

SAUK-SUIATTLE INDIAN TRIBE
LAW AND ORDER CODE

June 15, 1984, amended March 13, 1998, amended August 10, 2006

SAUK-SUIATTLE INDIAN TRIBE

LAW AND ORDER CODE

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LAW AND ORDER CODE
OF THE
SAUK-SUIATTLE INDIAN TRIBE

BE IT ENACTED BY THE TRIBAL COUNCIL OF THE SAUK-SUIATTLE INDIAN
TRIBE:

CHAPTER ONE GENERAL PROVISIONS

Section 1.010 Title and Effective Date

This ordinance shall be known as the Law and Order Code of the Sauk-Suiattle Indian Tribe and shall take effect on June 15, 1984.

Section 1.020 Amendments and Severability

The Sauk-Suiattle Tribal Council reserves the right to amend this Code at any time. If any provision of this Code, or its application to any person or circumstance, is held invalid, the remainder of the Code, or the application of the provision to other persons or circumstances is not affected and to this end the provisions of this Code are declared to be severable.

Section 1.030 Nonwaiver of Sovereign Immunity.

Nothing in this Code shall be deemed to constitute a waiver by the Sauk-Suiattle Tribe of its sovereignty, rights, powers or privileges.

Section 1.040 Liberal Construction of Code

The provisions in this Code shall be liberally construed so as to give effect to its purpose of protecting the persons, property and resources of the Sauk-Suiattle Indian Tribe.

Section 1.050 Definitions

- (1) "Another" refers to any person, regardless of the Tribe's or Tribal Court's jurisdiction or lack thereof over such person, and includes natural persons, as well as private or public organizations, business entities and governmental agencies.
- (2) "Contraband" refers to any illegally obtained or possessed property, as well as property being used, or that has been used, in the commission of any offense listed in this ordinance.

- (3) “Controlled substance” refers to those substances that are regulated as dangerous or otherwise illegal drugs by the United States Government and its drug enforcement agencies.
- (4) “Firearm” is any projectile-firing device capable of causing physical harm if discharged, regardless of whether such device is loaded with a projectile.
- (5) “General Crime”, as used in this ordinance, is a serious criminal offense that carries a penalty not to exceed five hundred dollars (\$500.00), or six (6) months confinement, or both.
- (6) “He,” “Him,” or “His,” or similar use of the male gender pronoun, shall be understood to include both male and female persons.
- (7) “Infraction,” as used in this ordinance, is a minor criminal offense that carries a penalty not to exceed five hundred dollars (\$500.00).
- (8) “Judge Pro Tempore” is a judge or judicial officer who is appointed only for that period of time required to hear and decide a particular case or cases.
- (9) “Judicial Officer” is a person who has met all the requirements to serve as a tribal judge, but who is authorized to exercise only that limited judicial authority delegated to him by this ordinance, by the Chief Judge (trial or appellate) or by the Tribal Council. No decision of a judicial officer may result in the final disposition of a case, and all decisions of a judicial officer are reviewable by the Chief Judge (trial or appellate).
- (10) “Major Crime,” as used in this ordinance, is a very serious criminal offense that carries a mandatory penalty of six (6) months confinement and a five hundred dollar (\$500.00) fine.
- (11) “Minor,” “Child,” “Children” or similar references, means a person who has not yet attained the age of eighteen (18) years, except that for purposes of regulating alcohol consumption or possession by minors, it shall mean a person who has not yet attained the age of twenty-one (21) years.
- (12) “Person,” when used in this ordinance to refer to one who is charged with or convicted of a tribal criminal offense, includes only those persons over whom the Sauk-Suiattle Indian Tribe and Tribal Court may lawfully exert jurisdiction based on applicable law as determined by the Tribal Court.

- (13) "Public Official," includes, but is not limited to, any person who acts in an official capacity, or is bestowed with an official capacity, by the Sauk-Suiattle Tribal Government, federal government, state, county or municipal government, or any other tribal or foreign government.
- (14) "Removal Notice" is an official notice by tribal law enforcement to the owner or possessor of certain property that such property will be confiscated by tribal law enforcement if not removed within the time period stated in the notice, that if confiscated property can be recovered by the owner or possessor upon payment of costs of removal and storage, and that any property not recovered may be sold or otherwise disposed of and any proceeds therefrom forfeited to the Tribe.

CHAPTER TWO TRIBAL JUSTICE SYSTEM

Section 2.010 Tribal Court - Judicial Power

The judicial power of the Sauk Suiattle Indian Tribe shall be vested in the Sauk-Suiattle Tribal Court. When jurisdiction is vested in that court all the means necessary to exercise that jurisdiction is also delegated. In the exercise of that jurisdiction, if the course of the proceeding is not specified in this ordinance, any suitable process may be adopted which appears most in keeping with the spirit of Sauk-Suiattle tribal law.

Section 2.020 Tribal Court - Jurisdiction

The territorial jurisdiction of the Sauk-Suiattle Tribal Court shall extend to all territory in which the Sauk-Suiattle Indian Tribe has a beneficial interest, including, but not limited to, the Sauk-Suiattle Indian Reservation, all usual and accustomed fishing grounds and stations, and any other lands or areas which may be acquired for or by and held in the name of the Sauk-Suiattle Indian Tribe.

The subject matter jurisdiction of the Sauk-Suiattle Tribal Court shall extend to all matters of law and equity, whether civil or criminal in nature, arising under the laws of the Sauk-Suiattle Indian Tribe.

The personal jurisdiction of the Sauk-Suiattle Tribal Court shall extend to all persons over whom the Sauk-Suiattle Indian Tribe exerts jurisdiction, to the fullest extent permissible under applicable law.

Section 2.030 Tribal Court - Composition

The Sauk-Suiattle Tribal Court shall be composed of two divisions: the trial court, which shall exercise the court's original jurisdiction; and the Court of

Appeals, which shall hear and decide appeals from final judgment of the trial court.

Section 2.040 Tribal Court - Court of Record

The Court shall be a court of record, and shall keep records of all proceedings, including the titles of cases, the names of parties and counsel, material rulings, and such other matter sufficient to provide a thorough review of proceedings.

Section 2.050 Tribal Court - Copies of Laws

The Tribal Court shall be provided with current copies of the Tribal Code, all ordinances enacted by the tribal Council, and such resolutions and regulations as may be applicable to the conduct of the Court's business.

Section 2.060 Tribal Court - Appointment and Removal of Judges

The Tribal Court shall consist of one Chief Judge and such associate judges and judicial officers as are appointed by the Tribal Council.

To be eligible to serve as judge a person must (1) be over the age of twenty-five (25) and (2) within a period of five (5) years not have been convicted of an offense involving dishonesty or impugning his moral character.

Each judge shall hold office for a period of four (4) years, unless sooner removed for cause, and shall be eligible for reappointment. In the event of a vacancy the Tribal Council shall appoint a judge to serve the unexpired term.

A judge may be suspended or removed only upon a showing of good cause, and only by a vote for removal by four (4) or more members of the Tribal Council at a duly called council meeting at which five or more council members are in attendance. The Tribal Chairman may vote only in the event of a tie. Prior to such suspension or removal, the judge shall be presented with a written statement of allegations constituting good cause, and shall be notified ten (10) days in advance of a required hearing on the charges. The judge shall be fully informed of the nature of the charges, shall be confronted with witnesses against him, and shall be entitled to be represented by counsel at his own expense. Following the hearing, the Tribal Council shall prepare written findings of fact, and their decisions shall be by roll call vote.

No judge shall be qualified to act in any cause in which he has a direct interest.

Section 2.065 Judge's Oath of Office

Prior to conducting any business of the Tribal Court, a person designated by the Tribal Council to serve as a tribal judge or judicial officer shall orally swear to and sign the following oath in the presence or hearing of the Tribal Council or Chief Judge:

I, _____, do solemnly swear:

- (1) I have read the Sauk-Suiattle Indian Tribe's Constitution and Laws and am familiar with their contents;
- (2) I will support the Constitution and laws of the Sauk-Suiattle Indian Tribe in all respects;
- (3) I will abide by the rules established by the Sauk-Suiattle Tribal Council and the Sauk-Suiattle Tribal Court;
- (4) I will at all times maintain the respect due the Tribal Court and its officers;
- (5) I will not act in any matter before me in which I have a direct interest;
- (6) I will adjudicate matters before me in a fair and impartial manner and I will neither seek nor accept advice or counsel on any matter before me from any person, nor will I consider any evidence not properly before the Court nor engage in any ex parte conversations with any party on the merits of any contested matter;
- (7) I will abstain from all offensive conduct in the Tribal Court and I will treat with respect and courtesy all parties and counsel appearing before me.

Date

SIGNATURE OF JUDGE-DESIGNEE
OR JUDICIAL OFFICER-DESIGNATE
(cross through one)

Subscribed and sworn to before me on this _____ day of _____, 20____.

TRIBAL CHAIRMAN OR COURT JUDGE

The original of every oath signed by a Judge-Designate or Judicial Officer-Designate shall remain permanently on file with the Tribal Court and a copy shall be filed with the Tribal Council and shall remain effective for successive terms of office or reappointments of Judges Pro Tempore.

Section 2.070 Tribal Court - Duties and Powers of Judges

Each Judge of the Court shall have the power:

- (1) To try cases;
- (2) To issue subpoenas compelling the attendance of witnesses at proceedings, and to determine sanctions for failure to comply with such subpoenas;
- (3) To issue arrest warrants and search warrants pursuant to the Rules of Criminal Procedure;
- (4) To determine the construction of any Code provision, including necessary elements of an offense, and any applicable defenses;
- (5) To determine the amount of bail to be posted; and
- (6) To issue an order or write necessary and proper to the complete exercise of the Court's power.

The Chief Judge shall be responsible for the administration of the Court, and shall assign cases, manage the Court's calendar, and shall, consistent with personnel policies and budget constraints, hire such staff as necessary for the smooth operation of the Court.

Notwithstanding the above provisions, when circumstances indicate an immediate need the Chief Judge may nominate a Judge Pro Tempore to serve on a particular case only, subject to approval by the Tribal Council. The Judge Pro Tempore will cease to have any official status as a judge with the Tribe at the conclusion of the matter he is handling.

Section 2.075 Tribal Court - Tribal Prosecutor

The Tribal Council shall appoint a prosecutor to represent the Sauk-Suiattle Indian Tribe in Tribal Court. Pursuant to the rules of the Tribal Court, the prosecutor shall have the authority to represent the Sauk-Suiattle Tribe as its

advocate in any criminal proceeding in Tribal Court, and in any civil proceeding as directed by the Tribal Council.

Section 2.080 Tribal Court - Court Clerk

The Tribal Council shall appoint a clerk of the Court to perform and carry out all traditional clerking functions, including the administering of oaths, and, at the Chief Judge's direction, the administration of Court functions.

Section 2.090 Tribal Court - Disposition of Monies

All fines, bonds, court costs and other assessments made by the court shall be paid to the clerk of the Court, who shall cause them to be deposited in a special Tribal Court Fund for disbursement by the Tribal Council. Provided, however, that the clerk may maintain a petty cash fund of up to \$50.00, with a full and accurate accounting of such fund to be made available to the Tribal Council upon request.

Section 2.100 Court of Appeals - Composition

- (1) The Tribal Council shall create and maintain a list of five judges that shall constitute the Sauk-Suiattle Appellate Court. The Appellate Court shall consist of persons qualified to appear before the Sauk-Suiattle Tribal Court as a representative.
- (2) Appellate Court Judges shall be orally sworn in by the Tribal Council with the oath found at Section 2.065.
- (3) Upon receipt of a Notice of Appeal, the Tribal Court clerk shall by random selection assign a three (3) judge panel to consider the appeal.
- (4) One of the three panel members shall be designated by the Chief Judge as Chief Judge of the Appellate Panel.
- (5) Any issue concerning the participation or disqualification of a person as a judge on the Appellate Court shall be referred to the Tribal Council for a final determination.

Section 2.110 Court of Appeals - Jurisdiction

The Court of Appeals shall have jurisdiction to hear and determine appeals from final judgments of the Tribal Trial Court.

