tribal Council Resolution No. 92-007, dated February 11, 1992.

[Res. 94-032, 1994. Prior Code § 15-80-10.]

16.80.015 Permit to exhibit wild animals.

The Tribal Council shall require as a condition to such permit that reasonable precaution be taken to protect general health, safety and welfare and, in addition thereof, they shall require an identification mark to be tattooed on the lip of such wild animal before the permit is issued. The Tribal Council shall keep a record of all the permits, the marks in identification and location of the wild animals, and the name of the owner.

Comment: This section amends and supersedes the original animal ordinance adopted pursuant to Tribal Council Resolution No. 92-007, dated February 11, 1992.

[Res. 94-032, 1994. Prior Code § 15-80-15.]

16.80.020 Destruction of dangerous or wild animals.

The Police Department shall not be required to impound any dangerous or wild animal.

Comment: This section amends and supersedes the original animal ordinance adopted pursuant to Tribal Council Resolution No. 92-007, dated February 11, 1992.

[Res. 94-032, 1994. Prior Code § 15-80-20.]

Chapter 16.90

RUNNING AT LARGE

Sections:

16.90.010 Animals running at large.

16.90.010 Animals running at large.

It is unlawful for any person having charge, custody or control of any dog, or other animal or fowl, to permit the same to run at large or trespass on any private premises of another, or to be on any public highway, street, alley, court, public ground or unfenced lot. All animals must remain within a sufficient enclosure within all Tribal lands.

Comment: This section amends and supersedes the original animal ordinance adopted pursuant to Tribal Council Resolution No. 92-007, dated February 11, 1992.

[Res. 94-032, 1994. Prior Code § 15-90-10.]

Chapter 16.100

RABIES PREVENTION

Sections:

16.100.010 Suspicion of rabies.
16.100.015 Impounding or destroying rabid animals.
16.100.020 Responsibility of owner.
16.100.025 Bitten animals.
16.100.030 Vaccinations and license.
16.100.035 Powers and duties of city and county health officer.
16.100.040 Impounding for observation.

16.100.010 Suspicion of rabies.

Any animal that is believed to be afflicted with rabies or that has been bitten by another animal afflicted or suspected of being afflicted with rabies shall be confined separately and kept so confined until the city or county health officer has been notified. If after examination by the health officer the animal is determined to be afflicted with rabies, the animal shall be killed in a humane manner. During the confinement of such animal it may not be redeemed or released except by an order in writing signed by the health officer.

Comment: This section amends and supersedes the original animal ordinance adopted pursuant to Tribal Council Resolution No. 92-007, dated February 11, 1992.

[Res. 94-032, 1994. Prior Code § 15-100-10.]

16.100.015 Impounding or destroying rabid animals.

It shall be the duty of every police officer to impound or to arrange destruction of any dog found on Tribal lands known to have rabies or known to have been bitten by any dog having rabies.

Comment: This section amends and supersedes the original animal ordinance adopted pursuant to Tribal Council Resolution No. 92-007, dated February 11, 1992.

[Res. 94-032, 1994. Prior Code § 15-100-15.]

16.100.020 Responsibility of owner.

Whenever the owner or the person having custody or possession of an animal observes or learns that such animal shows symptoms of rabies, or acts in a manner which would lead to a reasonable suspicion that it may have rabies, they shall immediately notify the Police Department. An inspection or examination of such animal shall then be arranged with the proper agency and the animal confined until determination is made.

Comment: This section amends and supersedes the original animal ordinance adopted pursuant to Tribal Council Resolution No. 92-007, dated February 11, 1992.

[Res. 94-032, 1994. Prior Code § 15-100-20.]

16.100.025 Bitten animals.

Whenever any animal is bitten by another animal suspected of having rabies, the owner or person having custody or possession of the animal so bitten shall immediately notify the Police Department. The animal bitten may be quarantined for a period to be determined by the health officer.

Comment: This section amends and supersedes the original animal ordinance adopted pursuant to Tribal Council Resolution No. 92-007, dated February 11, 1992.

[Res. 94-032, 1994. Prior Code § 15-100-25.]

16.100.030 Vaccinations and license.

No person owning or harboring a dog shall neglect or refuse to have the animal vaccinated and licensed as herein provided.

Comment: This section amends and supersedes the original animal ordinance adopted pursuant to Tribal Council Resolution No. 92-007, dated February 11, 1992.

[Res. 94-032, 1994. Prior Code § 15-100-30.]

16.100.035 Powers and duties of city and county health officer.

Once notified by the Police Department, the city health officer or the county health officer is empowered to enter upon private property for the purpose of ascertaining whether any dog kept or harbored therein is afflicted with rabies. Nothing in this section or any other section or provision of this title shall be construed or implied to be a waiver or limitation of the sovereign immunity of the Tribe.

Comment: This section amends and supersedes the original animal ordinance adopted pursuant to Tribal Council Resolution No. 92-007, dated February 11, 1992.

[Res. 94-032, 1994. Prior Code § 15-100-35.]

16.100.040 Impounding for observation.

If it appears to the health officer that a dog or other animal has rabies, he shall order it impounded for observation.

Comment: This section amends and supersedes the original animal ordinance adopted pursuant to Tribal Council Resolution No. 92-007, dated February 11, 1992.

[Res. 94-032, 1994. Prior Code § 15-100-40.]

Chapter 16.110

NUISANCES

Sections:

16.110.010 Noise.
16.110.015 Nuisance.

16.110.010 Noise.

It shall be unlawful for any person to keep, harbor or own any dog, animal or fowl, which by loud or frequent habitual barking, yelping, braying, or any other noise causes annoyance to the neighborhood or to any persons in the vicinity.

Comment: This section amends and supersedes the original animal ordinance adopted pursuant to Tribal Council Resolution No. 92-007, dated February 11, 1992.

[Res. 94-032, 1994. Prior Code § 15-110-10.]

16.110.015 Nuisance.

It shall be unlawful for the owner or person having custody of any dog or other animal to permit, either willfully or through failure to exercise due care or control, any such dog or animal to commit any nuisance upon any roadway, street or real property of the Las Vegas Paiute Tribe.

Comment: This section amends and supersedes the original animal ordinance adopted pursuant to Tribal Council Resolution No. 92-007, dated February 11, 1992.

[Res. 94-032, 1994. Prior Code § 15-110-15.]

Chapter 16.120

CRUELTY TO ANIMALS

Sections:

16.120.010 Fighting.
16.120.015 Cruelty.
16.120.020 Abandoning injured animals.
16.120.025 Poisoning.
16.120.030 Endangering.
16.120.035 Transporting.
16.120.040 Binding.
16.120.045 Overcrowding.
16.120.050 Selling or giving away certain animals.

16.120.010 Fighting.

It shall be unlawful for any person to keep or use or be in any manner connected with or interested in the management of or receive money or other things of value for the admission of any person to any building or place for the baiting and fighting of birds or animals. It shall be unlawful for any person to willfully procure or permit the same to be used for such baiting or fighting, or to instigate, promote, arrange or carry on, or to assist, umpire, principal, or spectate in any fight between birds or animals.

Comment: This section amends and supersedes the original animal ordinance adopted pursuant to Tribal Council Resolution No. 92-007, dated February 11, 1992.

[Res. 94-032, 1994. Prior Code § 15-120-10.]

16.120.015 Cruelty.

It shall be unlawful for any person to overdrive, overload, torture or cruelly beat, unjustifiably injure, maim, mutilate or kill any animal, whether belonging to himself or to another.

It is unlawful to deprive any animal of necessary sustenance, food, drink or shelter, or willfully instigate, engage in, or in any way further an act to cruelty to any animal.

It shall be unlawful for any person to ride or drive a horse while under the influence of intoxicating liquor or drug.

Comment: This section amends and supersedes the original animal ordinance adopted pursuant to Tribal Council Resolution No. 92-007, dated February 11, 1992.

[Res. 94-032, 1994. Prior Code § 15-120-15.]

16.120.020 Abandoning injured animals.

It shall be unlawful for any person owing, possessing or having the care, custody and control of a maimed, disabled or infirm animal, to abandon the same, or leave it to die in a public roadway or public place, or upon the private property of himself or another, more than one hour after he receives notice that it is disabled.

Comment: This section amends and supersedes the original animal ordinance adopted pursuant to Tribal Council Resolution No. 92-007, dated February 11, 1992.

[Res. 94-032, 1994. Prior Code § 15-120-20.]

16.120.025 Poisoning.

Is shall be unlawful for any person to unjustifiably administer any poisonous drug or substance to any animal, or to expose any animal to drugs or substances with the intent that it shall be taken by the animal.

Comment: This section amends and supersedes the original animal ordinance adopted pursuant to Tribal Council Resolution No. 92-007, dated February 11, 1992.

[Res. 94-032, 1994. Prior Code § 15-120-25.]

16.120.030 Endangering.

It shall be unlawful for any person to willfully throw, drop or place, or cause to be thrown, dropped or placed upon any roadway or public place or private property of himself or another any glass, nails, pieces of metal or other substances or device which might wound, disable or injure any animal.

Comment: This section amends and supersedes the original animal ordinance adopted pursuant to Tribal Council Resolution No. 92-007, dated February 11, 1992.

[Res. 94-032, 1994. Prior Code § 15-120-30.]

16.120.035 Transporting.

It shall be unlawful for any person to carry or enclose, or cause to be carried or enclosed, in or upon any vehicle, device or otherwise, any animal in a cruel or inhumane manner, or so as produce torture.

Comment: This section amends and supersedes the original animal ordinance adopted pursuant to Tribal Council Resolution No. 92-007, dated February 11, 1992.

[Res. 94-032, 1994. Prior Code § 15-120-35.]

16.120.040 Binding.

It shall be unlawful for any person to lock or tie the wings of any bird or fowl for the purpose of weighing or handling the animal.

Comment: This section amends and supersedes the original animal ordinance adopted pursuant to Tribal Council Resolution No. 92-007, dated February 11, 1992.

[Res. 94-032, 1994. Prior Code § 15-120-40.]

16.120.045 Overcrowding.

It shall be unlawful for any person to overcrowd in any crate, box or other receptacle, rabbits, domestic fowl or poultry or fail to provide food, water, shelter or sanitation for the same.

Comment: This section amends and supersedes the original animal ordinance adopted pursuant to Tribal Council Resolution No. 92-007, dated February 11, 1992.

[Res. 94-032, 1994. Prior Code § 15-120-45.]

16.120.050 Selling or giving away certain animals.

It shall be unlawful for any person to sell or offer for sale, barter or give away baby chicks, rabbits, ducklings or other fowls as pets or novelties, whether or not dyed, colored or otherwise treated. This shall not be construed to prohibit the display or sale of natural chicks, rabbits, ducklings or other fowl, in proper brooder facilities, by those engaged in the business of selling the same to be raised for commercial purposes.

Comment: This section amends and supersedes the original animal ordinance adopted pursuant to Tribal Council Resolution No. 92-007, dated February 11, 1992.

[Res. 94-032, 1994. Prior Code § 15-120-50.]

Chapter 16.130

VICIOUS OR DANGEROUS DOGS

Sections:

16.130.010 Owning of vicious dogs.
16.130.015 Attack by vicious dogs.
16.130.020 Running at large – Misdemeanor.
16.130.025 Exhibitions or parades illegal.
16.130.030 Exceptions.
16.130.035 Police authorized to kill.

16.130.010 Owning of vicious dogs.

It shall be unlawful for any person to have, shelter, quarter, own or in other way have under his control a vicious, dangerous, or ferocious dog within the boundaries of all Tribal lands, whether the dog is allowed to run at large or is confined on private property.

Comment: This section amends and supersedes the original animal ordinance adopted pursuant to Tribal Council Resolution No. 92-007, dated February 11, 1992.

[Res. 94-032, 1994. Prior Code § 15-130-10.]

16.130.015 Attack by vicious dogs.

Any dog that attacks or at any time has attacked, bites or in any way harms, injures or at any time has injured any person, shall be deemed to be vicious, ferocious or dangerous.

Comment: This section amends and supersedes the original animal ordinance adopted pursuant to Tribal Council Resolution No. 92-007, dated February 11, 1992.

[Res. 94-032, 1994. Prior Code § 15-130-15.]

16.130.020 Running at large – Misdemeanor.

Any dog that is exercising control or apparent control of its owner shall be guilty of a misdemeanor.

Comment: This section amends and supersedes the original animal ordinance adopted pursuant to Tribal Council Resolution No. 92-007, dated February 11, 1992.

[Res. 94-032, 1994. Prior Code § 15-130-20.]

16.130.025 Exhibitions or parades illegal.

It shall be unlawful to permit any dangerous or vicious or ferocious dog to run at large on Tribal lands; exhibitions or parades of dogs which are dangerous, ferocious or vicious or wild may only be conducted upon securing a permit from the Tribal Council.

Comment: This section amends and supersedes the original animal ordinance adopted pursuant to Tribal Council Resolution No. 92-007, dated February 11, 1992.

[Res. 94-032, 1994. Prior Code § 15-130-25.]

16.130.030 Exceptions.

Any dog which is known to have vicious, ferocious or dangerous propensities may be kept and housed on Tribal lands provided:

(a) At no time shall the animal leave the private property of the owner or person in charge;

(b) The private property shall be adequately and properly posted with “Dangerous Dog” signs; and

(c) The dog shall be kept, confined or housed within an enclosure that is:

(1) Adequate to ensure dog’s retention;

(2) High enough so that the dog cannot bite or harm anyone by overreaching the top of the fence or enclosure; and

(3) Will disallow injury or harm to any child or person by such person’s reaching or poking through the fence or retaining enclosure.

The exception provided for in subsection (a) of this section shall not apply when any person is on the private property of another who has chosen to own, maintain or house a vicious, ferocious or dangerous dog and said dog bites or injures in any way said person, whenever such person is lawfully on the property of the owner or person in control of the dog. The owner or person in control of such

dog that bites or injures another shall be guilty of a misdemeanor.

Comment: This section amends and supersedes the original animal ordinance adopted pursuant to Tribal Council Resolution No. 92-007, dated February 11, 1992.

[Res. 94-032, 1994. Prior Code § 15-130-30.]

16.130.035 Police authorized to kill.

The Tribal Police Department is authorized to kill any dangerous, ferocious or vicious dog when it is necessary for the protection of a person's life or safety.

Comment: This section amends and supersedes the original animal ordinance adopted pursuant to Tribal Council Resolution No. 92-007, dated February 11, 1992.

[Res. 94-032, 1994. Prior Code § 15-130-35.]

Chapter 16.140

RESIDENTIAL ANIMAL HUSBANDRY

Sections:

16.140.010 Purpose and intent.
16.140.015 Allowed activities.

16.140.010 Purpose and intent.

These residential animal husbandry regulations are adopted for the purposes of defining and delimiting the types of nondomestic livestock that may be raised and/or kept on or in conjunction with residential dwelling units on lands within the jurisdiction of the Las Vegas Paiute Tribe.

Comment: This section amends and supersedes the original animal ordinance adopted pursuant to Tribal Council Resolution No. 92-007, dated February 11, 1992.

[Res. 94-032, 1994. Prior Code § 15-140-10.]

16.140.015 Allowed activities.

The following activities are permitted on or in conjunction with a residential dwelling for the use of the family residing on the lot or parcel, as an incidental use, but not for commercial purposes:

(a) Small livestock farming and/or the keeping of cows, horses, sheep, goats or similar animals, with the following restrictions:

(1) No corral, stable, barn or other animal housing or enclosure shall be built less than 50 feet from any dwelling on another lot, less than 100 feet from the front lot line or less than five feet from any side or rear property line; and

(2) One cow will be allowed for each 8,000 square feet of lot area; or

(3) One horse will be allowed for each 8,000 square feet of lot area; or

(4) Two sheep will be allowed for each 10,000 square feet of lot area; or

(5) Two goats will be allowed for each 10,000 square feet of lot area; and

(6) No hogs or pigs shall be allowed; and

(7) The total number of horses and cows combined shall not be more than four.

(b) A maximum of 20 chickens or 20 rabbits or similar animals will be allowed on a lot or parcel of land; provided, that all killing or dressing is done for the owners' consumption;

(c) A maximum of 10 chinchillas will be allowed on a lot or parcel of land; provided, that no pelting is done on the premises;

(d) The keeping, breeding, and raising of domestic animals will be allowed, but not for commercial purposes, but the total number of any combination of the above animals shall not exceed 10, other than their young under the age of six months; and

(e) Aviaries or beehives will be allowed upon the following conditions:

(1) Occupied hives shall be at least 400 feet from any other apiary or existing dwelling on another property unless the written consent of the owner of such dwelling or apiary is secured;

(2) Occupied hives shall have a minimum separation of 50 feet to any common property line of another property; and

(3) Occupied hives shall have a minimum separation of 150 feet to any street or highway.

Comment: This section amends and supersedes the original animal ordinance adopted pursuant to Tribal Council Resolution No. 92-007, dated February 11, 1992.

[Res. 94-032, 1994. Prior Code § 15-140-15.]

Chapter 16.150

ANIMAL CONTROL

Sections:

16.150.010 Animal control.

16.150.010 Animal control.

To the extent not inconsistent with other Tribal laws, and in order to ensure adequate care, maintenance, and control of animals, this title shall apply to lands within the jurisdiction of the Las Vegas Paiute Tribe.

Comment: This section amends and supersedes the original animal ordinance adopted pursuant to Tribal Council Resolution No. 92-007, dated February 11, 1992.

[Res. 94-032, 1994. Prior Code § 15-150-10.]

Chapter 16.160

PUNISHMENT

Sections:
16.160.010 Penalties.
16.160.015 Fine schedule.

16.160.010 Penalties.

Any person violating any terms or provisions of this title shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than $100.00 nor more than $500.00 or imprisonment of not more than six months or both.

Comment: This section amends and supersedes the original animal ordinance adopted pursuant to Tribal Council Resolution No. 92-007, dated February 11, 1992.

[Res. 94-032, 1994. Prior Code § 15-160-10.]

16.160.015 Fine schedule.

Minimum fines for violating provisions of this title shall be as follows:

VIOLATION	FINE	COURT COST	TOTAL
No dog tag	$25.00	$10.00	$35.00
Dog tag (obtained)	$10.00	$10.00	$20.00
Animal at large (first offense)	$50.00	$25.00	$75.00
Animal at large (second offense)	$100.00	$25.00	$125.00
Animal at large (third offense)	$150.00	$25.00	$175.00
Vicious dog	$250.00	$50.00	$300.00

Comment: This section amends and supersedes the original animal ordinance adopted pursuant to Tribal Council Resolution No. 92-007, dated February 11, 1992.

[Res. 94-032, 1994. Prior Code § 15-160-15.]

Chapter 16.170

ANIMAL ORDINANCE TO BE PROVIDED TO OWNERS

Sections:

16.170.010 Animal ordinance to be provided to owners.

16.170.010 Animal ordinance to be provided to owners.

Any Tribal member may obtain a copy of this title in full upon request so as to ensure full understanding and compliance without question.

Comment: This section amends and supersedes the original animal ordinance adopted pursuant to Tribal Council Resolution No. 92-007, dated February 11, 1992.

[Res. 94-032, 1994. Prior Code § 15-170-10.]

Title 17

SNOW MOUNTAIN RECREATIONAL FACILITIES

Chapters:

17.10 Purpose and Authority
17.20 Board of Commissioners
17.30 Powers
17.40 Borrowing
17.50 Sovereign Immunity
17.60 Assets and Liabilities

Chapter 17.10

PURPOSE AND AUTHORITY

Sections:

17.10.010 Purpose and authority.

17.10.010 Purpose and authority.

Pursuant to Article VII, Sections 1(e) and 1(h) of the Constitution and Bylaws of the Las Vegas Paiute Tribe, the Las Vegas Paiute Tribal Council hereby enacts this title, Snow Mountain Recreational Facilities Authority Ordinance (hereinafter "authority ordinance"). By the enactment of this authority ordinance, the Snow Mountain Recreational Facilities Authority (hereinafter "SMRF Authority") is established as an instrumentality of the Tribe with the powers expressly delegated to it by the Tribal Council. The SMRF Authority is established to acquire, construct, finance, operate and maintain such public recreational facilities of the Tribe as may be from time to time approved by the Tribal Council. Nothing in this section or any other section or provision of this title shall constitute a waiver of the sovereign immunity of the Tribe or of officials of the Tribe acting in their official capacity, and nothing in this section or any other section or provision of this title shall authorize, imply or allow the application of the laws of the state of Nevada or any other political body other than the Tribe except as explicitly set forth herein.

Comment: Created in its entirety pursuant to Resolution No. 93-025, dated November 30, 1993, which adopted a three-point government plan providing for the creation of an instrumentality of the Tribe to finance, develop and operate the Snow Mountain Reservation golf course project.

[Res. 94-034, 1994; Res. 93-025, 1993. Prior Code § 16-10-10.]

Chapter 17.20

BOARD OF COMMISSIONERS

Sections:

17.20.010 Board of Commissioners.
17.20.015 Eligibility to serve.
17.20.020 Terms.
17.20.025 Officers of the Board.
17.20.030 No compensation for Commissioners.
17.20.035 Expense reimbursement.
17.20.040 Quorum.
17.20.045 Chairperson's vote.
17.20.050 Record of meetings and actions.
17.20.055 Financial records and reports.
17.20.060 Meetings.

17.20.010 Board of Commissioners.

The affairs of the SMRF Authority shall be managed by a Board of Commissioners. The Board of Commissioners (hereinafter "Board") shall be comprised of the Tribal Chairperson and four other Tribal members who shall be nominated and ratified by the Tribal Council.

Comment: Created in its entirety pursuant to Resolution No. 93-025, dated November 30, 1993, which adopted a three-point government plan providing for the creation of an instrumentality of the Tribe to finance, develop and operate the Snow Mountain Reservation golf course project.

[Res. 94-034, 1994; Res. 93-025, 1993. Prior Code § 16-20-10.]

17.20.015 Eligibility to serve.

All members of the Las Vegas Paiute Tribe, 21 years of age or older, shall be eligible to serve as a Commissioner.

Comment: Created in its entirety pursuant to Resolution No. 93-025, dated November 30, 1993, which adopted a three-point government plan providing for the creation of an instrumentality of the Tribe to finance, develop and operate the Snow Mountain Reservation golf course project.

[Res. 94-034, 1994; Res. 93-025, 1993. Prior Code § 16-20-15.]

17.20.020 Terms.

The term of office for the Chairperson of the Board shall be in concurrence with his term of Tribal Chairperson and he shall serve until his successor is elected and seated. The Tribal Council shall appoint two Tribal Council members to serve as Commissioners, one for a term of three years and one for a term of two years; subsequent appointments after these terms expire shall run for two years. The Tribal Council shall also appoint two Tribal members to serve as Commissioners, one for a term of three years and one for a term of two years; subsequent appointments after these terms expire shall run for two years. Each Commissioner shall hold office until his successor has been nominated and ratified. In the event that the Tribal Council appoints a Tribal member who is unwilling or unable to serve as Commissioner, the Tribal Council shall appoint Tribal Council members to fill the vacant seat(s) on the Board of Commissioners.

Comment: Created in its entirety pursuant to Resolution No. 93-025, dated November 30, 1993, which adopted a three-point government plan providing for the creation of an instrumentality of the Tribe to finance, develop and operate the Snow Mountain Reservation golf course project.

[Res. 94-034, 1994; Res. 93-025, 1993. Prior Code § 16-20-20.]

17.20.025 Officers of the Board.

The Tribal Chairperson shall also serve as the Chairperson of the Board. The Commissioners shall elect from within their own members a Vice-Chairperson. The Commissioners shall elect from within or without their own members a Secretary and a Treasurer. If the Secretary and/or the Treasurer selected is not a Commissioner, he shall have no vote in the Board and his presence shall not contribute to the existence of a quorum. In the absence of the Chairperson, the Vice-Chairperson shall preside.

Comment: Created in its entirety pursuant to Resolution No. 93-025, dated November 30, 1993, which adopted a three-point government plan providing for the creation of an instrumentality of the Tribe to finance, develop and operate the Snow Mountain Reservation golf course project.

[Res. 94-034, 1994; Res. 93-025, 1993. Prior Code § 16-20-25.]

17.20.030 No compensation for Commissioners.

The Commissioners shall not receive compensation for their services but shall be entitled to reimbursement of certain expenses as detailed in LVPTC 17.20.035.

Comment: Created in its entirety pursuant to Resolution No. 93-025, dated November 30, 1993, which adopted a three-point government plan providing for the creation of an instrumentality of the Tribe to finance, develop and operate the Snow Mountain Reservation golf course project.

[Res. 94-034, 1994; Res. 93-025, 1993. Prior Code § 16-20-30.]

17.20.035 Expense reimbursement.

The Commissioners shall be entitled to compensation for their expenses, including travel expenses, incurred in the discharge of their duties. All requests for reimbursement must be made in accordance with Tribal policy and must be approved by the Tribal Chairperson.

Comment: Created in its entirety pursuant to Resolution No. 93-025 dated November 30, 1993 which adopted a three-point government plan providing for the creation of an instrumentality of the Tribe to finance, develop and operate the Snow Mountain Reservation golf course project.

[Res. 94-034, 1994; Res. 93-025, 1993. Prior Code § 16-20-35.]

17.20.040 Quorum.

A quorum of the Board shall consist of three of its members. For the transaction of business, a majority of the Commissioners must be present but no Board action shall be taken without the majority vote of the full Board.

Comment: Created in its entirety pursuant to Resolution No. 93-025, dated November 30, 1993, which adopted a three-point government plan providing for the creation of an instrumentality of the

Tribe to finance, develop and operate the Snow Mountain Reservation golf course project.

[Res. 94-034, 1994; Res. 93-025, 1993. Prior Code § 16-20-40.]

17.20.045 Chairperson's vote.

The Board Chairperson shall vote only in the case of a tie.

Comment: Created in its entirety pursuant to Resolution No. 93-025, dated November 30, 1993, which adopted a three-point government plan providing for the creation of an instrumentality of the Tribe to finance, develop and operate the Snow Mountain Reservation golf course project.

[Res. 94-034, 1994; Res. 93-025, 1993. Prior Code § 16-20-45.]

17.20.050 Record of meetings and actions.

The Board Secretary shall keep full and accurate records of all meetings and actions taken by the Board, shall make periodic reports to the Tribal Chairperson and shall submit a complete annual report, in written form, to the Tribal Council.

Comment: Created in its entirety pursuant to Resolution No. 93-025, dated November 30, 1993, which adopted a three-point government plan providing for the creation of an instrumentality of the Tribe to finance, develop and operate the Snow Mountain Reservation golf course project.

[Res. 94-034, 1994; Res. 93-025, 1993. Prior Code § 16-20-50.]

17.20.055 Financial records and reports.

The Board Treasurer shall keep full and accurate financial records, make periodic reports to the Board and submit a complete annual report, in written form, to the Tribal Council.

Comment: Created in its entirety pursuant to Resolution No. 93-025, dated November 30, 1993, which adopted a three-point government plan providing for the creation of an instrumentality of the Tribe to finance, develop and operate the Snow Mountain Reservation golf course project.

[Res. 94-034, 1994; Res. 93-025, 1993. Prior Code § 16-20-55.]

17.20.060 Meetings.

The Board shall hold monthly meetings with an agenda prepared in advance by the Board Chairperson. Special meetings may be called, either by the Board Chairperson or the majority vote of the Board, at any time upon 24 hours' actual notice. All proceedings of the Board shall be open to the members of the Las Vegas Paiute Tribe except when an executive session is authorized by either the Chairperson or the majority of the Board.

Comment: Created in its entirety pursuant to Resolution No. 93-025, dated November 30, 1993, which adopted a three-point government plan providing for the creation of an instrumentality of the Tribe to finance, develop and operate the Snow Mountain Reservation golf course project.

[Res. 94-034, 1994; Res. 93-025, 1993. Prior Code § 16-20-60.]

Chapter 17.30

POWERS

Sections:

17.30.010 Enumerated powers.

17.30.010 Enumerated powers.

The SMRF Authority shall have the following specifically enumerated powers:

(a) To adopt and use an official seal;

(b) To enter any contracts or agreements with any federal, state, local or Tribal government or governmental agency, or with any person, partnership, firm or corporation;

(c) To lease property from the Tribe and others for such periods and to hold and manage, or to sublease the same;

(d) To borrow or lend money and to issue indebtedness in accordance with the provisions of Chapter 17.40 LVPTC;

(e) To pledge the assets and receipts of the SMRF Authority as security for debts;

(f) To acquire, construct, operate, manage, sell, lease as lessor or lessee, exchange, transfer or assign real or personal property or interests therein;

(g) To purchase land or interests in land or take the same by gift; to lease land or interests in land to the extent provided by law;

(h) To invest such funds as are not required for immediate disbursement;

(i) To establish and maintain such bank accounts as may be necessary or convenient;

(j) To employ such officers and employees, permanent or temporary, as the SMRF Authority may require, and to delegate to such officers and employees such powers and duties as the Commissioners deem proper; and

(k) To take such further actions as are necessary to carry out the purposes as described in LVPTC 17.10.010.

Comment: Created in its entirety pursuant to Resolution No. 93-025, dated November 30, 1993, which adopted a three-point government plan providing for the creation of an instrumentality of the Tribe to finance, develop and operate the Snow Mountain Reservation golf course project.

[Res. 94-034, 1994; Res. 93-025, 1993. Prior Code § 16-30-10.]

Chapter 17.40

BORROWING

Sections:

17.40.010 Borrowing.
17.40.015 Obligations.
17.40.020 Pledge or encumbrance of SMRF Authority's revenues, income, assets, and/or interest.
17.40.025 Refundings.
17.40.030 Sovereign immunity – Issuance of obligations and consent to be sued.

17.40.010 Borrowing.

Subject to the limitations set forth in this chapter, the SMRF Authority shall have the power to borrow money and incur indebtedness by issuing its obligations, in its own name or in the name of and on behalf of the Las Vegas Paiute Tribe, for purposes of acquiring, constructing, maintaining, managing and improving any public recreational facilities within the territorial jurisdiction of the Tribe consistent with the purposes of the SMRF Authority. Such obligations shall be issued and sold in such manner and shall be in the amount and form and bear interest at the rate or rates set by the SMRF Authority. Each such obligation must be approved by the Tribal Council prior to its issuance.

Comment: Created in its entirety pursuant to Resolution No. 93-025, dated November 30, 1993, which adopted a three-point government plan providing for the creation of an instrumentality of the Tribe to finance, develop and operate the Snow Mountain Reservation golf course project.

[Res. 94-034, 1994; Res. 93-025, 1993. Prior Code § 16-40-10.]

17.40.015 Obligations.

All such obligations shall be payable solely from revenues, income, receipts and profits derived by the SMRF Authority from projects operated by it whether or not such projects were financed in whole or in part with the proceeds of such obligations; from the proceeds of evidences of indebtedness issued and sold by the SMRF Authority which are payable solely from any of such revenues, income, receipts and profits; or from federal or state grants or other money received by the SMRF Authority which are available therefor. The SMRF Authority may further secure such obligations with any assets of the SMRF Authority as the SMRF Authority may specifically pledge to the payment of the obligations.

Comment: Created in its entirety pursuant to Resolution No. 93-025, dated November 30, 1993, which adopted a three-point government plan providing for the creation of an instrumentality of the Tribe to finance, develop and operate the Snow Mountain Reservation golf course project.

[Res. 94-034, 1994; Res. 93-025, 1993. Prior Code § 16-40-15.]

17.40.020 Pledge or encumbrance of SMRF Authority's revenues, income, assets, and/or interest.

The SMRF Authority may pledge to the repayment of any such obligations and the interest coming due thereon any or all of the sources set forth in LVPTC 17.40.015, but is without power to pledge or encumber any other revenues, income or assets of the Las Vegas Paiute Tribe, or any other organization or instrumentality of the Tribe to the repayment of such obligations. The Tribal Council may, if it deems it to be in the best interests of the Tribe to do so, pledge to the payment of any such obligations such specific revenues, income or assets of the Tribe as it may deem appropriate. In any event, no such obligations shall be payable from, nor be a charge upon, any funds other than the revenues specifically pledged to the payment thereof, nor shall the Tribe be liable thereon other than to the extent specifically provided in accordance with this section, and such limitation shall be expressly stated in each such obligation.

Comment: Created in its entirety pursuant to Resolution No. 93-025, dated November 30, 1993, which adopted a three-point government plan providing for the creation of an instrumentality of the Tribe to finance, develop and operate the Snow Mountain Reservation golf course project.

[Res. 94-034, 1994; Res. 93-025, 1993. Prior Code § 16-40-20.]

17.40.025 Refundings.

The SMRF Authority, with the approval of the Tribal Council, may provide for the refunding of any obligation of the SMRF Authority through the issuance of other obligations of the SMRF Authority, entitled to rights and priorities similar in all respects to those held by the obligations that are refunded.

Comment: Created in its entirety pursuant to Resolution No. 93-025, dated November 30, 1993, which adopted a three-point government plan providing for the creation of an instrumentality of the Tribe to finance, develop and operate the Snow Mountain Reservation golf course project.

[Res. 94-034, 1994; Res. 93-025, 1993. Prior Code § 16-40-25.]

17.40.030 Sovereign immunity – Issuance of obligations and consent to be sued.

In connection with the issuance of any such obligation, the SMRF Authority has the limited authority to consent to be sued in accordance with and subject to LVPTC 17.50.020, but only within the following restrictions:

(a) Any such consent may only be in order to permit an action to enforce the terms of an obligation of the SMRF Authority; and

(b) In connection with any such action, the SMRF Authority may consent to the jurisdiction of any court of the United States of America or any state of competent jurisdiction; and

(c) Any consent must be given only with the express restriction and understanding that the SMRF Authority is without power to waive the sovereign immunity of the Las Vegas Paiute Tribe, to consent to the jurisdiction of any court over the Tribe, or to the levy of any judgment, lien or attachment upon any property or income of the SMRF Authority, the Tribe or any other organization or instrumentality of the Tribe other than that specifically pledged pursuant to this chapter.

Comment: Created in its entirety pursuant to Resolution No. 93-025, dated November 30, 1993, which adopted a three-point government plan providing for the creation of an instrumentality of the Tribe to finance, develop and operate the Snow Mountain Reservation golf course project.

[Res. 94-034, 1994; Res. 93-025, 1993. Prior Code § 16-40-30.]

Chapter 17.50

SOVEREIGN IMMUNITY

Sections:

17.50.010 Statement of Tribal sovereign immunity – Las Vegas Paiute Tribe's denial of any waiver of sovereign immunity.
17.50.015 No waiver of sovereign immunity implied.
17.50.020 Restrictions under which SMRF Authority may consent to be sued.
17.50.025 SMRF Authority's consent to suit shall not be deemed a waiver of Tribal sovereign immunity.

17.50.010 Statement of Tribal sovereign immunity – Las Vegas Paiute Tribe's denial of any waiver of sovereign immunity.

As an instrumentality of the Las Vegas Paiute Tribe, the SMRF Authority shall be clothed by federal and Tribal law with all the privileges and immunities of the Tribe, except as specifically limited by this authority ordinance, including sovereign immunity from suit in any state, federal or tribal court. Nothing contained in this authority ordinance shall be deemed or construed to be a waiver of sovereign immunity by the SMRF Authority from suit; the SMRF Authority may consent to be sued only in accordance with this authority ordinance.

Comment: Created in its entirety pursuant to Resolution No. 93-025, dated November 30, 1993, which adopted a three-point government plan providing for the creation of an instrumentality of the Tribe to finance, develop and operate the Snow Mountain Reservation golf course project.

[Res. 94-034, 1994; Res. 93-025, 1993. Prior Code § 16-50-10.]

17.50.015 No waiver of sovereign immunity implied.

Nothing in this section or any other section or provision of this title shall be deemed or construed to be:

(a) A waiver of sovereign immunity by the SMRF Authority, the Tribal Council, the Tribe or any of its members, agents and employees; or

(b) A consent to the jurisdiction of any court over the SMRF Authority, the Tribal Council, the Tribe or any of its members, agents and employees; or

(c) A consent to the levy of any judgment, lien or attachment upon any property or income of the SMRF Authority, the Tribal Council, the Las Vegas Paiute Tribe or any of its members, agents or employees.

Comment: Created in its entirety pursuant to Resolution No. 93-025, dated November 30, 1993, which adopted a three-point government plan providing for the creation of an instrumentality of the Tribe to finance, develop and operate the Snow Mountain Reservation golf course project.

[Res. 94-034, 1994; Res. 93-025, 1993. Prior Code § 16-50-15.]

17.50.020 Restrictions under which SMRF Authority may consent to be sued.

The SMRF Authority may consent to be sued only by formal resolution approved by a majority of the full Board of Commissioners. Consents to suit are disfavored and shall be granted only when necessary to secure a substantial advantage or benefit to the SMRF Authority. Any consent to suit shall be specific and limited as to:

(a) Duration;

(b) The grantee;

(c) The particular transaction;

(d) Definite property or funds, if any, of the SMRF Authority;

(e) A particular court having jurisdiction pursuant thereto; and

(f) The law that shall be applicable thereto.