Section 2.130 Court of Appeals - Limitations

The Sauk-Suiattle Rules of Court—Appellate contain the limitations upon the right of appeal, as to the type of cases which may be appealed, as to the grounds of appeal, and as to the manner in which appeals may be granted.

CHAPTER THREE GENERAL RULES OF COURT

Section 3.010 Conduct of Court Proceedings

All court proceedings shall be conducted in a dignified and respectful manner. All persons addressing the court shall rise and shall speak in a clear and courteous manner.

Section 3.020 Notice of Scheduling

All trials shall be commenced at a designated time determined by the court with reasonable notice of such time given to the parties.

Section 3.030 No Discussion with Jurors

No person, including members of the court's staff, any of the parties or witnesses, or any other person shall discuss with any known juror any case pending before such juror, or which may come before such juror, either before or during the trial, and any juror who has personal knowledge about the case or who has discussed it with any of the parties, witnesses, or court officials shall be excused by the judge.

Section 3.040 No Discussion with Judge

No witness or party to any case shall under any circumstances whether before or during trial attempt to discuss the merits of any case pending before the court with any of the judges except in open court and with either the clerk of the court or one of the other judges present and then shall under no circumstances attempt to influence the court's decision unless in the course of regular court proceedings.

Section 3.050 Tribal Court Bar - General

Any person appearing in Tribal Court shall have the right to an advocate at his own expense to assist him in presenting his case, provided that such advocate shall first have been admitted to the Tribal Court Bar. The court may appoint

an advocate to assist any person if, in the discretion of the court, it appears necessary to protect such person's rights. An advocate need not be licensed to practice law in any other jurisdiction.

Section 3.060 Tribal Court Bar - Admission

To be admitted to the Tribal Court Bar, a person must: (1) be of good moral character and (2) sign and take the Advocate's Oath.

Section 3.070 Tribal Court Bar - Advocate's Oath

I, _____, do solemnly swear:

- (1) I have read the Sauk-Suiattle Indian Tribe's Constitution and laws and am familiar with their contents;
- (2) I will support the Constitution of the Sauk-Suiattle Indian Tribe in all respects;
- (3) I will abide by the rules established by the Sauk-Suiattle Tribal Council and the Sauk-Suiattle Tribal Court;
- (4) I will at all times maintain the respect due the Tribal Court and its officers;
- (5) I will not counsel or speak for any suit or proceeding which shall appear to me to be unjust, or any defense except such as I believe to be honestly debatable under the laws of the Sauk-Suiattle Indian Tribe unless it be in defense of a person charged with a criminal offense;
- (6) I will employ such means only as are consistent with truth and honor and will never seek to mislead a judge or jury by any false statements; and
- (7) I will abstain from all offensive conduct in the Tribal Court.

Date

APPLICANT FOR ADMISSION

Subscribed and sworn to before me on this ____ day of _____,
20____.

JUDGE OR JUDICIAL OFFICER

Section 3.080 Tribal Court Bar - Roster

The clerk of the Tribal Court will maintain a roster of all advocates admitted to practice before the Tribal Court. The clerk will also keep on the file the signed oaths of all such persons.

Section 3.090 Tribal Court Bar - Disbarment

Any advocate violating the Advocate's Oath shall be subject to disbarment. A Tribal Court Judge shall prepare in writing a complaint against such advocate including reasons for disbarment. Within ten (10) days of receipt of such complaint, the Court of Appeals shall hold a hearing at which time the advocate may present witnesses and a defense of his actions. The decision of the Court of Appeals shall be final.

Section 3.100 Tribal Court Bar - Contempt of Court

Any advocate failing to maintain the respect due the Tribal Court or engaging in offensive conduct in the courtroom shall be deemed in contempt of court and subject to immediate sentencing by the Tribal Court Judge to confinement for a period not to exceed three (3) days, or a fine not to exceed one hundred dollars (\$100.00) or both the confinement and fine. In appropriate cases exclusion from the reservation and tribal lands may be ordered and immediately enforced.

Section 3.110 Tribal Court Bar - Appeals

Any person denied admission to the Tribal Court Bar or any advocate found guilty of contempt of court by the Tribal Court Judge may appeal to the Court of Appeals. Such person shall have the right to a hearing before such panel within ten (10) days of his denial or conviction and shall have the right to present witnesses and present a defense. The decision of the Court of Appeals shall be final.

Section 3.120 Witnesses - Subpoenas

Upon his own motion or upon the motion of any of the parties to a case, the judge shall issue subpoenas ordering the appearance of witnesses. Service of subpoenas in civil cases shall be by the party requesting the witness' attendance, and in criminal cases by the tribal police or any other person appointed by the court for that purpose.

Section 3.130 Witnesses - Fees

Each witness answering a subpoena shall be entitled to a fee of \$10.00 per day for each day his services are required in court, plus twelve cents (12¢) per

mile for travel to and from the court, subject to the availability of funds. Except in cases where the Sauk-Suiattle Indian Tribe, or a party determined by the court to be indigent, is the party requesting the subpoena, that party shall pay the witness fees and mileage. Fees and mileage for witnesses appearing under subpoena at the request of the Tribe or an indigent party shall be paid from court funds, if available.

Section 3.140 Witnesses - Oath or Affirmation

Each witness shall be given an oath or affirmation by the court as follows: "Do you swear (or affirm) to tell the truth in the matter now before you?"

Section 3.150 Juries - Eligibility

A list of eligible jurors who are at least eighteen (18) years of age shall be prepared by the Tribal Council each year. A person may decline jury duty upon good cause shown to the appropriate tribal judge. Enrollment in the Sauk-Suiattle Tribe shall not be a prerequisite to serving on a tribal court jury.

Section 3.160 Juries - Number of Jurors

A jury shall consist of six jurors drawn from the current list of eligible jurors by the court clerk or the judge. A party who has requested a jury trial may waive his right to trial by a jury of six persons and may, in lieu thereof, be granted a trial by a jury of no fewer than three persons.

Section 3.170 Juries - Selecting a Jury

In cases to be tried to a jury, the court clerk shall draw by lot twelve names from the eligible juror's list. Six members shall then be seated. The parties shall then be permitted alternately to question the jurors as to their impartiality and fairness and the judge may excuse any juror if in his judgment that juror would not be completely fair and impartial. Each of the parties, starting with the complainant, shall then have an opportunity to excuse three jurors, alternating until each has exercised as many challenges as he wishes not to exceed three. As a juror is excused, the clerk shall draw the name of another juror to take his place, and the parties shall alternately have an opportunity to examine such juror as to his fairness.

Section 3.180 Juries - Jury Instructions

The judge shall instruct the jury in the laws governing the case. Either party may propose instructions to the jury which may be allowed by the trial judge if he finds that such instructions further the interests of justice. In all jury cases the judge shall instruct the jury that they shall retire to consider the

matter and that each juror shall be given an opportunity to state his opinion and that they shall select a foreman.

Section 3.190 Juries - Verdict

- (1) After the jury has returned its verdict in open court with the parties present, the court shall thereafter enter judgment upon each verdict.
- (2) In civil cases tried to a jury, and in criminal cases tried to a jury where the offense charged is not punishable by imprisonment, the jury's verdict shall be reached by majority vote. If after deliberating at length the jury feels it is unable to reach a majority vote, the judge shall instruct the jury on the importance of reaching a verdict and direct them to deliberate further. If, after further lengthy deliberation the jury remains deadlocked, the judge shall declare a mistrial. The plaintiff (or prosecutor, in criminal cases) shall be granted a new trial upon request, which shall be re-tried before a new jury or before the judge.
- (3) In criminal cases tried to a jury where the offense charged is punishable by imprisonment, the number of jury votes of guilty needed to sustain a conviction shall be determined by the tribal court in accord with the requirements of due process and related mandates of the Indian Civil Rights Act, 25 U.S.C. § 1301-1303. Provided, however, that in no event shall a conviction be sustained on less than a majority vote of guilty by the jury.

Section 3.200 Juries - Fees

Every person who is required to attend court selection or serve as juror shall be entitled to a fee of ten dollars (\$10.00) a day for each day his services are required in court, plus twelve cents (12¢) a mile for traveling to and from the court.

Section 3.300 Civil Actions - Filing Fee

Upon the filing of any civil complaint or petition in the Sauk-Suiattle Tribal Court the party filing shall pay a fee of fifty dollars (\$50.00) to the Court Clerk. This filing fee shall not apply to civil actions filed by the Sauk-Suiattle Indian Tribe. The filing fee may be waived in the discretion of the judge if the party filing the action provides sufficient evidence of inability to pay by reason of indigency.

Section 3.310 Civil Actions - Service of Process; Content of Summons

Within thirty (30) calendar days after filing of a civil action, a copy of the civil complaint or petition, together with a summons, shall be personally

served by a person at least eighteen (18) years of age on each party named as a defendant or respondent. The party filing the action shall be responsible for completing service. Proof of service, on forms provided by the court, shall be returned and filed with the court clerk within five (5) calendar days after completion of service on all defendants or respondents.

The summons shall direct the defendant or respondent to file a response with the court within twenty (20) days after receipt of service, exclusive of Saturdays, Sundays and legal holidays.

CHAPTER FOUR RULES OF CRIMINAL PROCEDURE

Section 4.010 Purpose - Rules of Criminal Procedure

The purpose of the Rules of Criminal Procedure is to provide criminal procedures governing the conduct of tribal enforcement officers and others in the course of tribal law enforcement.

Section 4.015 Law Enforcement - Performance of Duties - Exempt from Prosecution

Law enforcement officers engaged in any activity that would otherwise be a violation of this Code are hereby exempt from arrest or prosecution for such activity as long as the activity engaged in is within the scope of the officer's duly authorized duties as required or authorized to be performed under this Code.

Section 4.020 Statute of Limitations

No complaint may be filed for any Infraction or General Crime under this Law and Order Code if more than two years has passed since the offense was committed. Provided, however, that the two year period shall not run during those periods when the accused is beyond the Tribal Court's jurisdiction. There shall be no time limitation on filing complaints for Major Crimes under this Law and Order Code.

PROCEDURES BEFORE TRIAL

Section 4.030 Complaint - Defined

All criminal prosecutions for offenses under tribal law shall be initiated by complaint. A complaint is a written statement sworn by the complaining witness and charging that a named individual has committed a particular criminal offense.

Section 4.040 Complaint - Requirements

A complaint shall contain:

- (1) the signature of the complaining witness sworn to before the Chief Judge or an individual designated by the Chief Judge;
- (2) a written statement by the complaining witness describing in ordinary language the nature of the offense committed including the time and place as nearly as may be ascertained;
- (3) the name or description of the person alleged to have committed the offense; and
- (4) the section of the tribal law allegedly violated.

Section 4.050 Complaint - Screening for Sufficiency

The Chief Judge may designate an individual or individuals who shall be available to assist persons in drawing up complaints and who shall screen them for sufficiency. Complaints shall then be submitted without unnecessary delay to the Chief Judge or Judicial Officer to determine whether a warrant or summons should be issued.

Section 4.060 Complaint - Issuance of Arrest Warrant

If the complaint, or the complaint together with other written sworn statements, is sufficient to establish probable cause to believe that a crime has been committed by the person charged, the court shall issue a warrant pursuant to the Code instructing tribal law enforcement officers to arrest the named accused or, in lieu thereof, the court shall issue a summons commanding the accused to appear before the Court at a specified time and place to answer the charge.

Section 4.070 Complaint - Must be Filed by Arraignment

When an accused has been arrested without a warrant, a complaint shall be filed forthwith with the Court for review as to whether probable cause exists to hold the accused, and in no instance shall a complaint be filed later than at the time of arraignment.

Section 4.080 Complaint - Separate Violations; Lesser-Included Offenses

When an accused is charged with several offenses a separate complaint shall be made and filed for each offense.

Separate complaints need not be filed for offenses that are inherently included within the meaning of the offense for which a complaint has been filed, but which are punishable by a less severe penalty.

Section 4.090 Arrest - Defined

Arrest is the taking of a person into police custody in order that he may be held to answer for a criminal offense.