Comment: Created in its entirety pursuant to Resolution No. 93-025, dated November 30, 1993, which adopted a three-point government plan pro-

viding for the creation of an instrumentality of the Tribe to finance, develop and operate the Snow Mountain Reservation golf course project.

[Res. 94-034, 1994; Res. 93-025, 1993. Prior Code § 16-50-20.]

17.50.025 SMRF Authority's consent to suit shall not be deemed a waiver of Tribal sovereign immunity.

Any express consent to suit by resolution of the Board shall not be deemed a waiver of the sovereign immunity of the Tribe, a consent to the jurisdiction of any court over the Tribe, or a consent to the levy of any judgment, lien or attachment upon any property or income of the SMRF Authority, the Tribe or any other organization or instrumentality of the Tribe other than that specifically pledged or assigned.

Comment: Created in its entirety pursuant to Resolution No. 93-025, dated November 30, 1993, which adopted a three-point government plan providing for the creation of an instrumentality of the Tribe to finance, develop and operate the Snow Mountain Reservation golf course project.

[Res. 94-034, 1994; Res. 93-025, 1993. Prior Code § 16-50-25.]

Chapter 17.60

ASSETS AND LIABILITIES

Sections:

17.60.010 Assets.
17.60.015 Property.
17.60.020 Exemptions.
17.60.025 Liability.
17.60.030 Disposition of property upon dissolution of SMRF Authority.

17.60.010 Assets.

The SMRF Authority shall have only those assets specifically assigned to it by the Tribe or acquired in its name by the Tribe or the SMRF Authority or on its own behalf. Nothing in this authority ordinance nor any activity of the SMRF Authority shall implicate or in any way involve the credit or assets of the Tribe or obligate the Tribe for the obligations of the SMRF Authority except for any liability or obligation specifically assumed in writing.

Comment: Created in its entirety pursuant to Resolution No. 93-025, dated November 30, 1993, which adopted a three-point government plan providing for the creation of an instrumentality of the Tribe to finance, develop and operate the Snow Mountain Reservation golf course project.

[Res. 94-034, 1994; Res. 93-025, 1993. Prior Code § 16-60-10.]

17.60.015 Property.

The property of the SMRF Authority is declared to be public property used for essential public and governmental purposes and such property and the SMRF Authority are exempt from all taxes and special assessments of the Tribe. Nothing in this section shall in any way limit the power of the Tribe to:

(a) Tax the use of the property of the SMRF Authority by entities other than the SMRF Authority; or

(b) Impose sales or use taxes on the sale of goods or the performance of services on the property of the SMRF Authority.

Comment: Created in its entirety pursuant to Resolution No. 93-025, dated November 30, 1993, which adopted a three-point government plan pro-

viding for the creation of an instrumentality of the Tribe to finance, develop and operate the Snow Mountain Reservation golf course project.

[Res. 94-034, 1994; Res. 93-025, 1993. Prior Code § 16-60-15.]

17.60.020 Exemptions.

All property of the SMRF Authority, including funds acquired or held by the SMRF Authority pursuant to this authority ordinance, shall be exempt from levy and sale by virtue of an execution, and no execution or other judicial powers shall issue against the same nor shall any judgment against the SMRF Authority be a charge or lien upon such property. The provisions of this section shall not apply to or limit the right of a secured party to pursue any remedies for the enforcement of any pledge or lien given by the SMRF Authority on its revenues or properties.

Comment: Created in its entirety pursuant to Resolution No. 93-025, dated November 30, 1993, which adopted a three-point government plan providing for the creation of an instrumentality of the Tribe to finance, develop and operate the Snow Mountain Reservation golf course project.

[Res. 94-034, 1994; Res. 93-025, 1993. Prior Code § 16-60-20.]

17.60.025 Liability.

No member of the Board of Commissioners of the SMRF Authority, no member of the Tribal Council, and no officer, employee or agent of the SMRF Authority or the Tribe shall be personally liable for any of the obligations or indebtedness of the SMRF Authority.

Comment: Created in its entirety pursuant to Resolution No. 93-025, dated November 30, 1993, which adopted a three-point government plan providing for the creation of an instrumentality of the Tribe to finance, develop and operate the Snow Mountain Reservation golf course project.

[Res. 94-034, 1994; Res. 93-025, 1993. Prior Code § 16-60-25.]

17.60.030 Disposition of property upon dissolution of SMRF Authority.

Upon dissolution of the SMRF Authority, the title to all property owned by it shall vest in and become the property of the Tribe.

Comment: Created in its entirety pursuant to Resolution No. 93-025, dated November 30, 1993, which adopted a three-point government plan providing for the creation of an instrumentality of the Tribe to finance, develop and operate the Snow Mountain Reservation golf course project.

[Res. 94-034, 1994; Res. 93-025, 1993. Prior Code § 16-60-30.]

Title 18

SNOW MOUNTAIN ENVIRONMENTAL CODE

Chapters:

18.10 Snow Mountain Environmental Code

Chapter 18.10

SNOW MOUNTAIN ENVIRONMENTAL CODE

Sections:

18.10.010 Policy and purpose.
18.10.020 Short title – Definitions.
18.10.030 Adoption of environmental laws.
18.10.040 General duties of users.
18.10.050 Indemnification duty of users.
18.10.060 Tribe's rights.
18.10.070 Tribe to be notified of suspected violations – Penalty.
18.10.080 Notice of alleged violations.
18.10.090 Hearing procedures for alleged violations.
18.10.100 Cease and desist orders.
18.10.110 Cleanup orders.
18.10.120 Restraining orders and injunctions.
18.10.130 Civil penalties.
18.10.140 Jurisdiction of Las Vegas Paiute Tribal Court.

18.10.010 Policy and purpose.

It is hereby declared to be the public policy of the Tribe to pursue economic development while protecting and maintaining the environmental integrity of the Snow Mountain Reservation. [Prior Code § X-10.]

18.10.020 Short title – Definitions.

This title shall be known and may be cited as the "Snow Mountain Environmental Code." When appearing in this title, the following terms shall have the following meanings:

"Cleanup" means removal and/or remediation of, or other response (including, without limitation, testing, monitoring, sampling or investigating of any kind) to, any release of hazardous substances or contamination, to the satisfaction of the Tribe and all applicable federal governmental agencies, in compliance with environmental laws, and in compliance with good commercial practice.

"Contamination" means the presence of, or release on, under, from or to the Snow Mountain development land or any part thereof of any hazardous substance, excepting, however, the routine storage and use of hazardous substances from time to time in the ordinary course of business, in compliance with environmental laws, and in compliance with good commercial practice.

"Environmental laws" means:

(1) Any and all statutes now or hereafter enacted by the Congress of the United States of America and any and all regulations, rules and policies now or hereafter promulgated thereunder by agencies of the United States Government; and

(2) Any and all laws now or hereafter enacted by the Tribe (including, without limitation, this title) and any and all regulations, rules and policies now or hereafter promulgated thereunder by any agencies (now extant or hereafter established) of the Tribe;

In either case relating to the environment or to human health or safety associated with the environment, and all as amended or modified from time to time. The term "environmental laws" specifically excludes any and all statutes and ordinances of any state or political subdivision thereof and any and all regulations promulgated thereunder by their respective agencies.

"Hazardous substance(s)" means (1) any substance, the presence of which requires investigation or remediation under any environmental law; (2) any dangerous, toxic, explosive, corrosive, flammable, infectious, radioactive, carcinogenic, mutagenic or otherwise hazardous substance which is regulated by any environmental law; (3) any substance, the presence of which causes or threatens to cause a nuisance upon the Snow Mountain development land or to adjacent properties or poses or threatens to pose a hazard to the health or safety of persons on or about the Reservation; (4) any substance, the presence of which on properties adjacent to the Snow Mountain development land could constitute a trespass; and (5) urea-formaldehyde, polychlorinated biphenyls, asbestos or asbestos-containing materials, petroleum and petroleum products.

"Person" means an individual, firm, corporation, association, partnership, consortium,

joint venture, commercial entity, the United States Government, a federal agency, a state or political subdivision thereof, municipality, commission or interstate body.

"Regulatory action(s)" means any claim, demand, action or proceeding brought or instigated by any governmental authority in connection with any environmental law (including without limitation civil, criminal and/or administrative proceedings), whether or not seeking costs, damages, penalties or expenses.

"Release" means the spilling, leaking, disposing, discharging, emitting, depositing, injecting, leaching, escaping, or any other release or threatened release, however defined, and whether intentional or unintentional, of any hazardous substance on, under, from or to the Snow Mountain development land or any part thereof excepting, however, releases of hazardous substances from time to time intentionally made in the ordinary course of business, in compliance with environmental laws, and in compliance with good commercial practice.

"Reservation" means the Snow Mountain Reservation comprised of all lands depicted on Exhibit 1 attached to the resolution codified in this section and incorporated herein by reference.

"Snow Mountain development land" means that portion of the Reservation comprised of the right-of-way of United States Highway 95 and all lands northerly and easterly of the right-of-way of United States Highway 95.

"Third party claim(s)" means third party claims, actions, demands or proceedings (other than regulatory actions) based on statutory or common law claims of negligence, trespass, strict liability, nuisance, toxic tort or detriment to human health or welfare due to any release of hazardous substances or contamination, and whether or not seeking costs, damages, penalties or expenses.

"Tribe" means the Las Vegas Paiute Tribe, organized under the provisions of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984) and a Constitution approved by the Tribe on June 24, 1970.

"User" means any person (including, without limitation, any lessee, tenant, management company, operator and occupant) which, through a consensual relationship with the Tribe or another user, conducts or operates a business activity in whole or in part on the Snow Mountain development land, and its heirs, successors and assigns. The term "agents" of a user means a user's agents, contractors, subcontractors, employees, tenants, subtenants, licensees, customers, invitees, any person entering the Snow Mountain development land by the express or implied invitation of such user, any person claiming an interest in the Snow Mountain development land by or through such user, and its and their heirs, successors and assigns. [Prior Code § X-20.]

18.10.030 Adoption of environmental laws.

The environmental laws are hereby declared to be applicable to the Snow Mountain development land and activities conducted thereon by users, and are hereby incorporated by reference into the laws of the Tribe; provided, however, that nothing in this title shall be construed as intent to include the Tribe or instrumentalities or agencies of the Tribe within the scope of persons subject to liability under the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§ 9601 through 9675. [Prior Code § X-30.]

18.10.040 General duties of users.

(a) Each user shall comply with environmental laws and will not use or permit any portion of the Snow Mountain development land to be used as a facility for the handling, processing, storage, use, generation, treatment, transport, disposal or management of hazardous substances except in the ordinary course of the user's business and in compliance with environmental laws and good commercial practice. Each user shall exercise prudent skill and care (which standard of care shall be defined by reference to the then-current technology and best practices in use in the industry in which the user conducts its

business) in the handling, processing, storage, use, generation, treatment, transport, disposal or management of any hazardous substances.

(b) A user shall not cause a release or permit a release to exist, which release is a result of any intentional or unintentional action or omission on its part or the part of its agents, or which is a release for which it is responsible under environmental laws.

(c) A user shall immediately notify the Tribe if it becomes aware of any violation of environmental law, any regulatory action or any third party claim that involves its business conducted on the Snow Mountain development land or involves the portion of the snow mountain development land that it occupies, operates or controls.

(d) At its own cost, a user shall promptly commence and diligently pursue all actions which are necessary or desirable to effect cleanup of any release or contamination resulting from any intentional or unintentional action or omission on its part or on the part of its agents or for which it is responsible under environmental laws. [Prior Code § X-40.]

18.10.050 Indemnification duty of users.

Each user shall indemnify, defend (with counsel acceptable to the Tribe) and hold harmless the Tribe, its members, employees and agents, the United States of America, other users, and its and their heirs, successors and assigns (all being included in the word "Indemnitees" for the purpose of this section) from any and all claims, causes of action, damages, demands, liabilities, losses, penalties, expenses and/or costs, however defined (including, but not limited to, all foreseeable and unforeseeable consequential damage and reasonable attorneys' fees, prior to trial, at trial and on appeal, reasonable consultants' fees, and related expenses), which may be asserted against, imposed on, or incurred by, any Indemnitee arising out of or due to, or allegedly arising out of or due to: (a) any release or contamination on, under or from that portion of the Snow Mountain development land leased, operated or controlled by the indemnifying user, which release or contamination occurs, in whole or in part, during the period of the indemnifying user's lease, operation or control; and/or (b) any violation, or alleged violation, of any environmental law with respect to that portion of the Snow Mountain development land leased, operated or controlled by the indemnifying user or the indemnifying user's operations at that portion of the Snow Mountain development land leased, operated or controlled by the indemnifying user. The expiration or termination of the indemnifying user's interest in all or any part of the Snow Mountain development land shall not relieve such user of its indemnification duty or impair any remedy available against such user. [Prior Code § X-50.]

18.10.060 Tribe's rights.

(a) The Tribe, through its authorized agents and employees, has the power, upon presentation of proper credentials, to enter and inspect at any reasonable time and in a reasonable manner, any property, premises, place or vehicle on the Snow Mountain development land for the purpose of investigating any actual, suspected or potential release or source of contamination or ascertaining compliance or noncompliance with environmental laws. Such entry is also authorized for the purpose of inspecting and copying of records required to be kept under environmental laws.

(b) Whenever the Tribe determines, after investigation, that any person is causing a release or contamination, directly or indirectly, in a manner which in the opinion of the Tribe constitutes a clear, present and immediate danger to the health and welfare of the members of the Tribe or users or agents of users, the Tribe may issue its written order to said person that such person must immediately cease or prevent such release or contamination and thereupon such person shall immediately discontinue such release or contamination. Concurrently with the issuance of such order, the Tribe may seek a restraining order or injunction pursuant to LVPTC 18.10.120.

(c) The Tribe, through its authorized agents and employees, has the power, upon presentation of proper credentials, to enter any prop-

erty, premises, place or vehicle on the Snow Mountain development land to conduct or to take such other actions as it deems necessary or advisable to clean up, remediate, encapsulate, remove, resolve or minimize the impact of, or otherwise deal with, any contamination, regulatory actions, third party claims, or violations of environmental laws pertaining to the Snow Mountain development land or any part thereof. The Tribe's rights under this section shall be exercised by it in its sole discretion and for the benefit of the Tribe only, and no third party shall have the right to rely on any action of the Tribe hereunder. The Tribe shall have no responsibility for the conduct of a user's environmental practices on the Snow Mountain development land. Any action or inaction by the Tribe shall not be deemed to constitute the taking of control over a user's waste disposal, waste management, or other environmental practices.

(d) If any entry by the Tribe for the purposes set forth in this section is denied, the Tribe is empowered to and, prior to entry, shall obtain from the Tribal Court a warrant to enter and inspect any such property, premises or place or vehicle. The Tribal Court is empowered to issue such warrants upon a proper showing of the need for such entry. Any information relating to any secret process, method of manufacture or production or sales or marketing data, which may be acquired, ascertained or discovered, whether in any sampling investigation, emergency investigation or otherwise, shall not be publicly disclosed by any member, officer or employee of the Tribe, but shall be kept confidential. Any person seeking to invoke the protection of this section in any hearing shall bear the burden of proving its applicability. [Prior Code § X-60.]

18.10.070 Tribe to be notified of suspected violations – Penalty.

(a) Any person may apply to the Tribe to investigate and take action upon any suspected or alleged violation of any environmental law.

(b) Any person engaged in any operation or activity which results in a release shall notify the Tribe as soon as such person has knowledge thereof. Any person who fails to notify the Tribe as soon as practicable is deemed in violation of this subsection and, upon a finding thereof, shall be levied a civil penalty of not more than $10,000. [Prior Code § X-70.]

18.10.080 Notice of alleged violations.

Whenever the Tribe has reason to believe that there has occurred a violation of any environmental law, the Tribe shall cause written notice to be served personally or by certified mail, return receipt requested, upon the alleged violator or its agent for service of process. The notice shall state the provision alleged to be violated, the facts alleged to constitute a violation, and may include the nature of any corrective action proposed to be required. Each cease and desist order and cleanup order issued pursuant to LVPTC 18.10.100 and 18.10.110 shall be accompanied by, or have incorporated in them, the notice provided for in this section unless such notice shall already have been given. [Prior Code § X-80.]

18.10.090 Hearing procedures for alleged violations.

(a) In any notice given under LVPTC 18.10.080, the Tribe may require the alleged violator to appear before the Tribal Council (or any Tribal agency hereafter established to assume responsibility for environmental matters) for a public hearing and to answer each alleged violation. Such hearing shall be held no sooner than 15 days after service of the notice, except the Tribe may set an earlier date for hearing if an emergency exists.

(b) If the Tribe does not require an alleged violator to appear for a public hearing, the alleged violator may request the Tribe to conduct such a hearing. Such request shall be in writing and shall be filed with the Secretary of the Tribal Council no later than 30 days after service of the notice under LVPTC 18.10.080. If such a request is filed, a hearing shall be held within a reasonable time.

(c) If a hearing is held pursuant to the provisions of this section, it shall be public. The Tribe shall permit all parties served under

LVPTC 18.10.080 to present evidence and argument on all issues, to call witnesses, and to conduct cross-examination. [Prior Code § X-90.]

18.10.100 Cease and desist orders.

If the Tribe determines, with or without a hearing, that there exists a violation of any environmental law, the Tribe may issue a cease and desist order. Such order shall set forth the provision alleged to be violated, the facts alleged to constitute the violation, and the time by which acts or practices complained of must be terminated. [Prior Code § X-100.]

18.10.110 Cleanup orders.

The Tribe may issue orders to any person to clean up any release resulting from the intentional or unintentional action or omission on the part of such person or such person's employee or agent. The Tribe may also have the Tribal attorney proceed and take appropriate action. [Prior Code § X-110.]

18.10.120 Restraining orders and injunctions.

(a) In the event any person fails to comply with a cease and desist order or cleanup order that is not subject to stay, pending administrative or judicial review, the Tribe may request the Tribal prosecuting attorney to bring, and if so requested it shall be his duty to bring, a suit for a temporary restraining order, preliminary injunction, or permanent injunction to prevent any further or continued violation of such order. In any such suit the final findings of the Tribe based upon evidence in the record shall be prima facie evidence of the facts found therein.

(b) Suits under this section shall be brought in the Tribal Court. Emergencies shall be given precedence over all other matters pending in such court. The institution of such injunction proceeding by the Tribe shall confer upon such court exclusive jurisdiction to determine finally the subject matter of the proceeding. [Prior Code § X-120.]