Section 4.100 Arrest - Without a Warrant

No tribal law enforcement officer shall arrest any person for a criminal offense set out in the Sauk-Suiattle Law and Order Code except when:

- (1) the officer shall have a warrant or a copy of an existing warrant signed by the Chief Judge or Judicial Officer commanding the arrest of such person; or
- (2) the offense shall occur in the presence of the arresting officer; or
- (3) the officer shall have probable cause to believe that the person to be arrested has committed an offense, and under the circumstances obtaining a warrant would prevent the opportunity of making an effective arrest.

Section 4.105 Extraterritorial Fresh Pursuit - Authority to Arrest

Any duly authorized law enforcement officer of the Sauk-Suiattle Tribe who leaves the Sauk-Suiattle Reservation in fresh pursuit, and continues within the State of Washington's territorial jurisdiction in such fresh pursuit, of a person in order to arrest him on the grounds that he is believed to have committed a general or major crime within the jurisdiction of the Sauk-Suiattle Tribe shall have the same authority to arrest and hold such person in custody as the officer would have if the arrest were made within the territorial jurisdiction of the Sauk-Suiattle Tribe.

Fresh pursuit shall not necessarily imply instant pursuit but pursuit without unreasonable delay after the time of the occurrence of the alleged offense.

Section 4.107 Extraterritorial Transport and Custody

Any Sauk-Suiattle Tribal Law Enforcement Officer or any federal, state or tribal law enforcement officer duly authorized by the Sauk-Suiattle Indian Tribe to carry out the purposes of this section shall have the following authority outside the territorial jurisdiction of the Sauk-Suiattle Indian Tribe

with respect to persons in custody after a lawful arrest by Sauk-Suiattle Law Enforcement or under a Sauk-Suiattle Tribal Court Order:

- (1) to transport the person and hold him in custody from the site of arrest to a location within Sauk-Suiattle jurisdiction;
- (2) to hold the person in custody and transport him to and from a detention facility for appearance in Sauk-Suiattle Tribal Court; and
- (3) to transport the person to and from and to hold him in custody in a detention facility, correction institution or other location pursuant to a Court Order of the Sauk-Suiattle Tribal Court.

This section shall not be construed so as to make lawful any arrest or confinement which would otherwise be unlawful.

Section 4.110 Arrest - Issuance of Warrant on Probable Cause

The Chief Judge or Judicial Officer of the Court shall have authority to issue warrants to arrest and such warrants shall be issued only upon a showing of probable cause in sworn written statements. The Judge or Judicial Officer shall deny the issuance of a warrant if it is found by the Court that there is not probable cause to believe that the offense charged has been committed by the named accused.

Section 4.120 Arrest - Warrant Requirements

The arrest warrant shall contain the following information:

- (1) Name or description and address, if known, of the person to be arrested.
- (2) Date of issuance of the warrant.
- (3) Description of the offense charged.
- (4) Signature of the issuing Judge or Judicial Officer.

Section 4.130 Arrest - Notification of Rights

Upon arrest the accused shall be advised of the following:

- (1) That he has the right to remain silent.
- (2) That any statement he makes may be used against him in Court.
- (3) That he has the right to obtain counsel at his own expense.

- (4) The nature of the complaint against him.
- (5) That he has the right to petition the Court for release from custody by writ of habeas corpus.

If arrested pursuant to a warrant, the accused shall receive a copy of the warrant at the time of the arrest or as soon as is possible. Failure to advise the accused of his rights shall not invalidate the arrest, but may, in the Court's discretion, cause any statements made by the suspect under questions by police to be inadmissible as evidence against him.

Nothing in this section shall bar the filing of additional complaints arising out of conduct for which the accused was arrested.

Section 4.140 Summons - In Lieu of Warrant

When otherwise authorized to arrest a person a tribal law enforcement officer or a Judge or Judicial Officer may, in lieu of a warrant, issue a summons commanding the person to appear before the tribal court at a stated time and place. The summons shall contain the same information as a warrant, except that it may be signed by a law enforcement officer. A citation issued by a tribal law enforcement officer shall be regarded as a summons and not as a complaint. If a person fails to appear in response to a summons, a warrant for his arrest shall be issued.

Section 4.150 Search Warrant - Defined; Requirements

A search warrant is a written order, signed by the Chief Judge or Judicial Officer and directed to a law enforcement officer ordering him to conduct a search and seize items or property specified in the warrant. A warrant shall describe the property or place to be searched and shall describe the items to be seized.

Section 4.160 Search Warrant - Issuance; Probable Cause

The Chief Judge and Judicial Officer shall have the power to issue warrants for the search and seizure of property and premises of any person under the jurisdiction of the Court.

No warrant of search and seizure shall be issued except upon probable cause that a search will discover: stolen, embezzled, contraband or otherwise criminally possessed property or property which has been or is being used to commit a criminal offense. Such probable cause shall be supported by a written and sworn statement based upon reliable information.

Section 4.170 Search Warrant - Execution and Return

Warrants of search and seizure shall only be executed by tribal enforcement officers. The executing officer shall return the warrant to the tribal court within the time limit shown on the face of the warrant, which in no case shall be longer than ten (10) days from the date of issuance. Warrants not used and returned within such time limits shall be void.

Section 4.180 Search and Seizure - Without a Warrant

No tribal law enforcement officer shall conduct any search or seize any property without a valid warrant except:

- (1) incident to making a lawful arrest or issuing a citation;
- (2) with consent of the person being searched; or
- (3) when he has probable cause to believe that the person may be armed and dangerous; or
- (4) when the search is of a moving vehicle and the officer has probable cause to believe that it contains contraband, stolen, or embezzled property; or
- (5) when the property is in plain view and is contraband; or
- (6) when the property to be confiscated has been abandoned for longer than five (5) days in a public area and has been posted with a removal notice for at least forty-eight (48) hours, or is situated for any length of time in a manner that impedes access to a public right-of-way or the delivery of public services.

Provided, however, that searches made in enforcement of the Sauk-Suiattle Fishing Ordinance shall be made in accordance with the provisions of that Ordinance dealing with searches.

And provided further that property seized in the enforcement of the Sauk-Suiattle Fishing Ordinance and regulations thereunder shall be disposed of according to the provisions of that Ordinance.

Section 4.190 Disposition of Seized Property - Inventory

Law enforcement officers shall make an inventory of all property seized by warrant or otherwise, and a copy of such inventory shall be left with the person from whom the property was taken, if known.

Section 4.200 Disposition of Seized Property - Hearing

A hearing, after public notice when found appropriate by the court, shall be held by the court to determine the disposition of all property seized by law enforcement officers. Upon satisfactory proof of ownership, the property shall be delivered to the owner, unless such property is contraband or is to be used as evidence in a pending case. Property taken as evidence shall be returned to the owner after final judgment.

Section 4.210 Disposition of Seized Property - Contraband

Property confiscated as contraband shall become the property of the community and may be either destroyed, sold at public auction, or retained for the benefit of the Tribe, unless otherwise ordered by the Court. Provided, however, that contraband alcohol or drugs or other property that is unsafe or poses a health hazard shall be destroyed unless needed for use as evidence.

Section 4.220 Arraignment - Defined

Arraignment is the bringing of an accused before the Court, informing him of his rights and of the charge against him, receiving his plea, and setting bail as appropriate in accordance with this Code.

Section 4.225 Arraignment - Appearance by Prosecutor

A criminal prosecution shall be dismissed without prejudice if the Tribal Prosecutor has not entered an appearance by the time of arraignment, unless the court finds that dismissal would not serve the ends of justice.

Section 4.230 Arraignment - Unnecessary Delay

Arraignments shall be held in open court without unnecessary delay after the accused is taken into custody and in no instance shall arraignment be later than the next regularly scheduled session of Court. In no case shall arraignment be held more than seventy-two (72) hours after an accused has been arrested and placed in permanent custody, unless the accused shall agree to a later arraignment. When the stated seventy-two (72) hours shall have passed without arraignment, the accused shall be released from custody. If the accused has been served with a summons the arraignment shall be held at the date and time specified in the summons. If the accused is not being held in custody a new summons may be issued, at the discretion of the prosecutor, which continues the arraignment to a later date and time. Provided, however, that the new summons shall be served on the accused no later than forty-eight (48) hours in advance of the arraignment date and time specified in the previous summons.

Section 4.240 Arraignment - Rights of Accused

Before an accused is required to plead to any criminal charge the Judge or Judicial Officer shall:

- (1) Read to the accused and determine that he understands the complaint and the section of the Tribal Code which he is charged with violating, including the maximum authorized penalty; and
- (2) Advise the accused that he has the right to remain silent; to be tried by a jury if the offense charged is punishable by imprisonment; and to be represented by counsel at the accused's own expense and that the arraignment will be postponed should the accused desire to consult with counsel.

Section 4.250 Arraignment - Receipt of Plea

- (1) If the accused pleads "not guilty" to the charge, the Judge or Judicial Officer shall then inform the accused of a trial date and set conditions for bail or other release prior to trial.
- (2) If the accused pleads "guilty" to the charge the Judge or Judicial Officer shall determine that the plea is made voluntarily and that the accused understands the consequences by the plea. The Judge or Judicial Officer may then impose sentence or defer sentencing for a reasonable time in order to obtain any information deemed necessary for the imposition of a just sentence. The accused shall be afforded an opportunity to inform the Court of facts in mitigation of the sentence.
- (3) If the accused refuses to plead, the Judge or Judicial Officer shall set a trial date of not less than five (5) days or more than sixty (60) days from the date of arraignment.
- (4) Upon a plea of not guilty the Judge or Judicial Officer shall set a trial date of not less than five (5) days or more than sixty (60) days from the date of arraignment.

Section 4.260 Bail - Release Before Trial

Every person charged with a criminal offence before the Sauk-Suiattle Tribal Court shall be entitled to release from custody pending trial under the following circumstances:

- (1) Release on personal recognizance upon execution by the accused of a written promise to appear at trial and all other lawfully required times. The Court shall establish a list of factors to be considered in determining

whether an accused in custody shall be granted release on personal recognizance.

- (2) Release after deposit into the Court by the accused or a bondsman licensed by the State of Washington of bond in either cash or other sufficient collateral in an amount specified by the Judge or Judicial Officer or a bail schedule.
- (3) Release upon any condition deemed reasonably necessary to assure the appearance of the accused as required; including, but not limited to, reasonable restrictions on the travel, association, or place of residence of the accused during the period of release.

Section 4.270 Bail - Release by Law Enforcement

Any tribal law enforcement officer authorized in writing to do so by the Court may admit an arrested person to bail pursuant to the bail schedule. Law enforcement officers shall have available a bail schedule prepared by the Court or Tribal Council which shall be used for setting money bond. Any law enforcement officer who refuses to release an accused on bail or who specifies a bail condition which the accused is unable to satisfy shall bring such accused before the Chief Judge or Judicial Officer for review of the release conditions at the first available opportunity and without unnecessary delay. In no case shall bail hearing be set later than the time of arraignment.

Section 4.280 Bail - Release Pending Appeal

Every person who has been convicted of a tribal offense and who has filed an appeal or a petition for writ of habeas corpus may be released in accordance with the provisions of this Code unless the Trial Judge has substantial reason to believe that no conditions of release will reasonably assure the appearance of the accused or that release of the accused is likely to pose danger to the community, to the accused or to any other person. If the Trial Judge finds such to be the case the detention of the accused may be ordered.

Section 4.290 Withdrawal of Guilty Plea

Upon request of any party to a case or upon the tribal court's own initiative, the Court shall issue a subpoena to compel the attendance of jurors, testimony of witnesses, or the production of books, records, documents or any other physical evidence which is relevant or necessary to the determination of the case, and not an undue burden on the person producing the evidence.

Section 4.310 Subpoenas - Service

A subpoena may be served by any tribal law enforcement officer or other person over eighteen (18) years of age appointed by the Court for such purposes. Service of a subpoena shall be made by delivering a copy of it to the person named or by leaving a copy at his or her place of residence with a competent person sixteen (16) years of age or older who also resides there.