18.10.130 Civil penalties.

Any person who violates any provision of any environmental law or any final cease and desist order or cleanup order shall be subject to a civil penalty of not more than $10,000 per day for each day during which such violation occurs. Penalties shall be determined after a hearing as to the amount thereof and may be collected by the Tribe by action instituted in Tribal Court by the Tribal prosecuting attorney for collection of such penalty. A stay of any order of the Tribe pending judicial review shall not relieve any person from any liability under this section but the reason for the request for judicial review shall be considered in the determination of the amount of the penalty. [Prior Code § X-130.]

18.10.140 Jurisdiction of Las Vegas Paiute Tribal Court.

The Las Vegas Paiute Tribal Court shall have original jurisdiction, to the extent permitted by due process, over any action arising under environmental laws. [Prior Code § X-140.]

Title 19

SNOW MOUNTAIN ELECTRICAL FACILITIES

Chapters:

19.10	Purpose and Authority
19.20	Board of Commissioners
19.30	Powers
19.40	Borrowing
19.50	Sovereign Immunity
19.60	Assets and Liabilities

Chapter 19.10

PURPOSE AND AUTHORITY

Sections:

19.10.010 Purpose and authority.

19.10.010 Purpose and authority.

Pursuant to Article VII, Sections 1(e) and 1(h) of the Constitution and Bylaws of the Las Vegas Paiute Tribe, the Las Vegas Paiute Tribal Council hereby enacts this title, Snow Mountain Electrical Facilities authority ordinance (hereinafter "authority ordinance"). By the enactment of this authority ordinance, the Snow Mountain Electrical Facilities Authority (hereinafter "SMEF Authority") is established as an instrumentality of the Tribe with the powers expressly delegated to it by the Tribal Council. The SMEF Authority is established to acquire, construct, finance, operate and maintain such electrical transmission facilities and related infrastructure of the Tribe as may be from time to time approved by the Tribal Council. Nothing in this section or any other section or provision of this title shall constitute a waiver of the sovereign immunity of the Tribe or of officials of the Tribe acting in their official capacity, and nothing in this section or any other section or provision of this title shall authorize, imply or allow the application of the laws of the state of Nevada or any other political body other than the Tribe except as explicitly set forth herein. [Res. 09-016, 2009. Prior Code § 20-10-10.]

Chapter 19.20

BOARD OF COMMISSIONERS

Sections:

19.20.010 Board of Commissioners.
19.20.015 Eligibility to serve.
19.20.020 Terms.
19.20.025 Officers of the Board.
19.20.030 No compensation for Commissioners.
19.20.035 Expense reimbursement.
19.20.040 Quorum.
19.20.045 Chairperson's vote.
19.20.050 Record of meetings and actions.
19.20.055 Financial records and reports.
19.20.060 Meetings.

19.20.010 Board of Commissioners.

The affairs of the SMEF Authority shall be managed by a Board of Commissioners. The Board of Commissioners (hereinafter "Board") shall be comprised of the Tribal Chairperson and four other Tribal members who shall be nominated and ratified by the Tribal Council. [Res. 09-016, 2009. Prior Code § 20-20-10.]

19.20.015 Eligibility to serve.

All members of the Las Vegas Paiute Tribe, 21 years of age or older, shall be eligible to serve as a Commissioner. [Res. 09-016, 2009. Prior Code § 20-20-15.]

19.20.020 Terms.

The term of office for the Chairperson of the Board shall be in concurrence with his term of Tribal Chairperson and he shall serve until his successor is elected and seated. The Tribal Council shall appoint two Tribal Council members to serve as Commissioners, one for a term of three years and one for a term of two years; subsequent appointments after these terms expire shall run for two years. The Tribal Council shall also appoint two Tribal members to serve as Commissioners, one for a term of three years and one for a term of two years; subsequent appointments after these terms expire shall run for two years. Each Commissioner shall hold office until his successor has been nominated and ratified. In

the event that the Tribal Council appoints a Tribal member who is unwilling or unable to serve as Commissioner, the Tribal Council shall appoint Tribal Council members to fill the vacant seat(s) on the Board of Commissioners. [Res. 09-016, 2009. Prior Code § 20-20-20.]

19.20.025 Officers of the Board.

The Tribal Chairperson shall also serve as the Chairperson of the Board. The Commissioners shall elect from within their own members a Vice-Chairperson. The Commissioners shall elect from within or without their own members a Secretary and a Treasurer. If the Secretary and/or the Treasurer selected is not a Commissioner, he shall have no vote in the Board and his presence shall not contribute to the existence of a quorum. In the absence of the Chairperson, the Vice-Chairperson shall preside. [Res. 09-016, 2009. Prior Code § 20-20-25.]

19.20.030 No compensation for Commissioners.

The Commissioners shall not receive compensation for their services but shall be entitled to reimbursement of certain expenses as detailed in LVPTC 19.20.035. [Res. 09-016, 2009. Prior Code § 20-20-30.]

19.20.035 Expense reimbursement.

The Commissioners shall be entitled to compensation for their expenses, including travel expenses, incurred in the discharge of their duties. All requests for reimbursement must be made in accordance with Tribal policy and must be approved by the Tribal Chairperson. [Res. 09-016, 2009. Prior Code § 20-20-35.]

19.20.040 Quorum.

A quorum of the Board shall consist of three of its members. For the transaction of business, a majority of the Commissioners must be present but no Board action shall be taken without the majority vote of the full Board. [Res. 09-016, 2009. Prior Code § 20-20-40.]

19.20.045 Chairperson's vote.

The Board Chairperson shall vote only in the case of a tie. [Res. 09-016, 2009. Prior Code § 20-20-45.]

19.20.050 Record of meetings and actions.

The Board Secretary shall keep full and accurate records of all meetings and actions taken by the Board, shall make periodic reports to the Tribal Chairperson and shall submit a complete annual report, in written form, to the Tribal Council. [Res. 09-016, 2009. Prior Code § 20-20-50.]

19.20.055 Financial records and reports.

The Board Treasurer shall keep full and accurate financial records, make periodic reports to the Board and submit a complete annual report, in written form, to the Tribal Council. [Res. 09-016, 2009. Prior Code § 20-20-55.]

19.20.060 Meetings.

The Board shall hold monthly meetings with an agenda prepared in advance by the Board Chairperson. Special meetings may be called, either by the Board Chairperson or the majority vote of the Board, at any time upon 24 hours' actual notice. All proceedings of the Board shall be open to the members of the Las Vegas Paiute Tribe except when an executive session is authorized by either the Chairperson or the majority of the Board. [Res. 09-016, 2009. Prior Code § 20-20-60.]

Chapter 19.30

POWERS

Sections:
19.30.010 Enumerated powers.

19.30.010 Enumerated powers.

The SMEF Authority shall have the following specifically enumerated powers:

(a) To adopt and use an official seal;

(b) To enter any contracts or agreements with any federal, state, local or Tribal government or governmental agency, or with any person, partnership, firm or corporation;

(c) To lease property from the Tribe and others for such periods and to hold and manage or to sublease the same;

(d) To borrow or lend money and to issue indebtedness in accordance with the provisions of Chapter 19.40 LVPTC;

(e) To pledge the assets and receipts of the SMEF Authority as security for debts;

(f) To acquire, construct, operate, manage, sell, lease as lessor or lessee, exchange, transfer or assign real or personal property or interests therein;

(g) To purchase land or interests in land or take the same by gift; to lease land or interests in land to the extent provided by law;

(h) To invest such funds as are not required for immediate disbursement;

(i) To establish and maintain such bank accounts as may be necessary or convenient;

(j) To employ such officers and employees, permanent or temporary, as the SMEF Authority may require, and to delegate to such officers and employees such powers and duties as the Commissioners deem proper; and

(k) To take such further actions as are necessary to carry out the purposes as described in LVPTC 19.10.010. [Res. 09-016, 2009. Prior Code § 20-30-10.]

Chapter 19.40

BORROWING

Sections:
19.40.010 Borrowing.
19.40.015 Obligations.
19.40.020 Pledge or encumbrance of SMEF Authority's revenues, income, assets, and/or interest.
19.40.025 Refundings.
19.40.030 Sovereign immunity – Issuance of obligations and consent to be sued.

19.40.010 Borrowing.

Subject to the limitations set forth in this chapter, the SMEF Authority shall have the power to borrow money and incur indebtedness by issuing its obligations in its own name or in the name of and on behalf of the Las Vegas Paiute Tribe for purposes of acquiring, constructing, maintaining, managing and improving any electrical facilities and related infrastructure that are or are to be located in whole or in part within the territorial jurisdiction of the Tribe consistent with the purposes of the SMEF Authority. Such obligations shall be issued and sold in such manner and shall be in the amount and form and bear interest at the rate or rates set by the SMEF Authority. Each such obligation must be approved by the Tribal Council prior to its issuance. [Res. 09-016, 2009. Prior Code § 20-40-10.]

19.40.015 Obligations.

All such obligations shall be payable solely from revenues, income, receipts and profits derived by the SMEF Authority from projects owned or operated by it whether or not such projects were financed in whole or in part with the proceeds of such obligations; from the proceeds of evidences of indebtedness issued and sold by the SMEF Authority which are payable solely from any of such revenues, income, receipts and profits; or from federal or state grants or other money received by the SMEF Authority which are available therefor. The SMEF Authority may further secure such obligations with any assets of the SMEF

Authority as the SMEF Authority may specifically pledge to the payment of the obligations. [Res. 09-016, 2009. Prior Code § 20-40-15.]

19.40.020 Pledge or encumbrance of SMEF Authority's revenues, income, assets, and/or interest.

The SMEF Authority may pledge to the repayment of any such obligations and the interest coming due thereon any or all of the sources set forth in LVPTC 19.40.015, but is without power to pledge or encumber any other revenues, income or assets of the Las Vegas Paiute Tribe, or any other organization or instrumentality of the Tribe to the repayment of such obligations. The Tribal Council may, if it deems it to be in the best interests of the Tribe to do so, pledge to the payment of any such obligations such specific revenues, income or assets of the Tribe as it may deem appropriate. In any event, no such obligations shall be payable from, nor be a charge upon, any funds other than the revenues specifically pledged to the payment thereof, nor shall the Tribe be liable thereon other than to the extent specifically provided in accordance with this section, and such limitation shall be expressly stated in each such obligation. [Res. 09-016, 2009. Prior Code § 20-40-20.]

19.40.025 Refundings.

The SMEF Authority, with the approval of the Tribal Council, may provide for the refunding of any obligation of the SMEF Authority through the issuance of other obligations of the SMEF Authority, entitled to rights and priorities similar in all respects to those held by the obligations that are refunded. [Res. 09-016, 2009. Prior Code § 20-40-25.]

19.40.030 Sovereign immunity – Issuance of obligations and consent to be sued.

In connection with the issuance of any such obligation, the SMEF Authority has the limited authority to consent to be sued in accordance with and subject to LVPTC 19.50.020, but only within the following restrictions:

(a) Any such consent may only be in order to permit at action to enforce the terms of an obligation of the SMEF Authority; and

(b) In connection with any such action, the SMEF Authority may consent to the jurisdiction of any court of the United States of America or any state of competent jurisdiction; and

(c) Any consent must be given only with the express restriction and understanding that the SMEF Authority is without power to waive the sovereign immunity of the Las Vegas Paiute Tribe, to consent to the jurisdiction of any court over the Tribe, or to the levy of any judgment, lien or attachment upon any property or income of the SMEF Authority, the Tribe or any other organization or instrumentality of the Tribe other than that specifically pledged pursuant to this chapter. [Res. 09-016, 2009. Prior Code § 20-40-30.]

Chapter 19.50

SOVEREIGN IMMUNITY

Sections:

19.50.010 Statement of Tribal sovereign immunity – Las Vegas Paiute Tribe's denial of any waiver of sovereign immunity.
19.50.015 No waiver of sovereign immunity.
19.50.020 Restrictions under which SMEF Authority may consent to be sued.
19.50.025 SMEF Authority's consent to suit shall not be deemed a waiver of Tribal sovereign immunity.

19.50.010 Statement of Tribal sovereign immunity – Las Vegas Paiute Tribe's denial of any waiver of sovereign immunity.

As an instrumentality of the Las Vegas Paiute Tribe, the SMEF Authority shall be clothed by federal and Tribal law with all the privileges and immunities of the Tribe, except as specifically limited by this authority ordinance, including sovereign immunity from suit in any state, federal or tribal court. Nothing contained in this authority ordinance shall be deemed or construed to be a waiver of sovereign immunity by the SMEF Authority from suit; the SMEF Authority may consent to be sued only in accordance with this authority ordinance. [Res. 09-016, 2009. Prior Code § 20-50-10.]

19.50.015 No waiver of sovereign immunity.

Nothing in this section or any other section or provision of this title shall be deemed or construed to be:

(a) A waiver of sovereign immunity by the SMEF Authority, the Tribal Council, the Tribe or any of its members, agents and employees; or

(b) A consent to the jurisdiction of any court over the SMEF Authority, the Tribal Council, the Tribe or any of its members, agents and employees; or

(c) A consent to the levy of any judgment, lien or attachment upon any property or income of the SMEF Authority, the Tribal Council, the Las Vegas Paiute Tribe or any of its members, agents or employees. [Res. 09-016, 2009. Prior Code § 20-50-15.]

19.50.020 Restrictions under which SMEF Authority may consent to be sued.

The SMEF Authority may consent to be sued only by formal resolution approved by the majority of the full Board of Commissioners. Consents to suit are disfavored and shall be granted only when necessary to secure a substantial advantage or benefit to the SMEF Authority. Any consent to suit shall be specific and limited as to:

(a) Duration;

(b) The grantee;

(c) The particular transaction;

(d) Definite property or funds, if any, of the SMEF Authority;

(e) A particular court having jurisdiction pursuant thereto; and

(f) The law that shall be applicable thereto. [Res. 09-016, 2009. Prior Code § 20-50-20.]

19.50.025 SMEF Authority's consent to suit shall not be deemed a waiver of Tribal sovereign immunity.

Any express consent to suit by resolution of the Board shall not be deemed a waiver of the sovereign immunity of the Tribe, a consent to the jurisdiction of any court over the Tribe, or a consent to the levy of any judgment, lien or attachment upon any property or income of the SMEF Authority, the Tribe or any other organization or instrumentality of the Tribe other than that specifically pledged or assigned. [Res. 09-016, 2009. Prior Code § 20-50-25.]

Chapter 19.60

ASSETS AND LIABILITIES

Sections:

19.60.010 Assets.
19.60.015 Property.
19.60.020 Exemptions.

19.60.010 Assets.

The SMEF Authority shall have only those assets specifically assigned to it by the Tribe or acquired in its name by the Tribe or the SMEF Authority or on its own behalf. Nothing in this authority ordinance nor any activity of the SMEF Authority shall implicate or in any way involve the credit or assets of the Tribe or obligate the Tribe for the obligations of the SMEF Authority except for any liability or obligation specifically assumed in writing. [Res. 09-016, 2009. Prior Code § 20-60-10.]

19.60.015 Property.

The property of the SMEF Authority is declared to be property used for essential governmental purposes and such property and the SMEF Authority are exempt from all taxes and special assessments of the Tribe. Nothing in this section shall in any way limit the power of the Tribe to:

(a) Tax the use of the property of the SMEF Authority by entities other than the SMEF Authority; or

(b) Impose sales or use taxes on the sale of goods or the performance of services on the property of the SMEF Authority. [Res. 09-016, 2009. Prior Code § 20-60-15.]

19.60.020 Exemptions.

All property of the SMEF Authority, including funds acquired or held by the SMEF Authority pursuant to this Authority Ordinance, shall be exempt from levy and sale by virtue of an execution, and no execution or other judicial powers shall issue against the same nor shall any judgment against the SMEF Authority be a charge or lien upon such property. The provisions of this section shall not apply to or limit the right of a secured party to pursue any remedies for the enforcement of any pledge or lien given by the SMEF Authority. [Res. 09-016, 2009. Prior Code § 20-60-20.]

Title 20

TRESPASS, EXCLUSION AND EXPULSION

Chapters:

20.10 Trespass, Exclusion and Expulsion

Chapter 20.10

TRESPASS, EXCLUSION AND EXPULSION

Sections:

20.10.010 Who may be excluded or expelled.
20.10.020 Trespass – Grounds for exclusion or expulsion.
20.10.030 Initiation of expulsion or exclusion proceeding by petition.
20.10.040 Notice of proposed expulsion or exclusion – Service.
20.10.050 Timing of hearing.
20.10.060 Hearing to determine expulsion or exclusion.
20.10.070 Order of the court.
20.10.080 Enforcement of orders of exclusion or expulsion.
20.10.090 Physical removal of nonmembers – Emergency.

20.10.010 Who may be excluded or expelled.

Any non-Tribal member of the Las Vegas Paiute Tribe (nonmember) may be excluded or removed from Las Vegas Paiute Tribal lands pursuant to the provisions of this title. [Res. 06-010, 2006. Prior Code § 17-10.]

20.10.020 Trespass – Grounds for exclusion or expulsion.

The commission of any of the following acts by any non-Tribal member constitutes a trespass punishable, in addition to any other sanction imposed under applicable federal or Tribal law, by exclusion or expulsion from Las Vegas Paiute Tribal lands:

(a) Entering an area of Las Vegas Paiute Tribal lands for which a permit is required under any Tribal law, without first obtaining the requisite permit.

(b) Failure or refusal to pay any taxes, rents, fees, or other charges due the Tribe after reasonable notice and opportunity to pay.

(c) The commission of any offense defined under Tribal, state or federal law, including violation of any provision of the Las Vegas Paiute Tribe Law and Order Code.

(d) Unauthorized taking of any property from Las Vegas Paiute Tribal lands.

(e) Any other act causing physical loss or damage of any nature to Tribal property or to the property of any Tribal member.

(f) Any other action, which constitutes a threat to the health, welfare, security, or property of the Tribe or any Tribal member. [Res. 06-010, 2006. Prior Code § 17-20.]

20.10.030 Initiation of expulsion or exclusion proceeding by petition.

An expulsion or exclusion proceeding shall be initiated by the filing of a written petition with the Tribal Court by any Tribal prosecutor or the Las Vegas Paiute Tribal Council. The petition shall state in plain terms the reason(s) for the proposed exclusion or expulsion. [Res. 06-010, 2006. Prior Code § 17-30.]

20.10.040 Notice of proposed expulsion or exclusion – Service.

Upon receipt of an expulsion or exclusion petition, the Clerk of the Tribal Court shall issue a notice of proposed expulsion or exclusion, stating the date, time and place at which the nonmember may appear before the Tribal Court to show cause why he/she should not be excluded or expelled from Las Vegas Paiute Tribal lands. The notice shall also state the time and manner in which the nonmember may reenter Las Vegas Paiute Tribal lands only for the purpose of attending the hearing. The Clerk shall cause the notice, along with a copy of the petition, to be served on the nonmember pursuant to the provisions of LVPTC Title 3. [Res. 06-010, 2006. Prior Code § 17-40.]

20.10.050 Timing of hearing.

The hearing shall take place not less than five days after the completion of service of the notice and petition; provided, that if a judge of the Tribal Court shall have reasonable cause to believe that an emergency exists, and the notice so states, the hearing may be held a minimum of 24 hours after completion of service. [Res. 06-010, 2006. Prior Code § 17-50.]

20.10.060 Hearing to determine expulsion or exclusion.

The hearing to determine whether the nonmember shall be expelled or excluded from Las Vegas Paiute Tribal lands shall be conducted by a judge of the Tribal Court. The nonmember shall be given an opportunity to present his/her defense at such hearing and may, at his/her own cost, be represented by counsel. [Res. 06-010, 2006. Prior Code § 17-60.]

20.10.070 Order of the court.

(a) At the conclusion of the hearing, or after the time set for the hearing in the event the person fails to appear or obtain a continuance thereof, the court shall issue an order:

(1) Excluding or expelling the person from Las Vegas Paiute Tribal lands; or

(2) Permitting the person to enter and/or remain upon Las Vegas Paiute Tribal lands on such conditions as the court sees fit to impose.

(b) The order of expulsion or exclusion shall remain in force until revoked by the Tribal Court unless the order specifically provides otherwise. [Res. 06-010, 2006. Prior Code § 17-70.]

20.10.080 Enforcement of orders of exclusion or expulsion.

If any nonmember ordered excluded or expelled from Las Vegas Paiute Tribal lands does not promptly obey the order, a judge of the Tribal Court may order (a) immediate physical removal of such person from Las Vegas Paiute Tribal lands, or (b) that the person be brought before the Tribal Court for a civil contempt hearing under the provisions of LVPTC Title 3. [Res. 06-010, 2006. Prior Code § 17-80.]

20.10.090 Physical removal of nonmembers – Emergency.

In cases involving immediate danger to the life, health, welfare, security, or property of the Tribe or any of its members, or where any delay would result in irreparable damage, a judge of the court may, by written order, authorize any peace officer to remove a nonmember or any of his/her property from Las Vegas Paiute Tribal lands, either before or after the person has been ordered excluded or expelled from Las Vegas Paiute Tribal lands as provided in LVPTC 20.10.070. The peace officer executing such emergency removal order shall use only much force as deemed necessary by the peace officer to effect the removal. If service of the notice of proposed expulsion or exclusion has not already been made as provided for in LVPTC 20.10.040, the court shall cause the peace officer to serve the notice upon the person at the time of removal or as soon after removal as possible. [Res. 06-010, 2006. Prior Code § 17-90.]

Title 21

UNDERGROUND WATER AND WELLS

Chapters:

21.10 Underground Water and Wells

Note: General provisions adopted as part of the interim code for well construction pursuant to Tribal Council Resolution No. 93-020.

Chapter 21.10

UNDERGROUND WATER AND WELLS

Sections:

21.10.001 "Aquifer" defined.
21.10.002 "Artesian well" defined.
21.10.003 "Water Board" defined.
21.10.004 "Well driller" defined.
21.10.005 "Well drilling" and "drilling a well" defined.
21.10.006 Conditions for sinking wells – Casings and appliances.
21.10.007 Well drillers – Annual licenses – Fees – Regulations for well drilling – Licensing by State Contractors' Board.
21.10.008 Well driller to keep log and records – Contents – Information to be furnished to Water Board – Report of test.

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21.10.010 Definitions.
21.10.015 "Abandon" defined.
21.10.020 "Annular space" defined.
21.10.030 "Aquifer" defined.
21.10.040 "Artesian well" defined.
21.10.045 "Board" defined.
21.10.050 "Casing" defined.
21.10.060 "Cement grout" defined.
21.10.070 "Concrete grout" defined.
21.10.080 "Conductor casing" defined.
21.10.090 "Consolidated formations" defined.
21.10.095 "Contamination" defined.
21.10.100 "Division" defined.
21.10.110 "Domestic use" defined.
21.10.113 "Drive point water well" defined.
21.10.116 "Dug water well" defined.
21.10.120 "Exploratory well" defined.
21.10.130 "Gravel pack" defined.
21.10.140 "Ground water" defined.
21.10.143 "Jetted water well" defined.
21.10.146 "Liner pipe" defined.
21.10.150 "Neat cement" defined.
21.10.160 "Nominal size" defined.
21.10.170 "Percolating waters" defined.
21.10.175 "Permit" defined.
21.10.180 "Permitted well" defined.
21.10.182 "Pitless adaptor" defined.
21.10.183 "Plug" defined.
21.10.184 "Pollution" defined.
21.10.185 "Public survey" defined.
21.10.188 "Reconditioning" defined.
21.10.190 "Seal" defined.
21.10.195 "Static water level" defined.
21.10.210 "Waste" defined.
21.10.212 "Water table" defined.
21.10.214 "Water well" defined.
21.10.216 "Water well completion" defined.
21.10.220 "Well" defined.
21.10.240 "Well driller" defined.
21.10.250 "Well drilling" defined.
21.10.260 "Well replacement" defined.
21.10.270 "Well rig" defined.
21.10.275 Meetings of Board – Division to keep minutes and provide support.

Article II. License to Drill Well

21.10.280 Application for license or renewal of license – Petition to take written examination.
21.10.282 Qualifications of applicant – Failure of applicant to notify division of inability to comply with notice to appear.
21.10.284 Powers of the Board regarding applicants.
21.10.286 Oral examination of applicants.
21.10.288 Applicants who need not be interviewed by the Board.
21.10.290 Revocation or denial of license.
21.10.292 Notice to renew license – Notice of change in mailing address.
21.10.293 Additional requirements for license if prior license allowed to expire.
21.10.294 Issuance of classes of licenses.
21.10.296 Conditions for issuance of temporary license – Employment of prospective temporary licensee.
21.10.297 Temporary license – Contents.
21.10.298 Temporary license – Period of validity – Authorized activities – Transferability.

Article III. Drilling, Construction and Plugging of Wells

21.10.300 Permit required to drill water well in designated basin – Replacement wells.
21.10.310 Nondesignated basins and areas.
21.10.320 Notice of intention to drill.
21.10.325 Lapse of notice of intention to drill – Indication of notice in report.
21.10.330 Duties of licensed well drillers.
21.10.340 Well driller's log – Contents.
21.10.345 Well driller's log – Completeness – Return for correction.
21.10.350 Identification of well rig.
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21.10.370 Construction of well – Prevention of pollution and contamination.
21.10.380 Construction of well – Seals.
21.10.390 Construction of well – Location near live stream, river or unlined canal – Compliance with permit.
21.10.400 Domestic wells.
21.10.405 Exploratory wells.
21.10.410 Wells with flowing water.
21.10.420 Plugging – Water wells.
21.10.421 Plugging – Wells drilled for purposes other than as water wells.
21.10.423 Plugging – Wells drilled for monitoring water table or environmental conditions.
21.10.425 Plugging of wells drilled for mineral exploration or for geochemical, geological, geotechnical or geophysical purposes – Exemption of blast holes from chapter.
21.10.427 Plugging required upon cancellation, withdrawal, denial or abandonment of water right.
21.10.428 Plugging – Period for completion – Responsibility for cost – Documentation.
21.10.430 Access port required on certain wells drilled for irrigation or for municipal or industrial purposes.
21.10.435 Observation or monitor wells – Waiver to drill – Casing – Permit to appropriate not required.
21.10.436 Observation or monitor wells – Drilling and construction – Submission of plat map.
21.10.440 Waiver to drill well to determine quality or quantity of water in designated basin.
21.10.442 Waiver to use water to explore for minerals – Requirements.
21.10.443 Waiver to use water to explore for minerals – Period of validity – Authorized use.
21.10.444 Waiver to use water to explore for oil, gas or geothermal resources – Requirements.
21.10.445 Waiver to use water to explore for oil, gas or geothermal resources – Use of well after project completed.
21.10.446 Waiver to use water for construction of highway – Requirements.
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21.10.450 Waiver of requirements of chapter.

Article IV. Miscellaneous Provisions

21.10.460 Prohibited types of wells.
21.10.470 Grounds for disciplinary hearing.

21.10.001 "Aquifer" defined.

"Aquifer" means a geological formation or structure that stores or transmits water, or both. [Res. 93-020, 1993. Prior Code § 100.0101.]

21.10.002 "Artesian well" defined.

"Artesian well" means a well tapping an aquifer underlying an impervious material in which the water level in the well stands above where it is first encountered in the aquifer. [Res. 93-020, 1993. Prior Code § 100.0102.]

21.10.003 "Water Board" defined.

"Water Board" shall mean the Water Board adopted by Tribal Council Resolution No. 93-007. [Res. 93-020, 1993. Prior Code § 100.0103.]

21.10.004 "Well driller" defined.

"Well driller" means any person who drills a well or wells, for compensation or otherwise. [Res. 93-020, 1993. Prior Code § 100.0104.]

21.10.005 "Well drilling" and "drilling a well" defined.

"Well drilling" or "drilling a well" are synonymous, and mean drilling or boring new wells, placing casing in wells, cleaning and repairing existing wells, cementing wells and doing all other things normally associated with the construction or rehabilitation of wells. [Res. 93-020, 1993. Prior Code § 100.0105.]

21.10.006 Conditions for sinking wells – Casings and appliances.

(a) During the sinking or boring of a well the permittee shall cause to be placed in the well a proper and sufficient casing approved by the Water Board, so arranged as to prevent the caving in of the well and to prevent the escape of water therefrom through any intervening sand or gravel stratum, which casing must be of sufficient length to reach the deepest aquifer encountered during the sinking or boring of the well.

(b) The number, size, type and distribution of perforations is optional with the permittee, except that no perforations may be made in a pipe tapping confined (artesian) water above the confining impervious materials.

(c) The permittee shall provide the necessary valves, plugs or other appliances to prevent or control the flow of water from the well and prevent the loss of underground water above or below the ground surface. [Res. 93-020, 1993. Prior Code § 100.020.]

21.10.007 Well drillers – Annual licenses – Fees – Regulations for well drilling – Licensing by State Contractors' Board.

(a) Every well driller, before engaging in the physical drilling of a well on Las Vegas Paiute Tribal lands in the state of Nevada for development of water, shall annually apply to the Nevada state engineer for a license to drill.

(b) The applications for those licenses and all licenses issued for the drilling of wells must be in the form prescribed by the Nevada state engineer.

(c) All well-drilling licenses expire on June 30th following their issuance and are not transferable.

(d) The Water Board shall prepare and keep on file in the office of the Water Board regulations for well drilling which may be updated from time to time.

(e) Before engaging in the physical drilling of a well on Las Vegas Paiute Tribal lands for the development of water, every well driller who is the owner of a well-drilling rig, or who has a well-drilling rig under lease or rental, or who has a contract to purchase a well-drilling rig, must obtain a license as a well driller from the Nevada State Contractors' Board. [Res. 93-020, 1993. Prior Code § 100.030.]

21.10.008 Well driller to keep log and records – Contents – Information to be furnished to Water Board – Report of test.

(a) The well driller shall keep:

(1) A log of the depth, thickness and character of the different strata penetrated and the location of water-bearing strata; and

(2) An accurate record of the work, including:

(A) A statement of the date of beginning work;

(B) The date of completion;

(C) The length, size and weight of the casing and how it is placed;

(D) The size of the drilled hole;

(E) Where sealed off and the type of seal;

(F) The name of the well driller and the type of drilling machine used;

(G) The number of cubic feet per second or gallons per minute of flow from such well when completed; and

(H) The pressure in pounds per square inch if it is a flowing well, and, if nonflowing, the static water level, and the water temperature.

(b) The well driller shall furnish a copy of the log and the record of work for every well drilled to the Water Board within 30 days after the well is completed.

(c) If the well is to be tested by pumping by the holder of the permit, the report of the test must include the drawdown with respect to the amount of water pumped and any additional information requested by the Water Board. This information must be reported and verified on forms prescribed by the Water Board. The report must be returned:

(1) Immediately following the completion of the test; or

(2) Within 30 days following the completion of the well, whichever occurs later.

(d) The log, record of work and the report of the test are a permanent record in the Water Board office. [Res. 93-020, 1993. Prior Code § 100.040.]

Article I. General Provisions

21.10.010 Definitions.

As used in this chapter, unless the context otherwise requires, the words and terms defined in NAC 534.015 to 534.270 inclusive have the meanings ascribed to them in those sections.

(Supplied in codification: A by St. Engineer, eff. 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.010.]

21.10.015 "Abandon" defined.

"Abandon" means to remove a well from service and to protect underground water from waste and contamination.

(Added to NAC by St. Engineer, eff. 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.015.]

21.10.020 "Annular space" defined.

"Annular space" means the space between two cylindrical objects, one of which surrounds the other, such as the space between the walls of the drill hole and the casing.

[St. Engineer, Drilling Wells Reg. § 1.01, eff. 5-19-81] – (NAC A 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.020.]

21.10.030 "Aquifer" defined.

"Aquifer" has the meaning ascribed to it in NRS 534.0105.

[St. Engineer, Drilling Wells Reg. § 1.02, eff. 5-19-81] – (NAC A 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.030.]

21.10.040 "Artesian well" defined.

"Artesian well" has the meaning ascribed to it in NRS 534.012.

[St. Engineer, Drilling Wells Reg. § 1.03, eff. 5-19-81] – (NAC A 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.040.]

21.10.045 "Board" defined.

"Board" means the statewide Well Drillers' Advisory Board.

(Added to NAC by St. Engineer, eff. 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.045.]

21.10.050 "Casing" defined.

"Casing" means the conduit required to prevent waste and contamination of the ground water and to hold the formation open during the construction or use of the well.

[St. Engineer, Drilling Wells Reg. § 1.04, eff. 5-19-81] – (NAC A 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.050.]

21.10.060 "Cement grout" defined.

"Cement grout" means a mixture of Portland cement, sand and water which contains at least seven bags of cement per cubic yard and not more than seven gallons of clean wa-

ter for each bag of cement (one cubic foot or 94 pounds).

[St. Engineer, Drilling Wells Reg. § 1.14, eff. 5-19-81] – (NAC A 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.060.]

21.10.070 "Concrete grout" defined.

"Concrete grout" means a mixture of Portland cement, sand, one-quarter-inch minus aggregate and water which contains at least five bags of cement per cubic yard of concrete and not more than seven gallons of clean water per bag of cement (one cubic foot or 94 pounds).

[St. Engineer, Drilling Wells Reg. § 1.13, eff. 5-19-81] – (NAC A 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.070.]

21.10.080 "Conductor casing" defined.

"Conductor casing" means the temporary or permanent casing used in the upper portion of the drill hole to prevent collapse of the formation during the construction of the well or to conduct the gravel pack to the perforated or screened areas in the casing.

[St. Engineer, Drilling Wells Reg. § 1.05, eff. 5-19-81] – (NAC A 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.080.]

21.10.090 "Consolidated formations" defined.

"Consolidated formations" means geological formations which occur naturally and have been turned to rock.

[St. Engineer, Drilling Wells Reg. § 1.06, eff. 5-19-81] – (NAC A 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.090.]

21.10.095 "Contamination" defined.

"Contamination" means the impairment of water quality by chemical substances or biological organisms to a degree that creates a hazard to the public health.

(Added to NAC by St. Engineer, eff. 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.095.]

21.10.100 "Division" defined.

"Division" means the Division of Water Resources of the State Department of Conservation and Natural Resources.

[St. Engineer, Drilling Wells Reg. § 1.07, eff. 5-19-81] – (NAC A 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.100.]

21.10.110 "Domestic use" defined.

"Domestic use" has the meaning ascribed to it in NRS 534.013.

[St. Engineer, Drilling Wells Reg. § 1.08, eff. 5-19-81] – (NAC A 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.110.]

21.10.113 "Drive point water well" defined.

"Drive point water well" means a well constructed by driving a drive point attached to the end of a section of pipe into the ground.

(Added to NAC by St. Engineer, eff. 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.113.]

21.10.116 "Dug water well" defined.

"Dug water well" means a well in which the excavation is done by using picks, shovels, spades or digging equipment such as a backhoe, clamshell bucket or sand bucket.

(Added to NAC by St. Engineer, eff. 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.116.]

21.10.120 "Exploratory well" defined.

"Exploratory well" means an excavation drilled to determine the availability of water or the quality of available water.

[St. Engineer, Drilling Wells Reg. § 1.09, eff. 5-19-81] – (NAC A 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.120.]

21.10.130 "Gravel pack" defined.

"Gravel pack" means gravel or other permeable filter materials placed in the annular space around the well casing.

[St. Engineer, Drilling Wells Reg. § 1.10, eff. 5-19-81]

[Res. 93-020, 1993. Prior Code § 534.130.]

21.10.140 "Ground water" defined.

"Ground water" means any subsurface water from which wells are supplied. "Underground water" and "ground water" are synonymous terms.

[St. Engineer, Drilling Wells Reg. § 1.11, eff. 5-19-81] – (NAC A 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.140.]

21.10.143 "Jetted water well" defined.

"Jetted water well" means a well in which the excavation of the drill hole is done primarily by using a high velocity jet of fluid or gas.

(Added to NAC by St. Engineer, eff. 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.143.]

21.10.146 "Liner pipe" defined.

"Liner pipe" means the smaller-diameter casing installed inside or below the original well casing.

(Added to NAC by St. Engineer, eff. 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.146.]

21.10.150 "Neat cement" defined.

"Neat cement" means a mixture of water and cement in a ratio of not more than five to six gallons of water per bag of Portland cement (one cubic foot or 94 pounds).

[St. Engineer, Drilling Wells Reg. § 1.12, eff. 5-19-81]

[Res. 93-020, 1993. Prior Code § 534.150.]

21.10.160 "Nominal size" defined.

"Nominal size" means the manufactured commercial designation of the diameter of a casing. An example would be casing with an outside diameter of 12 3/4 inches which may be nominally 12-inch casing by manufactured commercial designation.

[St. Engineer, Drilling Wells Reg. § 1.15, eff. 5-19-81]

[Res. 93-020, 1993. Prior Code § 534.160.]

21.10.170 "Percolating waters" defined.

"Percolating waters" has the meaning ascribed to it in NRS 534.0135.

[St. Engineer, Drilling Wells Reg. § 1.16, eff. 5-19-81] – (NAC A 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.170.]

21.10.175 "Permit" defined.

"Permit" means the written permission from the State Engineer to appropriate public waters for a beneficial use from a surface or underground source, at a specific point of diversion, under limited circumstances.

(Added to NAC by St. Engineer, eff. 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.175.]

21.10.180 "Permitted well" defined.