Section 4.320 Subpoenas - Proof of Service

Proof of service of the subpoena shall be filed with the clerk of the Court by noting on or attaching to a 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 actually served the subpoena.

Section 4.330 Subpoenas - Failure to Obey

In the absence of a justification satisfactory to the Court, a person who fails to obey a subpoena may be deemed to be in contempt of Court and a bench warrant may be issued for his or her arrest.

PROCEDURES AT TRIAL

Section 4.400 - 4.499 (Reserved)

PROCEDURES AFTER TRIAL

Section 4.500 Sentencing - Guidelines

The Judges of the Court shall have broad latitude in the sentencing of persons convicted of offenses, except in cases concerning Major Crimes, wherein the prescribed sentences shall be considered mandatory. Sentences for multiple convictions shall be served consecutively rather than concurrently. In determining sentences, Judges shall be guided by the welfare of the tribal community and the particular need of the convicted person. Sentences may be of a nature customary with foreign systems of law, or may reflect traditional Sauk-Suiattle remedies.

Whether a trial is by a jury or the Court, upon conviction the presiding Judge shall determine the sentence. The following shall guide the Judge when imposing sentence:

- (1) A defendant may be sentenced to jail or to a work assignment, or both, at the discretion of the Judge;
- (2) Fines may be paid pursuant to a payment schedule, to be determined by the judge, who shall carefully consider the person's financial resources;
- (3) In serving jail time or work assignment in lieu of paying a fine, the person shall be credited at the same rate as the federal hourly minimum wage.
- (4) The Court may direct that all or part of a fine be paid to a victim as restitution for a wrong, provided, that in no event shall the amount of restitution ordered exceed actual damages;
- (5) In the event that restitution is ordered, a separate hearing must be held to determine the amount of the victim's damages;
- (6) A defendant who testifies at a hearing determining restitution does not waive his right against self-incrimination in the event of a new trial;
- (7) The fact that restitution has been ordered as a part of a criminal proceeding shall not preclude a civil damages action to recover for remaining damages;
- (8) Upon conviction of any offense, the Court may order that Court costs be paid by the defendant, in addition to any fine, jail sentence, work assignment, restitution, or jury and witness fees and related assessments.
- (9) In determining the nature and duration of a sentence, the Court shall consider the previous conduct of the defendant, the circumstances of the crime, whether the defendant represents a danger to the community, and the extent of the defendant's resources and the needs of his dependents;
- (10) The penalties prescribed under Infractions and General Crimes are maximum penalties and should be imposed only in extreme cases.
- (11) Other rehabilitation methods may be ordered in lieu of a fine or jail term, based on findings in a presentence report.

Section 4.510 Sentencing - Fines - Installment Payments

If, solely because of indigency, a convicted offender is unable to pay immediately a money fine or costs, the Court shall allow him or her a reasonable period of time to pay the entire sum or allow him or her a reasonable installment payments to the clerk of the court at specified intervals until the entire sum is paid. If the offender defaults on such payments the Court may find him in contempt of court and order confinement of the offender accordingly.

Section 4.520 Sentencing - Probation - Conditions

Where a sentence of imprisonment has been imposed on a person convicted of a general crime the Court may, in its discretion, suspend the serving of such sentence and release the person on probation under any reasonable condition deemed appropriate by the Court, provided, that the period of probation shall not exceed the maximum term of sentence set for such offense. No probation shall be permitted for any person convicted of a Major Crime.

Section 4.530 Sentencing - Probation - Violation

Any person who violates the terms of probation may be required by the Court to serve the sentence originally imposed or such part of it as the Court may determine to be suitable, giving consideration to the circumstances; provided that such revocation of probation shall not be ordered without a hearing before the Court at which the offender shall have the opportunity to explain his or her actions.

Section 4.540 Sentencing - Parole - Conditions

Any person sentenced by the Court to detention or labor upon conviction of a General Crime shall be eligible for parole at such time and under such reasonable conditions as set by the Court. No parole shall be permitted for any person convicted of a Major Crime.

Section 4.550 Sentencing - Parole - Violation

Any person who violates the conditions of parole may be required by the Court to serve the remainder of the original sentence; provided, that such revocation of parole shall not be ordered without a hearing before the Court at which the offender shall have the opportunity to explain his or her actions.

Section 4.560 Sentencing - Vacating Sentence

Upon a motion brought pursuant to the Rules of Criminal Procedure, the Judge who imposed sentence may vacate any portion of any remaining sentence, unless the sentence was imposed for conviction of a Major Crime. A hearing on the motion shall be held in which all interested parties may present evidence or bring related facts to the attention of the Court.

Section 4.570 Habeas Corpus - Who May Apply

Every person imprisoned or otherwise detained may petition for a writ of habeas corpus to inquire into the reasons for such imprisonment or restraint, and if such reasons are found to be illegal the imprisoned or detained person shall be released from custody by order of the Court.

Section 4.580 Habeas Corpus - For Purpose of Bail

When a person is imprisoned or detained in custody on any criminal charge for want of bail, the imprisoned or detained person is entitled to a writ of habeas corpus for the purpose of giving bail, upon alleging that fact in his or her petition, without alleging that he or she is illegally confined.

Section 4.590 Habeas Corpus - How to Apply

Application for the writ is made by petition, signed either by the imprisoned or detained person for whose relief it is intended, or by someone on his behalf, and must specify:

That the person in whose behalf the writ is applied for is unlawfully imprisoned or restrained of liberty; why the imprisonment or restraint is unlawful; the officer or person by whom the imprisoned or detained person is confined or restrained; and the place where he is imprisoned or detained, naming all parties responsible for confinement if they are known, or describing them if they are not known.

The petition must be verified by the oath or affirmation of the imprisoned or detained person making the application, or of the person making the petition on that imprisoned or detained person's behalf.

Tribal law enforcement shall assure that any person confined in their custody shall have reasonable access to persons or materials needed to prepare and file a petition.

Section 4.600 Habeas Corpus - Issuance of Writ

When the Judge or Judicial Officer is satisfied that the writ ought to be issued, it must be issued without delay.

- (1) The writ must be directed to the person having custody of or detaining the imprisoned or detained person on whose behalf the application is made, and must command to have the imprisoned or detained person brought before the Sauk-Suiattle Tribal Court.
- (2) The issue or issues to be determined upon return of the writ must be stated, either in the writ or in an order attached to the writ or in a copy of the petition attached to the writ.

Section 4.610 Habeas Corpus - Service of Writ

The writ must be served upon the person to whom it is directed and must be served in the same manner as a summons.

Section 4.620 Habeas Corpus - Return of Service

The person upon whom the writ is served must make a return to the Court within five (5) days of service and state in the return:

- (1) Whether he has the named person in custody or under power or restraint and the authority for so holding the person;
- (2) If he had, but no longer has, the named person in his custody or under his power or restraint, the return must state particularly to whom, at what time and place, for what cause, and by what authority custody was released;
- (3) The return must be signed by the person making the return, and except when such person is a sworn public officer and makes such return in an official capacity, it must be certified as true and correct under penalty of perjury by the person making the return.

Section 4.630 Habeas Corpus - Hearing on Return

The imprisoned or detained person shall be brought before the Court when possible.

The hearing must be held within two (2) days of the filing of the return and may be summary in nature.

Evidence may be produced and compelled as in criminal and civil actions.

Section 4.640 Habeas Corpus - Judgment

If the imprisoned or detained person is in official custody, he may not be released on a writ of habeas corpus for any technical defect in commitment not affecting his or her substantial rights.

Following the hearing, the Judge or Judicial Officer shall make such judgment regarding the custody of the detained person as the facts and circumstances warrant and may order release from custody, which order shall be effective immediately.

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Section 1 General Provisions

5.1.000 Title, Severability and Repealer.

- (a) This Chapter shall be known and may be cited as the Sauk-Suiattle Criminal Code.
- (b) If any provision of this Code, or its application to any person or circumstance is held invalid, the remainder of the Code, or the application of the provision to other persons or circumstances is not affected and to this end the provisions of this Code are declared to be severable.
- (c) This Chapter repeals and supersedes Chapters 5, 6 and 7 of the Sauk-Suiattle Law and Order Code adopted June 15, 1984 by Resolution No. 32-84.

5.1.010 Criminal Jurisdiction.

The Sauk-Suiattle Tribal Court shall have subject matter jurisdiction over all matters under this title. The territorial and personal jurisdiction of the Sauk-Suiattle Tribal Court shall be limited only by the Constitution and Bylaws of the Sauk-Suiattle Indian Tribe of Washington.

5.1.020 Nonwaiver of Sovereign Immunity.

Nothing in this Code shall be deemed to constitute a waiver by the Sauk-Suiattle Tribe of its sovereignty, rights, powers or privileges.

5.1.030 Custom/Other Law.

- (a) Where helpful to the fair and equitable disposition of criminal matters, the Tribal Court may inquire into the tribal customs and usages of the Sauk-Suiattle Indian Community.
- (b) As to any matters which are not covered by the Codes, ordinances and resolutions of the Tribe, or by the traditional customs and usages of the Tribe, the Tribal Court may be guided by common law as developed by other tribes.

5.1.040 Terms.

Where a term is not defined herein, it shall be given its ordinary meaning. Any reference to "he, "him" or other masculine terms shall include male and female persons. Any reference to a singular term includes the plural.

5.1.050 Definitions.

- (1) “Another” refers to any person, regardless of the Tribe’s or Tribal Court’s jurisdiction or lack thereof over such person, and includes natural persons, as well as private or public organizations, business entities and governmental agencies.
- (2) “Bodily harm” means physical pain or injury or illness, or an impairment of physical condition.
- (3) “Controlled substance” refers to those substances that are regulated as dangerous or otherwise illegal drugs by the United States Government and its drug enforcement agencies.
- (4) “Drug paraphernalia” means all 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, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance.
- (5) “Firearm” is any projectile-firing device capable of causing physical harm if discharged, regardless of whether such device is loaded with a projectile.
- (6) “Knowingly” means being aware of a fact, facts, circumstances or results described by a statute defining an crime; or having information which would lead a reasonable person in the same situation to believe that facts exist which are described by a statute defining an crime.
- (7) “Maliciously” means a desire to cause annoyance or harm of any kind.
- (8) “Minor,” “Child,” “Children” or similar references, means a person who has not yet attained the age of eighteen (18) years, except that for purposes of regulating alcohol consumption or possession by minors, it shall mean a person who has not yet attained the age of twenty-one (21) years.
- (9) “Public official” includes, but is not limited to, any person who acts in an official capacity, or is bestowed with an official capacity, by the Sauk-Suiattle Tribal Government, federal government, state, county or municipal government, or any other tribal or foreign government.
- (10) “Sexual intercourse” means any genital-genital, oral-genital, oral-anal or anal-genital contact, and also includes any penetration, however slight,

of the anal or genital opening of another, with any object or with any part of the body.

- (11) "Threat" means to communicate, directly or indirectly, the intent immediately to use force against any person who is present at the time; or to communicate, directly or indirectly the intent: to cause bodily injury in the future to the person threatened or to any other person, or to cause physical damage to the property of a person other than the actor, or to subject the person threatened or any other person to physical confinement or restraint.
- (12) "Vehicle" means and includes every device capable of being moved upon a roadway and in, upon, or by which any persons or property is or may be transported or drawn upon a roadway, excepting devices moved by human or animal power or used exclusively upon stationary rails or tracks.
- (13) "Weapon" means any explosive or loaded or unloaded firearm, and shall include any other weapon, devise, instrument, article or substance, including a "vehicle" as defined in this section, which under the circumstances in which it is used, attempted to be used, or threatened to be used, is readily capable of causing death or substantial bodily injury.
- (14) "Without lawful authority" means that no legitimate defense justifies the conduct in question. Legitimate defenses include, but are not limited to: reasonable force and/or detention by a parent; force reasonably used in self-defense, defense of another or to prevent the commission of a crime; retrieving property when a person knows he has the right to it; doing an act pursuant to a lawfully issued permit or government agency, authority or court order; implied invitation by a business and by public organization for members of the public with legitimate business to be on the premises during normal working hours; exercising a protected legal or civil right. The absence of lawful authority can be inferred in appropriate circumstances unless the defendant asserts a legitimate defense.