"Permitted well" means a water well for which a permit has been issued by the State Engineer.

[St. Engineer, Drilling Wells Reg. § 1.17, eff. 5-19-81] – (NAC A 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.180.]

21.10.182 "Pitless adaptor" defined.

"Pitless adaptor" means a commercially manufactured device designed for attachment to openings through the casing of a water well that permits water service pipes to pass through the wall or an extension of a casing and prevents the entry of contaminants into the well or water supply.

(Added to NAC by St. Engineer, eff. 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.182.]

21.10.183 "Plug" defined.

"Plug" means the procedure in which a well is sealed after it is abandoned.

(Added to NAC by St. Engineer, eff. 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.183.]

21.10.184 "Pollution" defined.

"Pollution" means the impairment of water quality by chemical substances or biological organisms to a degree that does not create a hazard to the public health.

(Added to NAC by St. Engineer, eff. 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.184.]

21.10.185 "Public survey" defined.

"Public survey" means the description of the location of land using the survey system of the United States Government and includes the 40-acre subdivision within a quarter, section, township and range.

(Added to NAC by St. Engineer, eff. 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.185.]

21.10.188 "Reconditioning" defined.

"Reconditioning" means the deepening, reaming, casing, recasing, perforating, reperforating, jetting, swabbing, installing of liner pipe, packers and seals or any other significant change in the design or construction of a water well.

(Added to NAC by St. Engineer, eff. 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.188.]

21.10.190 "Seal" defined.

"Seal" means the watertight seal established in the annular space between the water well casing and the drill hole to prevent the inflow and movement of surface water or shallow ground water, or to prevent the outflow or movement of water under artesian pressures. The term also includes a sanitary seal.

[St. Engineer, Drilling Wells Reg. § 1.19, eff. 5-19-81] – (NAC A 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.190.]

21.10.195 "Static water level" defined.

"Static water level" means the stabilized level or elevation of the surface of the water in a well not being pumped.

(Added to NAC by St. Engineer, eff. 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.195.]

21.10.210 "Waste" defined.

"Waste" has the meaning ascribed to it in NRS 534.0165.

[St. Engineer, Drilling Wells Reg. § 1.21, eff. 5-19-81] – (NAC A 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.210.]

21.10.212 "Water table" defined.

"Water table" means the upper surface of an unconfined aquifer at atmospheric pressure.

(Added to NAC by St. Engineer, eff. 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.212.]

21.10.214 "Water well" defined.

"Water well" means an artificial excavation made by any drilling method for the development of water from an underground source.

(Added to NAC by St. Engineer, eff. 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.214.]

21.10.216 "Water well completion" defined.

"Water well completion" means the time when the casing has been set to the full depth of the well and the well has been sealed in compliance with the provisions of this chapter.

[St. Engineer, Drilling Wells Reg. § 1.23, eff. 5-19-81] – (NAC A 1-9-90) – (Substituted in revision for NAC 534.230)

[Res. 93-020, 1993. Prior Code § 534.216.]

21.10.220 "Well" defined.

"Well" means an artificial excavation made by any drilling method that does or does not penetrate an aquifer for the purpose of obtaining engineering or geological data.

[St. Engineer, Drilling Wells Reg. § 1.22, eff. 5-19-81] – (NAC A 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.220.]

21.10.240 "Well driller" defined.

"Well driller" has the meaning ascribed to it in NRS 534.017.

[St. Engineer, Drilling Wells Reg. § 1.24, eff. 5-19-81] – (NAC A 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.240.]

21.10.250 "Well drilling" defined.

"Well drilling" has the meaning ascribed to it in NRS 534.0175.

[St. Engineer, Drilling Wells Reg. § 1.25, eff. 5-19-81] – (NAC A 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.250.]

21.10.260 "Well replacement" defined.

"Well replacement" means a well that is drilled to replace an existing well.

[St. Engineer, Drilling Wells Reg. § 1.27, eff. 5-19-81]

[Res. 93-020, 1993. Prior Code § 534.260.]

21.10.270 "Well rig" defined.

"Well rig" means any power-driven percussion, rotary, boring, digging, jetting or augering machine used in the construction of a well.

[St. Engineer, Drilling Wells Reg. § 1.26, eff. 5-19-81]

[Res. 93-020, 1993. Prior Code § 534.270.]

21.10.275 Meetings of Board – Division to keep minutes and provide support.

(a) The Board shall meet on a regular basis as directed by the State Engineer.

(b) A staff member of the Division shall keep the minutes of the proceedings of the Board and provide support for the Board.

(Added to NAC by St. Engineer, eff. 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.275.]

Article II. License to Drill Well

21.10.280 Application for license or renewal of license – Petition to take written examination.

(a) An application for a well-drilling license or a renewal of a license must be submitted to the Division. The application must be entirely completed and must be accompanied by the fee prescribed by NRS 534.140.

(b) An applicant for a well-drilling license may petition the Board to take a written examination.

[St. Engineer, Drilling Wells Reg. § 2.01, eff. 5-19-81) – (NAC A 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.280.]

21.10.282 Qualifications of applicant – Failure of applicant to notify division of inability to comply with notice to appear.

(a) An applicant for a well-drilling license must:

(1) Demonstrate a good working knowledge of:

(A) Standard drilling practice;

(B) The regulations of the state engineer and applicable laws relating to the drilling of water wells; and

(C) The method by which land is described by public survey.

(2) Have at least two years of experience drilling wells.

(b) The State Engineer may deny an applicant a license if he fails to notify the Division that he cannot appear as instructed by a notice to appear before either the State Engineer or the Board.

(Added to NAC by St. Engineer, eff. 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.282.]

21.10.284 Powers of the Board regarding applicants.

The Board may:

(a) Review the record of an applicant who previously held a well-drilling license in Nevada.

(b) Recommend that an applicant for a well-drilling license be given a written examination if the applicant has petitioned to take such an examination.

(c) Require an applicant for a well-drilling license to appear at the next meeting of the Board. Failure by the applicant to appear without notification to the Board is grounds for the denial of a license.

(Added to NAC by St. Engineer, eff. 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.284.]

21.10.286 Oral examination of applicants.

The Board shall conduct an oral examination of each applicant for a well-drilling license to determine the sufficiency of his:

(a) Knowledge of the provisions of this chapter; and

(b) Qualifications and experience.

(Added to NAC by St. Engineer, eff. 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.286.]

21.10.288 Applicants who need not be interviewed by the Board.

The Board is not required to interview an applicant for a well-drilling license who is argumentative, threatening, disruptive or who challenges the members of the Board and their authority to question the applicant concerning his knowledge of the provisions of this chapter or his qualifications and experience.

(Added to NAC by St. Engineer, eff. 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.288.]

21.10.290 Revocation or denial of license.

(a) The State Engineer may revoke or refuse to reissue a well-drilling license if he determines, after an investigation and a disciplinary hearing, that the well driller has:

(1) Intentionally made a material misstatement of facts in his application for a license;

(2) Intentionally made a material misstatement of facts in a log and report;

(3) Been found to be incompetent as a well driller by the Board;

(4) Failed to submit a log and report of wells drilled in accordance with the provisions of this chapter;

(5) Failed to comply with or violated any of the provisions of this chapter;

(6) Failed to comply with or has violated any law applicable to well drillers;

(7) Falsely sworn to any affidavit, proof of commencement, proof of completion, proof of beneficial use, log or any other document filed with the Division; or

(8) Supplied false information to a holder of a permit or his agent which is to be filed or is filed with the Division.

(b) If a licensed driller who is working for and under the direction of a licensed well-drilling contractor fails to comply with the applicable law or the provisions of this chapter, failure to comply is a ground for revocation or refusal to renew the licenses of the contractor and the driller.

[St. Engineer, Drilling Wells Reg. §§ 8.01 and 8.02, eff. 5-19-81] – (NAC A 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.290.]

21.10.292 Notice to renew license – Notice of change in mailing address.

(a) The Division will mail to each licensed well driller a notice to renew his license approximately 30 days before the expiration of the license. Failure to receive the notice does not relieve a well driller of his obligation to pay the fee for renewal in a timely manner.

(b) A well driller shall notify the Division of any change in his mailing address within 30 days after the change.

(Added to NAC by St. Engineer, eff. 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.292.]

21.10.293 Additional requirements for license if prior license allowed to expire.

A well driller who allows his license to expire:

(a) Must file a new application with the fee required by NRS 534.140 to obtain a license.

(b) Before resolving all complaints in his file must appear before the Board for disposition of the complaints after filing a new application for a well-drilling license.

(c) For more than one year, may be required by the Board to appear before it to determine his knowledge of any new regulations adopted after his license expired.

(Added to NAC by St. Engineer, eff. 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.293.]

21.10.294 Issuance of classes of licenses.

The State Engineer may issue classes of well-drilling licenses to limit a well driller to a class of work or type of drilling rig, or both, for which the Board has determined the driller is qualified.

(Added to NAC by St. Engineer, eff. 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.294.]

21.10.296 Conditions for issuance of temporary license – Employment of prospective temporary licensee.

(a) The State Engineer may issue a temporary well-drilling license to an employee of a drilling contractor if the drilling contractor has insufficient personnel to complete existing contracts.

(b) If the employee of a drilling contractor wishes to obtain a temporary license, the drilling contractor must:

(1) Submit an application for a well-drilling license on behalf of the prospective temporary licensee;

(2) Hold a contractor's C-23 license; and

(3) Sign and submit a letter to the Division containing:

(A) A request that the person named in the application be given a temporary license;

(B) A statement that the contractor will take full responsibility for the drilling performed by the prospective temporary licensee; and

(C) A statement that the prospective temporary licensee will comply with all regulations for drilling wells.

(c) The State Engineer will:

(1) Evaluate the qualifications of the prospective temporary licensee; and

(2) Interview the prospective temporary licensee to determine his knowledge of well-drilling regulations.

(d) The application must be filed with the Division at least three working days before an interview.

(e) If the prospective temporary licensee fails to appear before the Board at its next scheduled meeting, the application for a temporary license will be denied.

(f) The drilling contractor shall inform the Division in writing if the employment of the prospective temporary licensee is terminated before the date of the scheduled interview with the Board. The contractor is responsible for any drilling performed by the prospective temporary licensee until the notice of termination is received by the Division. The notice of termination must explain the reasons for terminating the employment of the prospective licensee. The temporary license will be denied upon receipt of the notice by the Division.

(g) Only one temporary license will be issued to an employee.

(Added to NAC by St. Engineer, eff. 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.296.]

21.10.297 Temporary license – Contents.

A temporary well-drilling license must:

(a) Contain the drilling license number of the contractor;

(b) Designate the class of license issued to the temporary licensee; and

(c) Be signed by the contractor and licensee.

(Added to NAC by St. Engineer, eff. 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.297.]

21.10.298 Temporary license – Period of validity – Authorized activities – Transferability.

A temporary well-drilling license:

(a) Is valid until the next scheduled examination administered by the Board;

(b) Authorizes well drilling to be performed only for the contractor who requested the license; and

(c) Is not transferable.

(Added to NAC by St. Engineer, eff. 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.298.]

Article III. Drilling, Construction and Plugging of Wells

21.10.300 Permit required to drill water well in designated basin – Replacement wells.

(a) A well driller may drill a water well within an underground water basin designated by the State Engineer only after determining that a valid permit to appropriate the ground water has been issued pursuant to NRS 534.050.

(b) A water well may be drilled to replace an existing well if the existing well cannot be reconditioned and it will no longer produce the quantity of water allowed by the permit. A valid permit or certificate of water right must exist for the well to be replaced. The replacement well must not be drilled more than 300 feet from the existing well and may not be moved outside of the 40-acre subdivision described in the permit. The existing well must be plugged. If continued use is to be made of the existing well, a permit must be issued for the replacement well before any drilling is commenced.

(c) A well driller is not required to obtain a permit for any well other than a water well.

[St. Engineer, Drilling Wells Reg. §§ 10.01 – 10.03, 10.05 and 10.06, eff. 5-19-81] – (NAC A 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.300.]

21.10.310 Nondesignated basins and areas.

(a) In basins which have not been designated by the State Engineer, a property owner who drills before receiving a permit to appropriate water does so at the risk that a permit to appropriate water cannot be obtained.

(b) In areas which have not been designated, the well driller may proceed to drill whether or not the owner of the property has a permit to appropriate water. The well driller must furnish a card showing his intent to drill and a well log as prescribed by NAC 534.340.

[St. Engineer, Drilling Wells Reg. Part 11, eff. 5-19-81]

[Res. 93-020, 1993. Prior Code § 534.310.]

21.10.320 Notice of intention to drill.

(a) A driller shall notify the Division before drilling, reconditioning or plugging a well by submitting a card showing his intent to drill. The card must be submitted for work on an exploratory, water, monitor, observation, domestic or permitted well. A well driller shall notify the Division before drilling a geothermal well if the driller has knowledge that there will be a consumptive use of water.

(b) The card must give the name of the person for whom the work is being performed, the location of the well by public survey and, where applicable, the lot block number and parcel number, the purpose of the well, the date on which the well is to be commenced, the type of work to be done and the diameter of casing to be installed. The card must be signed by the well driller or contractor and the license number of the driller must be included.

(c) The well driller shall file a card showing his intent to drill at least three working days before the rig is to be set up and the drilling commenced. If a permit is required for the drilling operation, the permit number issued by the Division must be indicated on the card

showing an intent to drill in addition to the information required by subsection (b) of this section.

(d) The forms to show an intent to drill will be furnished to the driller on request and are stamped and self-addressed. The card must be completely filled out and received by the Division before the drilling operation begins.

[St. Engineer, Drilling Wells Reg. Part 4, eff. 5-19-81) – (NAC A 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.320.]

21.10.325 Lapse of notice of intention to drill – Indication of notice in report.

(a) If the water well described on a card showing an intent to drill is not drilled within 30 days of the proposed starting date, the card lapses and a new card must be filed before the well is drilled.

(b) The well driller shall indicate on his report the number of the card showing an intent to drill that the driller submitted for that well.

(Added to NAC by St. Engineer, eff. 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.325.]

21.10.330 Duties of licensed well drillers.

A well driller licensed by the State Engineer shall:

(a) Be at the well-drilling site at all times whenever the drilling rig is in operation. If the licensed well driller leaves the drilling site, the drilling operation must be shut down until the driller returns to the site.

(b) Ensure the drilling of the well complies with the provisions of this chapter.

(c) Carry his license card when he is present at the drilling site and produce the card when requested to do so by a representative of the Division.

[St. Engineer, Drilling Wells Reg. § 2.02, eff. 5-l9-81] – (NAC A 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.330.]

21.10.340 Well driller's log – Contents.

A log submitted by a well driller must be completed in legible letters, preferably typed. The following information must be contained in the log:

(a) The complete name and address of the person for whom the work is being performed.

(b) The location of the well, including:

(1) A description of its location by public survey.

(2) In a log for a domestic well, the address of the house to be served by the well, the lot and block description, the name of the subdivision and the county assessor's parcel number.

(3) If applicable, the waiver number or permit number.

(c) The temperature of the water. In the absence of a thermometer, the temperature may be described as being cold, warm or hot.

(d) A measurement of the water. If a well flows or is pumped and the flow is not too large, the flow may be determined by measuring the length of time it takes to fill a vessel of known capacity.

(e) If possible, the pressure head of the well and any pump test or development data must be given.

(f) An accurate identification of the water-bearing formations.

(g) An accurate description of perforation in the casing must be set forth in the section of the log that contains a record of the well casing.

(h) After the water well is completed, the static water level must be accurately measured. If the level is measured from the top of the casing, the elevation of the top of the casing above the land surface must be given.

[St. Engineer, Drilling Wells Reg. Part 7, eff. 5-19-81] – (NAC A 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.340.]

21.10.345 Well driller's log – Completeness – Return for correction.

(a) All work done by the well-drilling operation must be accurately described in a log submitted by the well driller.

(b) If any of the information required to be included by regulation or statute is omitted from the log, the Division will return the log for correction.

(Added to NAC by St. Engineer, eff. 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.345.]

21.10.350 Identification of well rig.

The name and address of the contractor drilling the well must be conspicuously displayed in legible letters on the drilling rig operated or owned by that contractor. The identification must be on the rig within 10 days after the acquisition of the equipment.

[St. Engineer, Drilling Wells Reg. Part 9, eff. 5-19-81] – (NAC A 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.350.]

21.10.360 Construction of well – Casing.

(a) Except as otherwise provided in subsection (b) of this section, all water wells must be cased to the bottom of the drill hole and constructed to prevent pollution, contamination or waste of the ground water.

(b) If no additional water is developed in the bottom portion of a water well, a cement or concrete plug may be circulated from the total depth to the depth of the deepest aquifer to be developed.

(c) The casing must:

(1) Be of good quality steel. Plastic or fiberglass may be used if the quality of the water prevents the use of steel casing and a waiver has been obtained from the State Engineer pursuant to NAC 534.450.

(2) Be free of pits and breaks.

(3) Conform to the following minimum specifications, allowing for mill tolerance:

(A) If the conductor casing is 50 feet or less in depth, the wall must be at least 0.134 or 9/64 of an inch.

(B) If the depth of the conductor casing exceeds 50 feet, and for all production or intermediate casing, the wall must be sufficiently thick to conform to the casing sizes listed in subsections (c)(3)(B)(i) to (iv) of this section inclusive:

(i) If the casing is smaller than 10 inches nominal size, the wall must be at least 0.188 or 3/16 of an inch thick.

(ii) For 10-, 12-, 14- and 16-inch nominal size casing, the wall must be at least 0.250 or 1/4 of an inch thick.

(iii) For 18- and 20-inch nominal size casing, the wall must be at least 0.312 or 5/16 of an inch thick.

(iv) For casing larger than 20 inches nominal size, the wall must be at least 0.375 or 3/8 of an inch thick.

(d) The wall thickness of the casing will not be waived.

[St. Engineer, Drilling Wells Reg. § 3.01, eff. 5-19-81] – (NAC A 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.360.]

21.10.370 Construction of well – Prevention of pollution and contamination.

(a) The driller shall take every reasonable precaution to:

(1) Seal off any known zones of poor quality water which may affect the zones of good quality water in the well.

(2) Prevent pollution, contamination or waste of an aquifer.

(b) Any additive used in drilling a water well must be safe for the environment and not tend to pollute or contaminate the ground water.

(c) If it becomes necessary for the driller to discontinue the drilling operation before completion of the water well, the drill hole must be protected from pollution or contamination and rendered safe.

(d) After drilling is completed, all openings must be closed off to prevent contamination or pollution of the well.

[St. Engineer, Drilling Wells Reg. §§ 3.14 and 3.15, eff. 5-19-81] – (NAC A 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.370.]

21.10.380 Construction of well – Seals.

(a) All water wells must be sealed with neat cement, cement grout or concrete grout from ground level to a depth of 50 feet below the surface. Dry cement may not be placed in the annular space to be used as a seal.

(b) The casing must be centered as nearly as practicable in the drill hole to allow the seal to fully surround the casing.

(c) If a pitless adapter is used in domestic and small commercial wells:

(1) The seal must begin no more than five feet below the surface of the ground;

(2) The seal must extend at least 50 feet below ground level; and

(3) The portion of the casing above the seal must be backfilled to ground level with native material.

(d) A pipe used to feed gravel through the cement seal must be fitted with a watertight cap.

(e) A licensed driller must place the seal or directly supervise the procedure.

(f) The seal must be placed:

(1) In the annular space within five days after setting of the casing.

(2) In one continuous mass or completed within 72 hours.

(3) From the sealing depth upward to displace the fluid to the surface of the ground, if any fluid is above the 50-foot level.

(g) The diameter of the drill hole must be at least four inches greater than the diameter of the outermost casing to be used to a depth of at least 50 feet from the surface. If a fill pipe for gravel is installed, the diameter of the drill hole must be four inches greater than the diameter of the casing plus the diameter of the fill pipe for gravel. A conductor casing may be used to convey the gravel pack. If a conductor casing is used, the drill hole must be at least four inches larger than the conductor casing and the annular space between the conductor casing and drill hole must be sealed.

(h) The top of the casing on all water wells must be at least 12 inches above the finished grade.

(i) All production casing joints must be screw coupled or welded and be watertight. If welded casing joints are used, the casing joints must be continuously welded. Spot welds of casing joints are prohibited.

(j) If a permanent conductor casing is used and sealed in place, a watertight seal must be provided at the surface level between the conductor casing and the production casing to prevent any contaminants from entering the gravel pack conductor area. A welded plate or concrete seal is acceptable.

[St. Engineer, Drilling Wells Reg. §§ 3.02 – 3.13 and 3.16, eff. 5-19-81] – (NAC A 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.380.]

21.10.390 Construction of well – Location near live stream, river or unlined canal – Compliance with permit.

(a) If a well is drilled within one-quarter mile of a live stream, river or unlined canal:

(1) Perforations in the production casing are prohibited from ground level to 100 feet.

(2) The well must be sealed to a depth of 100 feet.

(3) A permanent conductor casing may be used to convey the gravel pack to the 50-foot level.

(b) If a well is being drilled pursuant to a permit, the well driller is responsible for satisfying the terms and conditions of the permit concerning the construction of the well.

[St. Engineer, Drilling Wells Reg. Part 5, eff. 5-19-81] – (NAC A 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.390.]

21.10.400 Domestic wells.

(a) Except as otherwise provided in subsection (h) of this section, permits to appropriate ground water are not required for the drilling of domestic wells.

(b) A well driller shall take into account the normal annual fluctuations in the demand for

water of an area and, if the well is in a developed area, some annual drop in static water level.

(c) Water may not be diverted from more than one well for domestic use in one single-family residence.

(d) A well drilled for domestic use only must have a casing size no larger than eight inches in diameter.

(e) If a domestic well cannot be reconditioned, a replacement may be drilled if the original well is plugged.

(f) Except as otherwise provided in subsection (g) of this section, a well may be drilled for domestic use if not more than 1,800 gallons of water per day is diverted from the well for use by a single-family household including a residence with a lawn, garden and domestic animals.

(g) If water service is available from an entity such as a public utility, a water district or a municipality presently engaged in furnishing water to the inhabitants of the area, a domestic well may not be drilled, deepened, reconditioned or replaced.

(h) A permit must be obtained from the Division if more than 1,800 gallons of water per day is diverted from a water well.

[St. Engineer, Drilling Wells Reg. § 10.04 and Part 12, eff. 5-19-81] – (NAC A 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.400.]

21.10.405 Exploratory wells.

(a) Exploratory wells must be:

(1) Drilled by a well driller who is licensed by the State Engineer; and

(2) Constructed in accordance with the provisions of this chapter.

(b) A well driller:

(1) Shall keep a copy of the waiver for an exploratory well with him at all times at the drilling site; and

(2) Is responsible for satisfying any condition contained in the waiver.

(Added to NAC by St. Engineer, eff. 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.405.]

21.10.410 Wells with flowing water.

(a) Before the well driller moves the rig from a flowing water well, he must install an effective shut-off valve to prevent the waste of water.

(b) If a well-drilling operation encounters flowing water at the surface, the driller shall take every reasonable precaution to prevent any water from escaping around the outside of the casing and seal.

(c) If a well is drilled for any purpose other than a water well and the well encounters a flow of water, the well must be plugged as provided in NAC 534.420.

[St. Engineer, Drilling Wells Reg. Part 13, eff. 5-19-81] – (NAC A 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.410.]

21.10.420 Plugging – Water wells.

(a) Water wells must be plugged by a driller licensed by the state engineer.

(b) On abandonment or order of the State Engineer, a water well must be plugged by:

(1) Removing the casing from the well if the well is not sealed and if removal will not cause caving or, if it cannot be removed, by perforating or ripping it to allow the plugging fluid to penetrate the area between the casing and the wall of the drill hole; and

(2) Using neat cement or a bentonite product specifically designed to plug abandoned wells.

(c) If a water well is plugged with neat cement, the plugging mixture must be:

(1) Circulated from the total depth to the surface; and

(2) Of sufficient weight, but not less than 15 pounds per gallon, to prevent a flow of water into the well from any aquifer penetrated.

(d) If a water well is plugged with bentonite fluid, the top 50 feet must be plugged with cement. The bentonite fluid must be circulated to the full depth of the well to prevent any water from entering the well. When the fluid is uniform after complete circulation, the viscosity must be determined and raised at least 20 seconds as measured by a Marsh funnel and must have a total viscosity of at least 50 sec-

onds, and the weight must be at least nine pounds per gallon. Barite may be added for weight if necessary.

(e) A well driller shall make a report in writing to the Division within 30 days after a water well has been plugged. The report must contain the location of the well by public survey, the name of the owner of the well, the condition of the well before plugging and a detailed description of the method of plugging.

[St. Engineer, Drilling Wells Reg. Part 14, eff. 5-19-81] – (NAC A 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.420.]

21.10.421 Plugging – Wells drilled for purposes other than as water wells.

A well drilled for any purpose other than as a water well must be plugged in the following manner:

(a) If the well does not penetrate the aquifer, it must be:

(1) Backfilled from the total depth with the cuttings drilled from the well or inorganic fill material; or

(2) Plugged in the manner described in subsection (b) of this section or NAC 534.420.

(b) If the well penetrates the aquifer, it must be plugged with:

(1) A mixture of cement grout, concrete grout or neat cement, circulated from the total depth to the surface; or

(2) A graded bentonite product such as Wyoming bentonite introduced from the top to fill completely the drill hole. The portion of the hole below the ground water level must be filled at a rate of two minutes per 50-pound bag.

(c) The top 50 feet of any well that is plugged must be sealed with a cement grout, concrete grout or neat cement plug.

(Added to NAC by St. Engineer, eff. 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.421.]

21.10.423 Plugging – Wells drilled for monitoring water table or environmental conditions.

Wells drilled for monitoring the water table or environmental conditions must be plugged as provided in NAC 534.420.

(Added to NAC by St. Engineer, eff. 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.423.]

21.10.425 Plugging of wells drilled for mineral exploration or for geochemical, geological, geotechnical or geophysical purposes – Exemption of blast holes from chapter.

(a) Any well drilled for mineral exploration or for geochemical, geological, geotechnical or geophysical purposes that:

(1) Penetrates an aquifer must be plugged as a water well pursuant to the provisions of this chapter.

(2) Does not penetrate an aquifer must be plugged as a well pursuant to the provisions of this chapter.

(b) Plugging of such a well must be commenced as soon as the data are collected.

(c) Blast holes that are drilled and loaded with explosives for mining purposes are not wells subject to the provisions of this chapter.

(Added to NAC by St. Engineer, eff. 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.425.]

21.10.427 Plugging required upon cancellation, withdrawal, denial or abandonment of water right.

If any type of waiver is granted and an application to appropriate water is canceled, withdrawn or denied, or if the use of water from the well is abandoned, the well must be plugged in accordance with the provisions of this chapter.

(Added to NAC by St. Engineer, eff. 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.427.]

21.10.428 Plugging – Period for completion – Responsibility for cost – Documentation.

(a) A well, other than a water well, must be plugged within 30 days after the collection of the data pertinent to the project.

(b) On private land, the owner is responsible for the cost of plugging the well.

(c) On public land, the operator of the project is responsible for the cost of plugging the well.

(d) On private or public land, the person responsible for having a well drilled shall maintain a record of the procedure used to plug any well, including the materials used, the installation procedure, the location of each well and the date of plugging.

(e) The operator shall submit to the Division, upon request, a map describing the location and number of wells drilled in an area and any other documentation concerning the status of a well.

(Added to NAC by St. Engineer, eff. 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.428.]

21.10.430 Access port required on certain wells drilled for irrigation or for municipal or industrial purposes.

(a) Every well drilled pursuant to a permit to appropriate ground water for irrigation or for municipal or industrial purposes must have an access port near the top of the casing that is two inches or less in diameter. Except as otherwise provided in this section, the access port must have a watertight, screw-type cap seal to prevent contamination and must be kept closed to prevent any contamination from entering the water well. On water wells that are eight inches in diameter or smaller, the access may be a one-half-inch hole at the top of the casing or in the casing cover with a removable plug or bolt.

(b) As used in this section, "access port" means an opening in the top of a well casing in the form of a tapped hole and plug or a capped pipe welded on the casing to permit entry of a device to measure the water level of the well.

[St. Engineer, Drilling Wells Reg. Part 6, eff. 5-19-81] – (NAC A 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.430.]

21.10.435 Observation or monitor wells – Waiver to drill – Casing – Permit to appropriate not required.

(a) A written request for a waiver to drill an observation or a monitor well must be submitted before:

(1) Drilling a well to observe the static water level;

(2) Drilling a well for sampling the quality of water;

(3) Drilling in a restricted basin;

(4) Using a casing made of a material other than steel;

(5) Using a seal less than 50 feet from the surface of the well; or

(6) Deviating from the construction requirements for the drilling of water wells in any other manner.

(b) The diameter of the casing for an observation or monitor well must not exceed four inches.

(c) A permit to appropriate water is not required to drill and collect data from an observation or monitor well.

(d) A request for a waiver to drill an observation or monitor well must include:

(1) A description of the location of the well by public survey;

(2) The name and address of the person responsible for plugging the well; and

(3) The purpose of the well.

(e) A waiver to drill an observation or monitor well will bear a serial number preceded by the letters "M/O." A card showing an intent to drill and the report submitted by the well driller must bear this number.

(Added to NAC by St. Engineer, eff. 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.435.]

21.10.436 Observation or monitor wells – Drilling and construction – Submission of plat map.

(a) An observation or monitor well must be:

(1) Drilled only by a well driller who is licensed by the State Engineer; and

(2) Constructed in accordance with the provisions of this chapter, except for any provision that is waived.

(b) A plat map showing the actual location of the observation or monitor well must be submitted within 30 days after completion of the well by the person who is responsible for the well or by the person who requested the waiver.

(Added to NAC by St. Engineer, eff. 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.436.]

21.10.440 Waiver to drill well to determine quality or quantity of water in designated basin.

(a) The request for a waiver to drill a water well to determine the quality or quantity of water pursuant to NRS 534.050 in a designated basin must be submitted in writing and contain the following information:

(1) The location by public survey of all exploratory wells anticipated to be drilled;

(2) The total number of exploratory wells anticipated to be drilled;

(3) The name and address of the person collecting data from the exploratory well;

(4) The reason for requesting a waiver;

(5) The proposed diameter and depth of the exploratory well; and

(6) The estimated starting and completion dates of the exploratory well, not to exceed 90 days after authority is given to drill.

(b) Each waiver for an exploratory well will bear a serial number preceded by the letter "W." A card showing an intent to drill and the log submitted by the well driller must bear this number.

(c) An application to appropriate water must be on file with the Division or accompany each request for a waiver.

[St. Engineer, Drilling Wells Reg. Part 16, eff. 5-19-81] – (NAC A 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.440.]

21.10.442 Waiver to use water to explore for minerals – Requirements.

(a) A request for a waiver to allow a temporary use of water from a well to explore for minerals must be submitted to the state engineer in writing and contain:

(1) The amount of water to be used for a six-month period, which must not exceed five acre feet;

(2) A brief description of how the water will be put to a beneficial use, if not so indicated on the application to appropriate water; and

(3) The location of the water well by public survey.

(b) An application to appropriate water must be on file or received with each request for a waiver.

(c) A waiver granted for the exploration of minerals will bear a serial number preceded by the letters "MM." A card showing an intent to drill and the report of the well driller must bear this number.

(Added to NAC by St. Engineer, eff. 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.442.]

21.10.443 Waiver to use water to explore for minerals – Period of validity – Authorized use.

A waiver granted for the exploration of mineral resources:

(a) Is valid for six months after the date it is issued; and

(b) May be used for only one water well.

(Added to NAC by St. Engineer, eff. 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.443.]

21.10.444 Waiver to use water to explore for oil, gas or geothermal resources – Requirements.

(a) A request for a waiver to allow the temporary use of water from a well to explore for oil, gas or geothermal resources must be sub-

mitted to the state engineer in writing and contain:

(1) The location of the proposed point of diversion by public survey;

(2) The oil. gas or geothermal lease number, name of the well and American Petroleum Institute number, if assigned; and

(3) The amount of water to be consumed from the water well, which must not exceed five acre feet.

(b) A waiver that allows the temporary use of water from a well to explore for oil, gas or geothermal resources will bear a serial number preceded by the letters “OG.” A card showing an intent to drill and the report submitted by the well driller must bear this number.

(Added to NAC by St. Engineer, eff. 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.444.]

21.10.445 Waiver to use water to explore for oil, gas or geothermal resources – Use of well after project completed.

If a water well used in support of oil, gas or geothermal exploration is to be used after the project is completed, an application to appropriate water must be filed and a permit must be issued before any other use of the water is allowed. If no application is on file, the water well must be plugged after the project is completed in accordance with the provisions of this chapter.

(Added to NAC by St. Engineer, eff. 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.445.]

21.10.446 Waiver to use water for construction of highway – Requirements.

(a) A request for a waiver to allow the temporary use of water from a well for the construction of a highway must be submitted to the State Engineer in writing and contain:

(1) The location of the proposed point of diversion by public survey;

(2) The project and contract number, if applicable;

(3) The total amount of water to be consumed;

(4) A brief description of how the water will be put to beneficial use; and

(5) The estimated starting and completion dates of the project.

(b) The water well must be:

(1) Drilled by a well driller licensed by the State Engineer; and

(2) Constructed in accordance with the provisions of this chapter.

(c) A waiver that allows the temporary use of water from a well for the construction of a highway will bear a serial number preceded by the letter “C.” A card showing an intent to drill and the report of the well driller must bear this number.

(Added to NAC by St. Engineer, eff. 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.446.]

21.10.447 Waiver to use water for construction of highway – Use of well after construction completed.

If the water well used in constructing a highway is to be used after the construction is completed, an application to appropriate the water must be filed and a permit issued before any other use of the water will be allowed. If no application is on file, the water well must be plugged upon completion of the construction in accordance with the provisions of this chapter.

(Added to NAC by St. Engineer, eff. 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.447.]

21.10.450 Waiver of requirements of chapter.

(a) The State Engineer may, for good cause shown, waive a requirement of the provisions of this chapter.

(b) A request for such a waiver must be made in writing and include:

(1) A brief statement of the reason for requesting the waiver and the section of the regulations to be waived;

(2) The location or proposed location of the well by public survey; and

(3) The name and address of the owner of the well.

(c) After reviewing the request, the State Engineer will give a written notice of his decision to the owner of the well.

(d) Each waiver will bear a serial number preceded by the letter "R." A card showing an intent to drill and the log submitted by the well driller must bear this number.

[St. Engineer, Drilling Wells Reg. Part 15, eff. 5-19-81) – (NAC A 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.450.]

Article IV. Miscellaneous Provisions

21.10.460 Prohibited types of wells.

Drive point, dug and jetted wells are prohibited.

(Added to NAC by St. Engineer, eff. 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.461.]

21.10.470 Grounds for disciplinary hearing.

A disciplinary hearing may be held if a well driller consistently files cards showing an intent to drill, logs or reports that are incomplete or not filed in a timely manner.

(Added to NAC by St. Engineer, eff. 1-9-90)

[Res. 93-020, 1993. Prior Code § 534.470.]

Tables

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Federal Code Citation Table

This table lists United States Code and Code of Federal Regulations sections that are cited in the Las Vegas Paiute Tribal Code.

Citation	Code Section
18 U.S.C. 1153	7.10.030 8.10.020
18 U.S.C. 1161	13.10.010 13.20.010 13.60.040
21 U.S.C. 800 et seq.	14.150.020
21 U.S.C. 801 et seq.	14.70.020 14.70.030 14.170.020
21 U.S.C. 812	7.70.030
25 U.S.C. 1301	13.40.010
42 U.S.C. 9601 – 42 U.S.C. 9675	18.10.030
25 C.F.R. 11	1.30.010 1.30.040

Cross-Reference Table

This table provides users with the current disposition of sections from the prior version of this Code. Thus, Prior Code Section 1-10-010 currently appears in this code as LVPTC 1.10.010.