5.1.060 Identification of Drug Paraphernalia.

In determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:

- (a) Statements by an owner or by anyone in control of the object concerning its use;

- (b) Prior convictions, if any, of an owner or of anyone in control of the object, under any tribal, state or federal law relating to any controlled substance;
- (c) The proximity of the object, in time and space, to a direct violation of the Uniform Controlled Substances Act;
- (d) The proximity of the object to controlled substances;
- (e) The existence of any residue of controlled substances on the object;
- (f) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons who he knows, or should reasonably know, intend to use the object to facilitate a violation of Sauk-Suiattle Law or the Uniform Controlled Substances Act; the innocence of an owner, or of anyone in control of the object, as to a direct violation of said Laws or Act shall not prevent a finding that the object is intended for use as drug paraphernalia;
- (g) Instructions, oral or written, provided with the object concerning its use;
- (h) Descriptive materials accompanying the object which explain or depict its use;
- (i) National and local advertising concerning its use;
- (j) The manner in which the object is displayed for sale;
- (k) Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;
- (l) Direct or circumstantial evidence of the ratio of sales or the objects to the total sales of the business enterprise;
- (m) The existence and scope of legitimate uses for the object in the community;
- (n) Expert testimony concerning its use.

Section 2 Crimes Involving Persons

5.2.000 Abduction.

Any person who, without lawful authority and by any means, apprehends and transports another person against his or her will, shall be guilty of Abduction, Abduction is a major crime.

5.2.010 Aggravated Assault.

Any person who uses a deadly weapon to commit an assault shall be guilty of Aggravated Assault. Aggravated Assault is a major crime.

5.2.020 Aiding or Abetting Suicide Attempt.

Any person who knowingly causes, aids or encourages another person to commit or attempt to commit suicide, shall be guilty of Aiding or Abetting Suicide Attempt. Aiding or Abetting Suicide Attempt is a general crime.

5.2.030 Assault.

Any person who shall attempt, threaten or cause bodily harm to another, or put another in apprehension of bodily harm, shall be guilty of Assault. Assault is a major crime.

5.2.040 Attempted Suicide.

Any person who attempts to take his own life shall be guilty of Attempted Suicide. Attempted Suicide is a general crime.

5.2.050 Coercion.

Any person who, by means of a threat or assault, compels another to do an act, or to refrain from doing an act, against the latter's will, shall be guilty of Coercion. Coercion is a general crime.

5.2.060 Harassment.

Any person who, after having been asked to stop, continues to annoy, alarm or abuse another person by using words, gestures, actions or engages in any conduct serving no legitimate purpose, shall be guilty of Harassment. Harassment is an infraction.

Harassment is a general crime if the person convicted under this section had been convicted of Harassment within the past 5 years.

5.2.070 Intimidation.

Any person who threatens another with intent to coerce the other person to act against his will shall be guilty of Intimidation. Intimidation is a general crime.

5.2.080 Kidnapping.

Any person who without lawful authority and by any means, apprehends and transports another person against his or her will, with the intent to procure a ransom, or with the intent to inflict bodily harm on the abducted person shall be guilty of Kidnapping. Kidnapping is a major crime.

5.2.090 Malicious Harassment.

Any person who without lawful authority threatens to physically injure, confine or restrain another, or to cause damage, to property, or to take any action intended to threaten the physical or mental health of a person and who by words or conduct places the person threatened in reasonable fear that the threat will be carried out, shall be guilty of Malicious Harassment. Malicious Harassment is a major crime.

5.2.100 Manslaughter in the First Degree.

Any person who causes the homicide of another through recklessness shall be guilty of Manslaughter in the First Degree. Manslaughter in the First Degree is a major crime.

5.2.110 Manslaughter in the Second Degree.

Any person who causes the homicide of another through negligence or an indifference to the safety of others, shall be guilty of Manslaughter in the Second Degree. Manslaughter in the Second Degree is a major crime.

5.2.120 Murder in the First Degree.

Any person who causes the homicide of another with malice and in a premeditated fashion, shall be guilty of Murder in the First Degree. Murder in the First Degree is a major crime.

5.2.130 Murder in the Second Degree.

Any person who causes the homicide of another with malice shall be guilty of Murder in the Second Degree. Murder in the Second Degree is a major crime.

5.2.140 Reckless Endangerment.

Any person who shall, through reckless conduct, place another in risk of serious physical harm, shall be guilty of Reckless Endangerment. Reckless Endangerment is a general crime.

Section 3 Crimes Involving Property

5.3.000 Arson.

Any person who knowingly sets fire to any building or other structure or any vehicle, watercraft, aircraft, timber, woods, meadow, marsh, field or other property shall be guilty of Arson. Arson is a major crime.

Provided, however, that it shall be a defense to this crime if the defendant establishes by a preponderance of the evidence that:

- (1) No person, other than the defendant, had a possessory or pecuniary interest in the damaged property at the time of the fire or if other persons had such an interest, all of them consented to the defendant's conduct; and
- (2) No other property belonging to any other person or the Tribe was placed in danger of destruction or damage by the defendant's action; and
- (3) The defendant's sole intent was to destroy or damage the property for a lawful purpose.

5.3.010 Breaking and Entering.

Any person who enters any dwelling, vehicle, boat or any building without the owner's permission, with the intent to commit any crime, shall be guilty of Breaking and Entering. Breaking and Entering is a general crime.

5.3.020 Cutting Timber Without a Permit.

Any person who cuts timber without first obtaining a permit required by law, or who cuts timber on the property of another without obtaining the owner's permission, shall be guilty of Cutting Timber Without a Permit. Cutting Timber Without a Permit is a general crime.

5.3.030 Damage of Private Property.

Any person who intentionally injures, destroys or defaces any building or other property belonging to any person when such property is located in the Tribe's jurisdiction, shall be guilty of Destruction of Private Property. Destruction of Private Property is a general crime.

5.3.040 Damage of Tribal Property.

Any person who, without lawful authority, destroys, damages, defaces or otherwise causes injury to any property of the Sauk-Suiattle Indian Tribe or

other government, shall be guilty of Damage to Tribal Property. Damage to Tribal Property is a general crime.

5.3.050 Defacing Official Signs.

Any person who shall, without proper authorization remove, alter, or deface any sign of the Sauk-Suiattle Tribe, or any sign of the state or federal government, shall be guilty of defacing Official Signs. Defacing Official Signs is a general crime.

5.3.060 Desecration of Religious Sites.

Any person who, without Tribal Council approval, excavates or removes artifacts or other items excavated from any traditional, sacred, or religious areas of the Sauk-Suiattle Indian Tribe, or otherwise desecrates in any fashion such grounds shall be guilty of Desecration of Religious Sites. Desecration of Religious Sites is a major crime.

5.3.070 Embezzlement.

Any person who, while having lawful custody or control of another's property, appropriates such property to his own use with the intent to deprive the owner of it, shall be guilty of Embezzlement. Embezzlement is a general crime.

5.3.080 Extortion.

Any person who knowingly obtains or attempts to obtain property or services of another by threat or intimidation shall be guilty of Extortion. Extortion is a major crime.

5.3.090 Failure to Report a Fire.

Any person who knows, or has reason to believe, that a fire is endangering life or property and fails to make a prompt report to the person or organization responsible for responding to fires, or any person who is under a legal or contractual duty to prevent or combat fire who breaches that duty, shall be guilty of Failure to Report a Fire. Failure to Report a Fire is a general crime.

5.3.100 Forgery.

Any person who, with intent to defraud any person, signs the name of another, shall be guilty of Forgery. Forgery is a general crime.

5.3.110 Fraud.

Any person who obtains something of value by deceit or misrepresentation shall be guilty of Fraud. Fraud is a general crime.

5.3.120 Malicious Mischief.

Any person who maliciously disturbs, damages or destroys any property belonging to another, shall be guilty of Malicious Mischief. Malicious Mischief is a general crime.

When the amount of damage exceeds \$500.00, or animals or tribal property are involved, or damage to special religious or cultural property or gravesites is involved then Malicious Mischief is a major crime.

5.3.130 Misbranding.

Any person who intentionally misbrands, alters or defaces any brand or mark intended to designate ownership of timber, livestock or other property, shall be guilty of Misbranding. Misbranding is a general crime.

5.3.140 Receiving or Possessing Stolen Property.

Any person who shall receive or be in possession of stolen property, and who knows or has reason to believe such property is stolen, shall be guilty of Receiving or Possessing Stolen Property. Receiving or Possessing Stolen Property is a general crime.

5.3.150 Removal of Landmarks or Navigational Markers.

Any person who removes, alters, or destroys any landmarker or navigational marker put in place by either the Sauk-Suiattle Tribe or the United States, shall be guilty of Removal of Landmarks or Navigational Markers. Removal of Landmarks or Navigational Markers is a general crime.

5.3.160 Robbery.

Any person who by force, violence, fear or intimidation takes from the person or in the presence of another anything of value, shall be guilty of Robbery. Robbery is a major crime.

5.3.170 Theft.

Any person who takes the property of another without the owner's consent, and with the intent to deprive the owner of its use, shall be guilty of Theft.

If the value of the property is \$200.00 or more the crime of Theft is a major crime; if the value of the property is \$50.00 to \$199.99 the crime of Theft is a general crime; if the value of the property is less than \$50.00 the crime of Theft is an infraction.

If a dollar value cannot be assigned to the property because it is an artifact, is irreplaceable, or has significant sentimental, ceremonial or spiritual value to the owner, the Court shall estimate the dollar value. In estimating the value of the property, the Court shall consider the sworn testimony of the person claiming the property has special value in addition to any other evidence the Court deems relevant.

5.3.180 Trespass.

Any person who shall enter the property of another with the intent to interfere with the peaceful enjoyment of the property, or to interrupt the conduct of trade, or to engage in any disruptive activity; or any person who knowingly enters or remains unlawfully in or upon premises of another; or any person who refuses to leave the property of another when requested to do so by the owner, or the owner's agent, shall be guilty of Trespass. Trespass is a general crime.

For purposes of this section, "premises" includes any building, dwelling, structure, or any real property.

5.3.190 Unauthorized Use of Vehicles or Other Property.

Any person who uses or does injury to the vehicle or other property of another without the permission of the owner or lawful possessor of such vehicle or other property shall be guilty of Unauthorized Use of Vehicles or Other Property. Unauthorized Use of Vehicles or Other Property is a general crime.

5.3.200 Unlawful Issuance of a Check.

Any person who shall write or deliver to another, a check, when such person knows or has reason to believe there are insufficient funds to cover the check shall be guilty of Unlawful Issuance of a Check. Unlawful Issuance of a Check is a general crime.

Section 4 Crimes Involving Community Health, Safety and Welfare

5.4.000 Abandoned Iceboxes or Other Containers.

Any person who has on his premises, an abandoned icebox or other container not in active use, the door to which has a latch or lock which automatically fastens upon the door being closed and which cannot be readily opened from the inside, shall be guilty of Abandoning Iceboxes or Other Containers. Abandoning Iceboxes or Other Containers is an infraction.

5.4.010 Failure to Control Animal.

Any person who, having the care or custody of any animal, allows the animal to escape or roam at large in any place liable to endanger the safety of any person or pet, shall be guilty of Failure to Control Animal. Failure to Control Animal is a general crime.

Law Enforcement officers may kill such an animal when reasonably necessary to protect public safety.

If that animal injures a pet or human, the owners or person having care or custody of the animal shall be guilty of a major crime.

5.4.020 Cruelty to Animals.

Any person who shall torture, mutilate, mistreat, abandon or neglect any animal or who unreasonably deprives any animal, which he owns or which is in his care or custody, of food or drink, shall be guilty of Cruelty to Animals. Cruelty to Animals is a general crime.

5.4.030 Disorderly Conduct.

Any person who disrupts any gathering or meeting by the use of unreasonable noise, abusive language or gestures, or by the creation of an offensive or hazardous condition, or by the use or threat of use of force, shall be guilty of Disorderly Conduct. Disorderly Conduct is a general crime.

“Public place”, for purposes of this section, means any location outside of a residential dwelling. Provided, however, that nothing in this section shall be construed so as to deny to any person the lawful and reasonable exercise of his freedom of speech or assembly, as guaranteed by applicable tribal or federal law.

5.4.040 Falsely Alerting Emergency Services.

Any person who knowingly transmits or causes to be transmitted a false alarm of an emergency to any person or organization entrusted with responding to emergencies which endanger life and property shall be guilty of Falsely Alerting Emergency Services. Falsely Alerting Emergency Services is a general crime.

5.4.050 Impersonation.

Any person who shall falsely identify himself, or who shall use the name of another person, with the intent of wrongfully deceiving another for the

purpose of gaining money, property, services, or other gain or advantage, shall be guilty of Criminal Impersonation. Criminal Impersonation is a general crime.

5.4.060 Interruption of Public Services.

Any person who tampers, damages or otherwise interferes with any emergency vehicle or equipment or any other public or private property in a manner that creates a substantial risk of interruption or impairment of the delivery of public services including, but not limited to, water, sewer, power, communications, transportation, fire protection or emergency services, shall be guilty of Interruption of Public Services. Interruption of Public Services is a general crime.

5.4.070 Littering.

Any person who disposes of any garbage, waste or other litter improperly, and in a manner which a reasonable person would know that such action constitutes littering, shall be guilty of Littering. Littering is an infraction.

5.4.080 Loitering.

Any person who congregates in a public area with a group of three or more other persons, and there are acts of conduct within that group which create a substantial risk of causing injury to any person, or substantial harm to property; and who refuses or fails to disperse when ordered to do so by a law enforcement officer shall be guilty of Loitering. Loitering is an infraction.

5.4.090 Product Tampering and Adulteration.

Any person who knowingly or with reckless disregard manufactures, sells, gives or keeps any food, drug or drink which is adulterated, or because of some known defect in its manufacturing process is harmful when ingested or otherwise contacted, shall be guilty of Product Tampering and Adulteration. Product Tampering and Adulteration is a general crime.

5.4.100 Public Disturbance.

Any person who, between the hours of 10:00 p.m. and 7:00 a.m.:

- (1) Makes or allows unreasonably loud noises to come from his/her residence to the point where the right of neighbors to peaceful enjoyment of their property is interfered with or are unable to sleep; or
- (2) Otherwise makes unreasonably loud noises anywhere on the Sauk-Suiattle Reservation to the point where the right of other residents to

peaceful enjoyment of their property is interfered with or are unable to sleep,

shall be guilty of Public Disturbance. Public Disturbance is a general crime.

5.4.110 Riot.

Any person who, acting with at least two others, uses or threatens to use force against another's property or another person without such person's consent, shall be guilty of Rioting. Rioting is a general crime.

5.4.120 Trapping.

Any person, who captures, wounds or kills an animal on the reservation by means of trapping with mechanical or similar devices shall be guilty of Trapping. Trapping is a general crime.

Section 5 Crimes Involving Sexual Conduct

5.5.000 Child Molestation.

Any person who shall entice, persuade or attempt to persuade any child under the age of sixteen (16) years to enter any enclosure, vehicle, building, room or other place with the intent to commit any sex-related act shall be guilty of Child Molestation. Child Molestation is a major crime.

5.5.010 Incest in the First Degree.

Any person who has sexual intercourse with an immediate relative by blood shall be guilty of Incest in the First Degree. Incest in the First Degree is a major crime.

5.5.020 Incest in the Second Degree.

Any person eighteen (18) years or older who has sexual contact of any nature with an immediate relative by blood, where such contact is against the relative's will, or where the relative is under the age of sixteen (16) years of age shall be guilty of Incest in the Second Degree. Incest in the Second Degree is a major crime.

5.5.030 Indecent Exposure.

Any person who knowingly exposes his or her sexual areas in public in a manner which is likely to offend or frighten a reasonable person shall be guilty of Indecent Exposure. Indecent Exposure is a major crime.

5.5.040 Prostitution.

Any person who engages or agrees or offers to engage in sexual conduct with another person in return for a fee or anything of value shall be guilty of Prostitution. Prostitution is a major crime.

5.5.050 Rape.

Any person who forces another to have sexual intercourse with him or her against the other person's will, shall be guilty of Rape. Rape is a major crime.

5.5.060 Sexual Abuse.

Any person who commits an act of sexual violence or sexual abuse against another shall be guilty of Sexual Abuse. Sexual Abuse is a major crime.

5.5.070 Unlawful Intercourse.

Any person who has sexual intercourse with another person who is under the age of sixteen (16) and without that persons parent or custodians consent shall be guilty of Unlawful Intercourse. Unlawful Intercourse is a major crime.

Section 6 Crimes Involving Minors

5.6.000 Special Considerations for Crimes Involving Minors.

If the defendant is a minor, the Sauk-Suiattle Family Code should be referred to for other applicable penalties and procedures. Dependency proceedings and other proceedings for temporary or permanent removal and custody of the minor may be concurrent to any proceedings involving crimes under this Chapter.

5.6.010 Alcohol or Drug Possession or Consumption by a Minor.

Any person under the age of twenty-one (21) who possesses or consumes any alcoholic beverage, drug or other intoxicating substance as evidenced by the person's speech, appearance, odor, behavior or motor abilities, so that it is reasonable to infer recent consumption of alcohol, drugs or other intoxicants, shall be guilty of Alcohol or Drug Possession or Consumption by a Minor. Alcohol or Drug Possession or Consumption by a Minor is a general crime.

5.6.020 Breaking Curfew.

Any person who is a parent, legal guardian or custodian of a minor who has violated curfew two or more times in a school year and such person knew, or in the exercise of parental responsibility should have known, that the minor was committing each curfew offense and did not take appropriate steps to

prevent the offenses, shall be guilty of Breaking Curfew. Breaking Curfew is an infraction.

5.6.030 Child Abuse.

Any person who shall commit an act of violence or abuse against another person under the age of eighteen (18), shall be guilty of Child Abuse. Child Abuse is a general crime.

5.6.040 Climbing on Rooftops.

Any person who is a parent, custodian or legal guardian and fails to take reasonable steps to prevent any minor children in their lawful custody and care from climbing upon the roof of any tribal building shall be guilty of Climbing on Rooftops. Climbing on Rooftops is a general crime.

5.6.050 Contributing to the Delinquency of a Child.

Any person who shall knowingly contribute to or encourage the delinquency of another person under the age of eighteen (18) shall be guilty of Contributing to the Delinquency of a Child. Contributing to the Delinquency of a Child is a general crime.

5.6.060 Custodial Interference with Children.

Any person who, lacking the legal right to do so, interferes with another's custody of a child, shall be guilty of Custodial Interference with Children. Custodial Interference with Children is a general crime.

5.6.070 Desertion, Neglect and Nonsupport of Children.

Any person who shall desert, neglect or refuse to provide for the maintenance or support of his child, or of a child in his lawful custody, shall be guilty of Desertion, Neglect and Nonsupport of Children. Desertion, Neglect and Nonsupport of Children is a general crime.

5.6.080 Distribution of Alcohol or Drugs to Children.

Any person who shall sell, barter or give any alcoholic beverage, marijuana, controlled substance to any child under the age of twenty-one (21) years, or permits the consumption of alcohol or drugs in their home shall be guilty of Distribution of Alcohol or Drugs to Children. Distribution of Alcohol or Drugs to Children is a major crime.

A person authorized to prescribe medication may sell, barter or give to a minor a controlled substance so long as the substance has been issued in good faith for a legitimate medical purpose.

5.6.090 Failure to Send Children to School.

Any person who fails to send his child to school, or any child in his lawful custody and care, when such child is at least six, but not yet sixteen years of age and has not completed the eighth grade, shall be guilty of Failure to Send Children to School. Failure to Send Children to School is a general crime. It shall be a defense to the general crime of Failure to Send Children to School that the child is receiving home-based instruction.

5.6.100 Failure to Support Dependent Persons.

Any person who, without reasonable excuse, refuses or neglects to furnish food, shelter or care to those dependent upon him or her under the laws or customs of the Sauk-Suiattle Indian Tribe, or if he or she fails to make proper use of funds or property of a dependent person for the benefit of the dependent shall be guilty of Failure to Support Dependent Persons. Failure to Support Dependent Persons is a major crime.

5.6.110 Unattended Children in Car.

Any person who leaves a child under the age of ten (10) unattended in a car, when that person has permanent or temporary custody of such child, shall be guilty of Leaving Unattended Children in Car. Leaving Unattended Children in Car is a general crime.

Section 7 Crimes Involving Tribal Governmental Authority

5.7.000 Bribing a Public Official.

Any person who shall give, or offer to give money, property, services or other gain or advantage to another, with the intent to wrongfully influence another in the discharge of his or her public duties or conduct, or any person who shall accept, solicit or attempt to solicit any bribe as defined above, shall be guilty of Bribing a Public Official. Bribing a Public Official is a major crime.

The crime of Bribing a Public Official shall pertain to any official act, including the functions of tribal officials, employees, police officers and other public officials and to the testimony of witnesses.

It is no defense to a bribery prosecution that the person to be influenced lacked the capacity or authority to perform the intended act.

5.7.010 Contempt of Court.

Any person who engages in disorderly, contemptuous or insolent behavior during the sitting of the court, or who disobeys the lawful process or order of

the court, including but not limited to sentencing orders, or who disobeys any order of a Judge arising from conduct on court grounds, shall be guilty of Contempt of Court. Contempt of Court is a general crime.

5.7.020 Destruction of Evidence.

Any person who shall destroy, conceal, or withhold anything which may be relevant to a criminal proceeding in court, shall be guilty of Destruction of Evidence. Destruction of Evidence is a major crime.

5.7.030 Escape.

Any person who, being in the lawful custody of a law enforcement officer, shall escape such custody, or any person who shall assist a person in escaping custody, shall be guilty of Escape. Escape is a general crime.

5.7.040 Failure to Appear.

Any person having been released by court order or admitted to bail with the requirement of a subsequent personal appearance before the Sauk-Suiattle Tribal Court, and knowingly fails without lawful excuse to appear as required shall be guilty of Failure to Appear. Unless otherwise established, the failure to appear when required shall be inferred to have been without lawful excuse. Failure to Appear is a general crime.

5.7.050 Flight to Avoid Prosecution.

Any person who flees the jurisdiction of the Sauk-Suiattle Indian Tribe in order to avoid prosecution, shall be guilty of Flight to Avoid Prosecution. Flight to Avoid Prosecution is a general crime.

5.7.060 Intimidation of Judges, Jurors or Witnesses.

Any person who, by means of a threat or other improper action, seeks to influence the decision of a judge or juror, or the testimony of a witness in any proceeding before a tribal court or other judicial forum, shall be guilty of Intimidation of Judges, Jurors or Witnesses. Intimidation of Judges, Jurors or Witnesses is a major crime.

5.7.070 Intimidation of a Public Official.

Any person who, by means of a threat or other improper action, attempts to influence the action of a public official, including the action of a council member, council appointee, employee, judge, prosecutor or any other public officials, shall be guilty of Intimidation of a Public Official. Intimidation of a Public Official is a general crime.

5.7.080 Obstruction of Justice.

Any person who willfully hinders, delays or obstructs any public official including an enforcement officer, in the performance of his official duties or powers, or willfully fails to comply with or refuses to comply with the lawful order of a public official, including any enforcement officer, shall be guilty of Obstruction of Justice. Obstruction of Justice is a general crime.

5.7.090 Perjury.

Any person who shall testify falsely in any judicial proceeding, or who shall knowingly make a false statement in an affidavit or deposition shall be guilty of Perjury. Perjury is a major crime.

5.7.100 Resisting Arrest.

Any person who intentionally prevents or attempts to prevent an enforcement officer from lawfully arresting him, or who intentionally flees from an enforcement officer with intent to prevent a lawful arrest or detention; shall be guilty of Resisting Arrest. Resisting Arrest is a general crime.