Prior Code	Herein	Prior Code	Herein
1-10-010	1.10.010	1-50-050	1.50.050
1-10-015	1.10.015	1-60-010	1.60.010
1-10-020	1.10.020	1-60-020	1.60.020
1-10-030	1.10.030	1-60-030	1.60.030
1-20-010	1.20.010	1-70-010	1.70.010
1-20-020	1.20.020	1-70-020	1.70.020
1-20-030	1.20.030	1-70-030	1.70.030
1-20-040	1.20.040	1-70-040	1.70.040
1-20-050	1.20.050	1-80-010	1.80.010
1-20-060	1.20.060	1-80-020	1.80.020
1-30-010	1.30.010	1-80-030	1.80.030
1-30-020	1.30.020	1-90-010	1.90.010
1-30-030	1.30.030	1-90-020	1.90.020
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1-40-010	1.40.010	2-20	2.10.020
1-40-020	1.40.020	2-30	2.10.030
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1-40-050	1.40.050	2-70	2.10.070
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Prior Code	Herein
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4-60-070	4.60.070
4-60-080	4.60.080
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4-70-130	4.70.130
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5-20-030	5.20.030
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5-30-030	5.30.020
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5-40-030	5.40.030

Prior Code	Herein
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5-50-020	5.50.020
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5-60-110	5.60.110
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5-70-060	5.70.060
5-70-070	5.70.070
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5-70-110	5.70.110
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5-80-060	5.80.060
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Prior Code	Herein
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6-60-070	6.60.070
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6-60-110	6.60.110
6-60-120	6.60.120
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7-10-030	7.10.030
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7-30-020	7.30.020
7-30-030	7.30.030
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7-50-015	7.50.015
7-50-020	7.50.020
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7-60-020	7.60.020
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7-80-080	7.80.080
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7-100-010	7.100.010

Prior Code	Herein
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Prior Code	Herein
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Prior Code	Herein
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Prior Code	Herein
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11-30-185	11.30.010
11-30-260	11.30.020
11-30-265	11.30.030
11-30-270	11.30.040
11-30-275	11.30.050
11-30-276	11.30.060
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11-30-283	11.30.090
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11-30-300	11.30.140
11-30-315	11.30.150
11-30-316	11.30.160
11-30-320	11.30.170
11-30-321	11.30.180
11-30-325	11.30.190
11-30-327	11.30.200
11-30-340	11.30.210
11-30-350	11.30.220
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12-10-020	13.10.020
12-10-030	13.10.030

Prior Code	Herein
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12-30-030	13.30.030
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12-40-080	13.40.080
12-40-090	13.40.090
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12-50-020	13.50.020
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12-60-020	13.60.020
12-60-030	13.60.030
12-60-040	13.60.040
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13-20-010	12.20.010
13-20-015	12.20.015
13-20-020	12.20.020
13-20-025	12.20.025
13-20-030	12.20.030
13-20-035	12.20.035
13-20-040	12.20.040
13-20-045	12.20.045
13-20-050	12.20.050
13-20-055	12.20.055
13-20-060	12.20.060
13-20-065	12.20.065
13-20-070	12.20.070
13-20-075	12.20.075
13-20-080	12.20.080
13-20-085	12.20.085
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13-20-100	12.20.100
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13-40-010	12.30.010
13-40-020	12.30.020
13-40-060	12.30.030
13-70-010	12.40.010
13-70-020	12.40.020
13-70-030	12.40.030
13-70-040	12.40.040
13-70-050	12.40.050
13-70-060	12.40.060
13-70-070	12.40.070
13-70-080	12.40.080
13-70-090	12.40.090
14-10-010	15.10.010
14-10-020	15.10.020
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14-20-010	15.20.010
14-20-020	15.20.020
14-30-010	15.30.010
14-30-020	15.30.020
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14-40-020	15.40.020
14-40-030	15.40.030
14-40-040	15.40.040

Prior Code	Herein
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14-50-050	15.50.050
14-50-060	15.50.060
14-50-070	15.50.070
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14-60-020	15.60.020
14-60-030	15.60.030
14-70-010	15.70.010
14-70-020	15.70.020
14-80-010	15.80.010
14-80-020	15.80.020
14-80-030	15.80.030
14-80-040	15.80.040
14-80-050	15.80.050
14-90-010	15.90.010
14-90-020	15.90.020
14-90-030	15.90.030
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14-100-010	15.100.010
14-100-020	15.100.020
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14-100-040	15.100.040
14-110-010	15.110.010
14-110-020	15.110.020
15-10-10	16.10.010
15-10-15	16.10.015
15-10-20	16.10.020
15-20-10	16.20.010
15-30-10	16.30.010
15-30-15	16.30.015
15-30-20	16.30.020
15-40-10	16.40.010
15-40-15	16.40.015
15-40-20	16.40.020
15-40-25	16.40.025
15-40-30	16.40.030
15-40-35	16.40.035
15-40-40	16.40.040
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15-40-50	16.40.050
15-40-55	16.40.055
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15-40-80	16.40.080
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15-40-95	16.40.095
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15-40-110	16.40.110
15-40-115	16.40.115
15-50-10	16.50.010
15-50-15	16.50.015
15-50-20	16.50.020
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15-60-15	16.60.015
15-60-20	16.60.020
15-60-25	16.60.025

Prior Code	Herein
15-70-10	16.70.010
15-70-15	16.70.015
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15-80-20	16.80.020
15-90-10	16.90.010
15-100-10	16.100.010
15-100-15	16.100.015
15-100-20	16.100.020
15-100-25	16.100.025
15-100-30	16.100.030
15-100-35	16.100.035
15-100-40	16.100.040
15-110-10	16.110.010
15-110-15	16.110.015
15-120-10	16.120.010
15-120-15	16.120.015
15-120-20	16.120.020
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15-120-30	16.120.030
15-120-35	16.120.035
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15-120-45	16.120.045
15-120-50	16.120.050
15-130-10	16.130.010
15-130-15	16.130.015
15-130-20	16.130.020
15-130-25	16.130.025
15-130-30	16.130.030
15-130-35	16.130.035
15-140-10	16.140.010
15-140-15	16.140.015
15-150-10	16.150.010
15-160-10	16.160.010
15-160-15	16.160.015
15-170-10	16.170.010
16-10-10	17.10.010
16-20-10	17.20.010
16-20-15	17.20.015
16-20-20	17.20.020
16-20-25	17.20.025
16-20-30	17.20.030
16-20-35	17.20.035
16-20-40	17.20.040
16-20-45	17.20.045
16-20-50	17.20.050
16-20-55	17.20.055
16-20-60	17.20.060
16-30-10	17.30.010
16-40-10	17.40.010
16-40-15	17.40.015
16-40-20	17.40.020
16-40-25	17.40.025
16-40-30	17.40.030
16-50-10	17.50.010
16-50-15	17.50.015
16-50-20	17.50.020
16-50-25	17.50.025
16-60-10	17.60.010
16-60-15	17.60.015
16-60-20	17.60.020
16-60-25	17.60.025
16-60-30	17.60.030
17-10	20.10.010
17-20	20.10.020
17-30	20.10.030
17-40	20.10.040
17-50	20.10.050

Prior Code	Herein
17-60	20.10.060
17-70	20.10.070
17-80	20.10.080
17-90	20.10.090
18-10-10	14.10.010
18-20-10	14.20.010
18-20-15	14.20.015
18-20-20	14.20.020
18-20-25	14.20.025
18-20-30	14.20.030
18-20-35	14.20.035
18-20-40	14.20.040
18-20-45	14.20.045
18-20-50	14.20.050
18-20-55	14.20.055
18-20-60	14.20.060
18-30-10	14.30.010
18-40-10	14.40.010
18-40-15	14.40.015
18-40-20	14.40.020
18-40-25	14.40.025
18-40-30	14.40.030
18-50-10	14.50.010
18-50-15	14.50.015
18-50-20	14.50.020
18-50-25	14.50.025
18-60-10	14.60.010
18-60-15	14.60.015
18-60-20	14.60.020
18-60-25	14.60.025
18-60-30	14.60.030
18-60-35	14.60.035
19-1-10	14.70.010
19-1-20	14.70.020
19-1-30	14.70.030
19-1-40	14.70.040
19-1-50	14.70.050
19-2-10	14.80.010
19-2-20	14.80.020
19-2-30	14.80.030
19-2-40	14.80.040
19-3-10	14.90.010
19-3-20	14.90.020
19-3-30	14.90.030
19-3-40	14.90.040
19-3-50	14.90.050
19-3-60	14.90.060
19-3-70	14.90.070
19-3-80	14.90.080
19-4-10	14.100.010
19-4-20	14.100.020
19-4-30	14.100.030
19-4-40	14.100.040
19-4-50	14.100.050
19-4-60	14.100.060
19-5-10	14.110.010
19-5-20	14.110.020
19-5-30	14.110.030
19-5-40	14.110.040
19-5-50	14.110.050
19-6-10	14.120.010
19-6-20	14.120.020
19-6-30	14.120.030
19-6-40	14.120.040
19-6-50	14.120.050
19-6-60	14.120.060
19-7-10	14.130.010
19-7-20	14.130.020

Prior Code	Herein
19-7-30	14.130.030
19-7-40	14.130.040
19-8-10	14.140.010
19-8-20	14.140.020
19-8-30	14.140.030
19-8-40	14.140.040
19-8-50	14.140.050
19-9-10	14.150.010
19-9-20	14.150.020
19-9-30	14.150.030
19-9-40	14.150.040
19-9-50	14.150.050
19-10-10	14.160.010
19-10-20	14.160.020
19-10-30	14.160.030
19-10-40	14.160.040
19A-1-10	14.170.010
19A-1-20	14.170.020
19A-1-30	14.170.030
19A-1-40	14.170.040
19A-1-50	14.170.050
19A-1-60	14.170.060
19A-1-70	14.170.070
19A-2-10	14.180.010
19A-2-20	14.180.020
19A-2-30	14.180.030
19A-2-40	14.180.040
19A-2-50	14.180.050
19A-2-60	14.180.060
19A-3-10	14.190.010
19A-3-20	14.190.020
19A-4-10	14.200.010
19A-5-10	14.210.010
19A-5-20	14.210.020
19A-5-30	14.210.030
19A-5-40	14.210.040
19A-5-50	14.210.050
20-10-10	19.10.010
20-20-10	19.20.010
20-20-15	19.20.015
20-20-20	19.20.020
20-20-25	19.20.025
20-20-30	19.20.030
20-20-35	19.20.035
20-20-40	19.20.040
20-20-45	19.20.045
20-20-50	19.20.050
20-20-55	19.20.055
20-20-60	19.20.060
20-30-10	19.30.010
20-40-10	19.40.010
20-40-15	19.40.015
20-40-20	19.40.020
20-40-25	19.40.025
20-40-30	19.40.030
20-50-10	19.50.010
20-50-15	19.50.015
20-50-20	19.50.020
20-50-25	19.50.025
20-60-10	19.60.010
20-60-15	19.60.015
20-60-20	19.60.020
100.0101	21.10.001
100.0102	21.10.002
100.0103	21.10.003
100.0104	21.10.004
100.0105	21.10.005
100.020	21.10.006

Prior Code	Herein
100.030	21.10.007
100.040	21.10.008
534.010	21.10.010
534.015	21.10.015
534.020	21.10.020
534.030	21.10.030
534.040	21.10.040
534.045	21.10.045
534.050	21.10.050
534.060	21.10.060
534.070	21.10.070
534.080	21.10.080
534.090	21.10.090
534.095	21.10.095
534.100	21.10.100
534.110	21.10.110
534.113	21.10.113
534.116	21.10.116
534.120	21.10.120
534.130	21.10.130
534.140	21.10.140
534.143	21.10.143
534.146	21.10.146
534.150	21.10.150
534.160	21.10.160
534.170	21.10.170
534.175	21.10.175
534.180	21.10.180
534.182	21.10.182
534.183	21.10.183
534.184	21.10.184
534.185	21.10.185
534.188	21.10.188
534.190	21.10.190
534.195	21.10.195
534.210	21.10.210
534.212	21.10.212
534.214	21.10.214
534.216	21.10.216
534.220	21.10.220
534.240	21.10.240
534.250	21.10.250
534.260	21.10.260
534.270	21.10.270
534.275	21.10.275
534.280	21.10.280
534.282	21.10.282
534.284	21.10.284
534.286	21.10.286
534.288	21.10.288
534.290	21.10.290
534.292	21.10.292
534.293	21.10.293
534.294	21.10.294
534.296	21.10.296
534.297	21.10.297
534.298	21.10.298
534.300	21.10.300
534.310	21.10.310
534.320	21.10.320
534.325	21.10.325
534.330	21.10.330
534.340	21.10.340
534.345	21.10.345
534.350	21.10.350
534.360	21.10.360
534.370	21.10.370
534.380	21.10.380

Prior Code	Herein
534.390	21.10.390
534.400	21.10.400
534.405	21.10.405
534.410	21.10.410
534.420	21.10.420
534.421	21.10.421
534.423	21.10.423
534.425	21.10.425
534.427	21.10.427
534.428	21.10.428
534.430	21.10.430
534.435	21.10.435
534.436	21.10.436
534.440	21.10.440
534.442	21.10.442
534.443	21.10.443
534.444	21.10.444
534.445	21.10.445
534.446	21.10.446
534.447	21.10.447
534.450	21.10.450
534.461	21.10.460
534.470	21.10.470
X-10	18.10.010
X-20	18.10.020
X-30	18.10.030
X-40	18.10.040
X-50	18.10.050
X-60	18.10.060
X-70	18.10.070
X-80	18.10.080
X-90	18.10.090
X-100	18.10.100
X-110	18.10.110
X-120	18.10.120
X-130	18.10.130
X-140	18.10.140

Resolution Table

7/5/77A	
10-27-77B	General provisions; complaints and initiation of prosecution; arrests, summons, and citations; searches and seizures; procedure before trial; trials; procedure after a verdict or after trial; general provisions; attempt, conspiracy, and solicitation; offenses involving danger to the person; offenses against property; offenses against the family; offenses against the administration of government; offenses against public order and decency; defenses; classes of offenses and sentences; evidence; definitions; admissibility in general; witnesses; evidence excluded for policy reasons; statements by persons not present – the hearsay rule; privileges to exclude evidence; domestic relations; marriage; Indian custom marriage and divorce; rights of husband and wife; void marriages; annulment; dissolution of marriage; custody and support of children; determination of parenthood; adoption of minor children; adoption of adults; guardianship; juvenile proceedings; jurisdiction; definitions; complaints of delinquency and dependency; petitions of delinquency or dependency; hearings upon petitions of delinquency or dependency; dispositions of cases after findings of delinquency or dependency; proceedings and records of juvenile court; termination of parental rights; use of professional services by the juvenile court; facilities for custody or detention of children; school attendance; taxation; tobacco excise tax and tribal tobacco outlets; elections; authorization, purpose and applicability; tribal election committee; regular elections; special elections; registration of voters; nominations for tribal council; preparation for elections; absentee ballots; elections; counting of ballots; challenges of election outcome (4.10, 4.20, 4.30, 4.40, 4.50, 4.60, 4.70, 5.10, 5.20, 5.30, 5.40, 5.50, 5.60, 5.70, 5.80, 5.90, Title 6, 6.10, 6.20, 6.30, 6.40, 6.50, 6.60, Title 9, 9.10, 9.20, 9.30, 9.40, 9.50, 9.60, 9.70, 9.80, 9.90, 9.100, 9.110, Title 10, 10.10, 10.20, 10.30, 10.40, 10.50, 10.60, 10.70, 10.80, 10.90, 10.100, 10.110, Title 11, 11.10, Title 15, 15.10, 15.20, 15.30, 15.40, 15.50, 15.60, 15.70, 15.80, 15.90, 15.100, 15.110)
LV81-1	Tribal election committee; special elections; registration of voters; nominations for tribal council; elections (15.20, 15.40, 15.50, 15.60, 15.90)
LV-88-153	
92-007	
92-011	Sales and use taxes (11.20, 11.30)
92-025	
93-007	
93-020	Underground water and wells (21.10)
93-025	Snow Mountain Reservation golf course project (17.10, 17.20, 17.30, 17.40, 17.50, 17.60)
94-006	Membership and enrollment committee (2.10)
94-017	

94-021	Authorization and definitions; jurisdiction of the tribal court; law to be applied by the tribal court; judges of the tribal court; clerk of tribal court; records of the tribal court; rules of the tribal court; practice before the tribal court; tribal court of appeals (1.10, 1.20, 1.30, 1.40, 1.50, 1.60, 1.70, 1.80, 1.90, 8.10, 8.20, 8.30, 8.40, 8.50)
94-022	Jurisdiction; duties imposed by this title; enforcement procedures; trial of traffic offenders; punishment of traffic offenders; traffic offenses; other traffic-related offenses; driver licensing; registration of vehicles; off-road vehicles; bicycles; civil remedial forfeiture; authorization and definitions; application; general provisions; civil remedial money penalties; civil remedial forfeiture of property (7.10, 7.20, 7.30, 7.40, 7.50, 7.60, 7.70, 7.80, 7.90, 7.100, 7.110, Title 8, 8.10, 8.20, 8.30, 8.40, 8.50)
94-023	Sales and use taxes (11.20, 11.30)
94-032	Animals (Title 16, 16.10, 16.20, 16.30, 16.40, 16.50, 16.60, 16.70, 16.80, 16.90, 16.100, 16.110, 16.120, 16.130, 16.140, 16.150, 16.160, 16.170)
94-034	Snow Mountain recreational facilities authority (17.10, 17.20, 17.30, 17.40, 17.50, 17.60)
94-039	Law to be applied by the tribal court; procedure after a verdict or after trial; classes of offenses and sentences (1.30, 4.70, 5.90)
95	Law to be applied by the tribal court; membership; membership and enrollment committee; sales and use taxes; use tax (1.30, Title 2, 2.10, 11.20, 11.30)
95-006	Procedure before trial (4.50)
95-007	Punishment of traffic offenders (7.50)
95-012	Liquor code; findings and purpose; definitions; sales, distribution, possession, consumption; penalties; abatement of continuing violations; severability and effective date (Title 13, 13.10, 13.20, 13.30, 13.40, 13.50, 13.60)
95-025	Law to be applied by the tribal court (1.30)
95-028	Law to be applied by the tribal court; judges of the tribal court (1.10, 1.30, 1.40)
95-039	Tribal gaming tax code (12.10, 12.20, 12.30, 12.40)
98-025	Punishment of traffic offenders (7.50)
03-013	Offenses against public order and decency (5.70)
04-002	Arrests, summons, and citations (4.30)
04-013	Bail schedule
06-010	Trespass, exclusion and expulsion (4.50, 4.70, 5.90, 20.10)
09-016	Snow Mountain electrical facilities (19.10, 19.20, 19.30, 19.40, 19.50, 19.60)
16-004	Adopts cannabis authority regulations (14.10, 14.20, 14.30, 14.40, 14.50, 14.60)
16-005	Adopts medical marijuana control regulations (14.70, 14.80, 14.90, 14.100, 14.110, 14.120, 14.130, 14.140, 14.150)
17-001	Amends §§ 5-70-070 [5.70.070], 5-70-100(b) through (e) [5.70.100(b) through (e)], 5-70-110 [5.70.110], 7-70-010 [7.70.010], 7-70-020 [7.70.020] and 7-70-030 [7.70.030], code of criminal offenses and traffic offenses (5.70, 7.70)
17-011	Adopts Title 19A [Title 14, Div. III], regulation and taxation of

	recreational marijuana (14.170, 14.180, 14.190, 14.200, 14.210)
17-019	Amends cannabis authority regulations (14.10, 14.20)
18-011	Amends § 5-70-100(b) [5.70.100(b)], controlled substances offenses (5.70)
19-009	Amends Chapter 19-10 [Chapter 14.160], regulation of marijuana delivery (14.160)