5.7.110 Resisting a Lawful Order.

Any person who fails to abide by a lawful order of a law enforcement officer, whether such order is verbal or written, shall be guilty of Resisting a Lawful Order. Resisting a Lawful Order is a general crime.

5.7.120 Tampering with Evidence.

Any person who tampers with, or alters in a substantial way, an items which he knows, or has reason to believe, may be relevant to proceedings in a court of law, shall be guilty of Tampering with Evidence. Tampering with Evidence is a major crime.

5.7.130 Trading in Special Influence.

Any person who participates in an agreement in which a tribal official, employee, or other public official confers some unauthorized or illegal benefit on another in exchange for money, property, services or other gain or advantage shall be guilty of Trading in Special Influence. Trading in Special Influence is a general crime.

5.7.140 Unauthorized Use of Tribal Property.

Any person who, without permission from a tribal official or employee authorized to give such permission, uses any property, including vehicles, owned by or in the possession of the Sauk-Suiattle Indian Tribe or any

subordinate tribal agency shall be guilty of Unauthorized Use of Tribal Property. Unauthorized Use of Tribal Property is a general crime.

5.7.150 Verbal Threat to Public Officials.

Any person who shall, when speaking to a public official, including a council member, employee, judge, prosecutor, or other public official, threaten such person with an act of violence or otherwise try to influence an official act by means of a verbal threat, shall be guilty of Verbal Threat to Public Officials. Verbal Threat to Public Officials is a general crime.

Section 8 Anticipatory Crimes

5.8.000 Attempt to Commit a Crime.

Any person, intending to commit a crime enumerated in this Code, who does an act which is a substantial step toward the commission of that crime, but does not complete the commission of the crime, shall be guilty of Attempting to Commit a Crime. Attempting to Commit a Crime is a general crime.

5.8.010 Conspiracy to Commit a Crime.

Any person who agrees with one or more persons to engage in or cause the performance of any act that would constitute a crime if performed, and if either he or she or one of his or her co-conspirators takes a substantial step in pursuance of such agreement, shall be guilty of Conspiracy to Commit a Crime. Conspiracy to Commit a Crime is a general crime.

It shall not be a defense to criminal conspiracy that the person or persons with whom the accused is alleged to have conspired:

- (1) Has not been prosecuted or convicted; or
- (2) Has been convicted of a different crime; or
- (3) Is not subject to the jurisdiction of the Tribal Court; or
- (4) Lacked capacity to commit a crime.

5.8.020 Criminal Solicitation.

Any person, who offers to give money, property, services or other gain or advantage to another with the intent to promote the commission of a crime, shall be guilty of Criminal Solicitation. Criminal Solicitation is a general crime.

Section 9 Crimes Involving Drugs or Alcohol

5.9.000 Consumption of Alcohol or Other Intoxicants in Public.

Any person who, in a public place, consumes alcohol, or any other intoxicating substance, or possesses or is in control of an open container containing alcohol or other intoxicating substance, shall be guilty of Consumption of Alcohol or Other Intoxicants in Public. Consumption of Alcohol or Other Intoxicants in Public is a general crime. "Public place," for purposes of this section, shall mean any location outside a private dwelling, private building or private lot.

5.9.010 Sale, Delivery or Manufacture of a Controlled Substance.

Any person who manufactures, delivers, sells or possesses with intent to deliver or manufacture any of the controlled substances listed in section 9.030 shall be guilty of Delivery or Manufacture of a Controlled Substance. Delivery or Manufacture of a Controlled Substance is a major crime.

5.9.020 Operation of Motor Vehicle Under the Influence.

Any person who shall operate a motor vehicle while under the influence of any intoxicating substance shall be guilty of Operation of Motor Vehicle Under the Influence. Operation of Motor Vehicle Under the Influence is a major crime.

5.9.030 Possession of a Controlled Substance.

Any person who, without a lawful prescription for a legitimate medical purpose, possesses or controls a substance that contains any quantity of a chemical that falls within the following categories shall be guilty of Possession of a Controlled Substance. Possession of a Controlled Substance is a general crime.

- (1) Opiates including but not limited to substances commonly known as opium, heroin, morphine, methadone and codeine;
- (2) Hallucinogenic substances including but not limited to substances commonly known as DMA, LSD, PCP, mescaline, peyote, and psilocybin;
- (3) Marijuana;
- (4) Cocaine in any form including but not limited to the powder and the rock or "crack" form;

- (5) Depressants including but not limited to methaqualone, diazepam (Valium), secobarbital and pentobarbital;
- (6) Stimulants including but not limited to any form of amphetamine;
- (7) Designer drugs including but not limited to Ecstasy, fentanyl citrate, MPPP and MPTP. A designer drug is a chemical copy of a psychoactive drug that mimics the action of the parent drug.

Section 10 Crimes Involving Drug Paraphernalia

5.10.000 Advertisement of Drug Paraphernalia.

Any person who places in any newspaper, magazine, handbill, or other publication, any advertisement, or displays on any poster, or billboard or sign of any sort, knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement or display, in whole or in part, is to promote the sale of any object designed or intended for use as drug paraphernalia, shall be guilty of Advertisement of Drug Paraphernalia. Advertisement of Drug Paraphernalia is a major crime.

5.10.010 Manufacture or Delivery of Drug Paraphernalia.

Any person who delivers, possesses with intent to deliver, or manufactures with intent to deliver, any item of drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, ingest, inject, inhale, or otherwise introduce into the human body a controlled substance shall be guilty of Manufacture or Delivery of Drug Paraphernalia. Manufacture or Delivery of Drug Paraphernalia is a major crime.

5.10.020 Nuisance.

The distribution or possession for the purpose of sale, exhibition or display, in any place, public or private, of any devices, contrivances, instruments or paraphernalia, including all items defined as drug paraphernalia in section 1.050, which are primarily designed for, or intended to be used for smoking, ingestion or consumption of marijuana, hashish, PCP, or any controlled substance, other than prescription drugs, is hereby declared to be a public nuisance and may be abated by the Sauk-Suiattle Indian Tribe.

5.10.030 Possession and Use of Drug Paraphernalia.

Any person who uses, possesses with intent to use, manufactures or delivers any item of drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze,

pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance shall be guilty of Possession and Use of Drug Paraphernalia. Possession and Use of Drug Paraphernalia is a general crime.

Section 11 Crimes Involving Weapons

5.11.000 Brandishing Weapons.

Any person who displays in a menacing fashion, any firearm, knife, club, chain, rope or other object capable of producing, with the intent to intimidate, harm or threaten harm to another shall be guilty of Brandishing Weapons. Brandishing Weapons is a major crime.

5.11.010 Loaded Firearm in Vehicle.

Any person who knowingly leaves unattended a, loaded firearm or other dangerous weapon in an unlocked vehicle where it is visible from outside the vehicle, shall be guilty of Loaded Firearm in Vehicle. Loaded Firearm in Vehicle is a general crime.

5.11.020 Possession of Concealed Handgun.

Any person who, without a permit, shall possess a handgun on his person or within his reach in a vehicle, in a concealed manner shall be guilty of Possession of Concealed Handgun. Possession of Concealed Handgun is a general crime.

5.11.030 Possession of a Loaded Firearm in Public.

Any person who shall possess a loaded firearm within the reservation community and outside of a dwelling shall be guilty of Possession of a Loaded Firearm in Public. Possession of a Loaded Firearm in Public is a general crime.

5.11.040 Possession of a Weapon While Under the Influence of Alcohol or a Controlled Substance.

Any person, whether he or she has a concealed weapons permit or not, who carries a firearm on his or her person while under the influence of alcohol or a controlled substance, shall be guilty of Possession of a Firearm While Under the Influence of Alcohol or a controlled substance. Possession of a Firearm While Under the Influence of Alcohol or a controlled substance is a major crime.

5.11.050 Possession of a Weapon in Tribal Court.

Any person who shall possess any weapon while at the Tribal Court shall be guilty of Possession of a Weapon in Tribal Court. Possession of a Weapon in Tribal Court is a major crime.

5.11.060 Willful Aiming or Discharging of Firearm.

Any person who shall willfully aim any firearm towards another, regardless of whether such firearm is loaded, or who shall discharge any firearm or who shall cause a projectile to be discharged from a firearm across reservation or tribal lands, regardless of whether such person is located off of reservation or tribal lands at the time of discharge, shall be guilty of Willful Aiming or Discharging of Firearm. Willful Aiming or Discharging of Firearm is a major crime.

Section 12 Crimes Involving Vehicles

5.12.000 Attempting to Elude Pursuing Police Vehicle.

Any driver of any vehicle who willfully fails or refuses to yield after being given a visual or audible signal to bring the vehicle to a stop by an enforcement officer shall be guilty of Attempting to Elude Pursuing Police Vehicle. Attempting to Elude Pursuing Police Vehicle is a major crime.

5.12.010 Driving While License is Suspended or Revoked.

Any person who operates a vehicle within the boundaries of the Sauk-Suiattle Indian Tribe when the person's operator's license has been suspended or revoked by any jurisdiction shall be guilty of Driving While License is Suspended or Revoked. Driving While License is Suspended or Revoked is a major crime.

5.12.020 Hit and Run.

Any person operating a vehicle which collides with another vehicle or other property and fails to immediately stop, locate and notify the owner of the vehicle or property, either in person or by written notice, shall be guilty of Hit and Run. Hit and Run is a major crime.

5.12.030 Reckless Driving.

Any person who operates any vehicle within the boundaries of the Sauk-Suiattle Indian Tribe in a manner which causes damage to any person or property, or in a manner which endangers or is likely to endanger any person

or property, shall be guilty of Reckless Driving. Reckless Driving is a major crime.

5.12.040 Stolen Vehicle.

Any person who, without the permission of the owner or person entitled to the possession thereof, intentionally takes or drives away any vehicle shall be guilty of Stolen Vehicle. Stolen Vehicle is a major crime.

5.12.050 Joy Riding.

Any person who voluntarily rides in or upon a vehicle which he or she knows or should have known was unlawfully obtained, shall be guilty of Joy Riding. Joy Riding is a major crime.

Section 13 Sentencing, Sentencing Guidelines, and Bail

5.13.000 Bail Schedule.

Pursuant to Article V, Section I(j), (k), and (u), of the Constitution and Bylaws of the Sauk-Suiattle Indian Tribe of Washington, and as may be provided by Volume 8-400, Court Rules, of the Sauk-Suiattle Code of Laws, the Sauk-Suiattle Tribal Council has the power to prepare and approve a bail schedule for setting the amount of cash bail required for defendant's release in all but exceptional cases.

Bail Schedule

<u>Section</u>	<u>Crime</u>	<u>Maximum Bail Amount</u>
Section 2 Crimes Involving Persons		
5.2.000	Abduction.	\$300.
5.2.010	Aggravated Assault.	500.
5.2.020	Aiding or Abetting Suicide Attempt.	300.
5.2.030	Assault.	300.
5.2.040	Attempted Suicide.	100.
5.2.050	Coercion.	100.
5.2.060	Harassment.	300.
5.2.070	Intimidation.	100.
5.2.080	Kidnapping.	1,000.
5.2.090	Malicious Harassment.	500.
5.2.100	Manslaughter in the First Degree.	1,000.
5.2.110	Manslaughter in the Second Degree.	1,000.
5.2.120	Murder in the First Degree.	1,000.

5.2.130	Murder in the Second Degree.	1,000.
5.2.140	Reckless Endangerment.	1,000.

Section 3 Crimes Involving Property

5.3.000	Arson.	1,000.
5.3.010	Breaking and Entering.	500.
5.3.020	Cutting Timber Without a Permit.	100.
5.3.030	Damage of Private Property.	100.
5.3.040	Damage of Tribal Property.	500.
5.3.050	Defacing Official Signs.	100.
5.3.060	Desecration of Religious Sites.	100.
5.3.070	Embezzlement.	100.
5.3.080	Extortion.	1,000.
5.3.090	Failure to Report a Fire.	50.
5.3.100	Forgery.	500.
5.3.110	Fraud.	500.
5.3.120	Malicious Mischief.	500.
5.3.130	Misbranding.	100.
5.3.140	Receiving or Possessing Stolen Property.	500.
5.3.150	Removal of Landmarks or Navigational Markers.	500.
5.3.160	Robbery.	1,000.
5.3.170	Theft.	300.
5.3.180	Trespass.	300.
5.3.190	Unauthorized Use of Vehicles or Other Property.	500.
5.3.200	Unlawful Issuance of a Check.	200.

Section 4 Crimes Involving the Community Health, Safety and Welfare

5.4.000	Abandoned Iceboxes or Other Containers.	200.
5.4.010	Failure to Control Animals.	500.
5.4.020	Cruelty to Animals.	300.
5.4.030	Disorderly Conduct.	300.
5.4.040	Falsely Alerting Emergency Services.	100.
5.4.050	Impersonation.	1,000.
5.4.060	Interruption of Public Services.	300.
5.4.070	Littering.	200.
5.4.080	Loitering.	100.
5.4.090	Product Tampering and Adulteration.	200.
5.4.100	Public Disturbance.	300.
5.4.110	Riot.	300.
5.4.120	Trapping.	100.

Section 5 Crimes Involving Sexual Contact

5.5.000	Child Molestation.	1,000.
5.5.010	Incest in the First Degree.	1,000.
5.5.020	Incest in the Second Degree.	500.
5.5.030	Indecent Exposure.	300.
5.5.040	Prostitution.	300.
5.5.050	Rape.	1,000.
5.5.060	Sexual Abuse.	1,000.
5.5.070	Unlawful Intercourse.	1,000.

Section 6 Crimes Involving Minors

5.6.000	Alcohol or Drug Possession or Consumption by a Minor.	200.
5.6.010	Breaking Curfew.	200.
5.6.020	Child Abuse.	300.
5.6.030	Climbing on Rooftops.	500.
5.6.040	Contributing to the Delinquency of a Child.	300.
5.6.050	Custodial Interference with Children.	500.
5.6.060	Desertion, Neglect and Nonsupport of Children.	500.
5.6.070	Distribution of Alcohol or Drugs to Children.	500.
5.6.080	Failure to Send Children to School.	200.
5.6.090	Failure to Support Dependent Persons.	200.
5.6.100	Unattended Children in Car.	200.

Section 7 Crimes Involving Tribal Governmental Authority

5.7.000	Bribing a Public Official.	500.
5.7.010	Contempt of Court.	500.
5.7.020	Destruction of Evidence.	300.
5.7.030	Escape.	500.
5.7.040	Failure to Appear.	300.
5.7.050	Flight to Avoid Prosecution.	300.
5.7.060	Intimidation of Judges, Jurors or Witnesses.	500.
5.7.070	Intimidation of a Public Official.	500.
5.7.080	Obstruction of Justice.	500.
5.7.090	Perjury.	500.
5.7.100	Resisting Arrest.	300.
5.7.110	Resisting a Lawful Order.	500.
5.7.120	Tampering with Evidence.	300.
5.7.130	Trading in Special Influence.	200.
5.7.140	Unauthorized Use of Tribal Property.	500.
5.7.150	Verbal Threat to Public Officials.	100.

Section 8 Anticipatory Offenses

5.8.000	Attempt to Commit a Crime.	300.
5.8.010	Conspiracy to Commit a Crime.	300.
5.8.020	Criminal Solicitation.	300.

Section 9 Offenses Involving Drugs or Alcohol

5.9.000	Consumption of Alcohol or Other Intoxicants in Public.	300.
5.9.010	Sale, Delivery or Manufacture of a Controlled Substance.	500.
5.9.020	Operation of Motor Vehicle Under the Influence.	500.
5.9.030	Possession of a Controlled Substance.	300.

Section 10 Offenses Involving Drug Paraphernalia

5.10.000	Advertisement of Drug Paraphernalia.	300.
5.10.010	Manufacture or Delivery of Drug Paraphernalia.	300.
5.10.020	Nuisance.	500.
5.10.030	Possession and Use of Drug Paraphernalia.	300.

Section 11 Crimes Involving Weapons

5.11.000	Brandishing Weapons.	1,000.
5.11.010	Loaded Firearm in Vehicle.	1,000.
5.11.020	Possession of a Concealed Handgun.	1,000.
5.11.030	Possession of a Loaded Firearm in Public.	1,000.
5.11.040	Possession of a Weapon While Under the Influence of Alcohol or a Controlled Substance	1,000.
5.11.050	Possession of a Weapon in Tribal Court.	1,000.
5.11.060	Willful Aiming or Discharging of Firearm.	1,000.

Section 12 -Crimes Involving Vehicles

5.12.000	Attempting to Elude Pursuing Police Vehicle.	1,000.
5.12.010	Driving While License is Suspended or Revoked.	1,000.
5.12.020	Hit and Run.	1,000.
5.12.030	Reckless Driving.	1,000.
5.12.040	Stealing Another's Vehicle.	1,000.
5.12.050	Joy Riding.	1,000.

5.13.010 Sentencing.

It is the policy of the Sauk-Suiattle Indian Tribe that penalties for convictions under the Sauk-Suiattle Law and Order Code should be based on a restitution program under which the criminal offender is required to repay, as a condition of his sentence, the victim and community in money or services.

To this end, fines and jail time, community service and other sentencing alternatives, such as alcohol-abuse counseling, should be balanced to insure that convicted offenders will receive just and adequate sentences that will require them to assume the maximum amount of responsibility for all of the consequences of their criminal acts.

5.13.020 Sentencing Guidelines.

Factors that the court shall take into consideration when determining the character and duration of a convicted offender's sentence are: whether the offender has previously appeared before the court as a criminal defendant, and if so, whether the offender appears to the court to be establishing a pattern of criminal conduct; whether the offender has previously been found guilty of a criminal crime before a court of any other jurisdiction; whether the immediate crime was of a willful or malicious nature; whether the offender has attempted to make amends, and if so, the extent of the offender's resources and the needs of his or her dependents, if any, and the needs of any victims.

The penalties set forth below are maximum penalties for each class of crime, and are intended to be imposed only in extreme cases.

MAJOR CRIME: 1 year jail time and/or \$5,000.00 fine and/or community service.

GENERAL CRIME: 6 months jail time and/or \$2,500.00 fine, and/or community service.

INFRACTION: 30 days jail time and/or \$1,000.00 fine and/or community service.

Restitution to be paid through the payment of money damages, the surrender of property, or the performance of any other act for the benefit of the injured party, may be ordered by the court and shall be considered to be in addition to any other penalty based on the class of crime committed and handed down by the court.

5.13.030 Mandatory Drug and Alcohol and FAE/FAS Evaluations.

All persons who are charged with a crime involving drugs and/or alcohol must be referred to the Sauk-Suiattle Tribe's Social Services Department for diagnostic investigation and a drug and alcohol evaluation and Fetal Alcohol Syndrome and Fetal Alcohol Effect evaluation, the cost of which is to be carried by that person.


5.13.040 Mandatory Psychological and FAE/FAS Evaluations.

All persons charged with a major crime or has been charged and/or convicted of more than one crime within one calendar year which indicates a pattern of criminal conduct must be referred to the Sauk Suiattle Social Services Department for psychiatric evaluation and Fetal Alcohol Syndrome and Fetal Alcohol Effect evaluation, the cost of which is to be carried by that person.

Sauk-Suiattle Indian Tribe
Law & Order Code

CERTIFICATION

This "Sauk-Suiattle Law & Order Code" is a compilation of the original code, which was enacted June 15, 1985 by Resolution # 32-84, subsequently amended on March 13, 1998 by Resolution #3/11/98, and then amended on August 10, 2006.



Cynthia M. Harris, Tribal Council Secretary



"The Root-Digging
People"

RESOLUTION #: 8/12A/06
BE IT RESOLVED BY THE TRIBAL COUNCIL
OF THE SAUK-SUIATTLE INDIAN TRIBE
OF WASHINGTON STATE

WHEREAS, the Sauk-Suiattle Tribal Council is the governing body of the Sauk-Suiattle Indian Tribe by the authority of its Constitution and By-Laws as approved by the Secretary of the Interior on September 17, 1975 and in accordance with the Indian Reorganization Act of June 18, 1934; and

WHEREAS, the Sauk-Suiattle Tribal Council is the duly elected governing body of the Sauk-Suiattle Indian Tribe; and

WHEREAS, the Sauk-Suiattle Tribal Council is charged with the responsibility for the protection of the health, welfare and safety of the members of the Sauk-Suiattle Indian Tribe; and

WHEREAS, the Sauk-Suiattle Tribal Council enacted a "Law and Order Code" by Council Resolution No. 32-84 on April 16, 1984; and

WHEREAS, the Sauk-Suiattle Tribal Council acknowledges that such Code should be reviewed and adjusted from time to time; and

WHEREAS, the Code currently contains some appellate court procedures, Sections 2.100-2.170, but those procedures are insufficient to address all the procedural issues that arise in tribal appellate court; and

WHEREAS, the Tribal Council has determined that it is most efficient to enact a separate ordinance, to be known as the "Sauk-Suiattle Indian Tribe Rules of Court—Appellate," and remove the limited provisions from the Law and Order Code entirely.

NOW THEREFORE BE IT RESOLVED that Section 8.A. of the Sauk-Suiattle Law and Order Code is amended in the following ways:

- 1) Sections 2.120, 2.140, 2.150, 2.160 and 2.170 are removed entirely from the Code.
- 2) Section 2.100 Court of Appeals—Compositions is amended to read:

- (1) The Tribal Council shall create and maintain a list of five judges that shall constitute the Sauk-Suiattle Appellate Court. The Appellate Court shall consist of persons qualified to appear before the Sauk-Suiattle Tribal Court as a representative.

- (2) Appellate Court Judges shall be orally sworn in by the Tribal Council with the oath found at Section 2.065.
- (3) Upon receipt of a Notice of Appeal, the Tribal Court clerk shall by random selection assign a three (3) judge panel to consider the appeal.
- (4) One of the three panel members shall be designated by the Chief Judge as Chief Judge of the Appellate Panel.
- (5) Any issue concerning the participation or disqualification of a person as a judge on the Appellate Court shall be referred to the Tribal Council for a final determination.

3) Section 2.130 Court of Appeals—Limitations is amended to read “The Sauk-Suiattle Rules of Court—Appellate contain the limitations upon the right of appeal, as to the type of cases which may be appealed, as to the grounds for appeal, and as to the manner by which appeals may be granted.

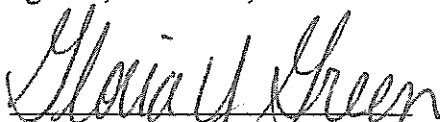
BE IT FURTHER RESOLVED, that this amendment to the Law and Order Code is hereby enacted and shall be effective immediately, thereby amending the Law and Order Code originally enacted by Council Resolution No. 32-84 on April 16, 198 and amended by Resolution No. 3/11/98 and shall be included in all productions and postings of the Ordinance.

BE IT FURTHER RESOLVED, that the Sauk-Suiattle Tribal Council does not waive, alter, or otherwise diminish its sovereign immunity, whether express or implied, by virtue of the enactment of this resolution or any administrative or legal action which may arise directly or indirectly from the same, nor does the Tribal Council waive, alter, or otherwise diminish any rights, privileges, remedies, or services guaranteed by the Point Elliot Treaty.

BE IT FINALLY RESOLVED, that the Sauk-Suiattle Tribal Council authorizes the Tribal Council Chairman to sign all documents on behalf of the Sauk-Suiattle Tribe and in his absence, the Vice-Chairperson of the Sauk-Suiattle Tribal Council is authorized to sign all documents.

CERTIFICATION

The above Resolution was duly approved by the Sauk Suiattle Tribal Council at a special meeting held on August 10, 2006, at which time a quorum was present by a vote of 4 for; 0 against; 1 abstains, and 2 absent.


Gloria Y. Green, Chairperson

ATTEST: 
Cynthia M. Harris, Secretary