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**ORDINANCE OF THE GOVERNING BODY**

**OF THE**

**SAUK-SUIATTLE INDIAN TRIBE**

**Ordinance No. 12-11-07: CHILDREN AND VULNERABLE ADULTS PROTECTION  
ORDINANCE**

**THEREFORE BE IT ENACTED BY THE TRIBAL COUNCIL OF THE SAUK-  
SUIATTLE INDIAN TRIBE, AS FOLLOWS:**

WHEREAS, The Sauk-Suiattle Tribal Council is the duly constituted governing body of the Sauk-Suiattle Indian Tribe, by authority of the Constitution and Bylaws, approved by the Secretary of the Interior on September 17, 1975 and in accordance with the Indian Reorganization Act of June 18, 1934 (48 Stat.984); and

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

WHEREAS, in accordance with the Tribal Constitution and Bylaws of the Sauk-Suiattle Indian Tribe, it shall be the duty of Tribal Council to protect and preserve the people of the Sauk-Suiattle Indian Tribe as provided in Article II, Section 1(a) including the promulgation of laws and ordinances pursuant to Article VII, Section 1(P); and

WHEREAS, in order to maintain and provide the peace, health and general welfare of the Sauk-Suiattle Tribe, the Tribal Council is committed to the protection of tribal member children and vulnerable adults; now

THEREFORE, BE IT ENACTED THAT, the Sauk-Suiattle Tribal Council hereby asserts its right as a sovereign power, to protect and preserve the harmony and well being of persons within the jurisdiction of the Sauk-Suiattle Indian Tribe; now

BE IT FURTHER ENACTED THAT, this Ordinance is to set forth uniform goals and procedures to be followed in protecting from abuse, neglect, exploitation and isolation, of children and vulnerable adults within the jurisdiction of the Sauk-Suiattle Indian Tribe.

**LEGISLATIVE HISTORY**

Enacted:

- Children and Vulnerable Adults Protection Ordinance No 12/11/07, (12/7/07).

## Section 1 General Provisions

### Section 1.01 Policy

It is the official policy of the Sauk-Suiattle Indian Tribe to promote and support the cooperation of law enforcement officials, courts of competent jurisdiction and all appropriate tribal and state agencies providing human services, in identifying the abuse, neglect, exploitation and isolation of children and vulnerable adults through the complete reporting of abuse, neglect, exploitation and isolation of children and vulnerable adults.

### Section 1.02 Repealer

This Ordinance supplements any existing tribal children or vulnerable adult(s)'s abuse and/or exploitation policies and where in conflict this Ordinance shall supersede.

### Section 1.03 Definitions

1.03.01 "Abuse" means willful and unjustified:

- (a) infliction of pain, injury or non-accidental bodily injury, on a child or vulnerable adult(s); or
- (b) Deprivation of food, shelter, clothing or services which are necessary to maintain the physical or mental health of a child or vulnerable adult(s); or
- (c) Cruel mental distress or anguish, sexual abuse or exploitation.

1.03.02 "As soon as practicable" means if, in light of all the surrounding facts and circumstances which are known or which reasonably should be known to the person at the time, a reasonable person would act within the same period under similar facts and circumstances.

1.03.03 "Exploitation" means any act taken by a person who has the trust and confidence of a child or vulnerable adult(s) or any use of the power of attorney or guardianship to obtain control, through deception, intimidation or undue influence, over the person's money, assets or property with the intention of permanently depriving the person of the ownership, use, benefit or possession of his money, assets or property.

1.03.04 "Isolation" means willfully, maliciously and intentionally preventing a child or vulnerable adult(s) from having contact with another person by: (a) intentionally preventing the person from receiving his visitors, mail, phone calls, including telling a person who comes to visit or attempt to phone the person that they are not at home or do not want to meet with or talk to the visitor or caller, knowing that the statement is false and contrary to the wishes of the older, dependent, or developmentally disabled person and intended to prevent the person from having contact with the visitor; or (b) physically restraining the child or vulnerable adult(s) to prevent them from meeting with a visitor. As used in this subsection, "isolation," does not include an act intended to protect the property or physical or mental welfare of the person, or an act performed pursuant to the instructions of a physician of the person.

1.03.05 "Neglect" means the failure of: (a) a person who has assumed legal responsibility or a contractual obligation for caring for a child or vulnerable adult(s) or who has voluntarily assumed responsibility for his care to provide food, shelter, clothing or services which are necessary to maintain the physical or mental health of the person; or (b) a child or vulnerable adult(s) to provide for his won needs because of inability to do so.

1.03.06 "Vulnerable adult" means a person who is eighteen (18) years of age or older:

- (a) who is a resident or inpatient of a facility; or
- (b) who receives services at or from a facility to serve adults, including a person receiving outpatient services for treatment of chemical dependency or mental illness; or
- (c) who receives services from a home health agency; or
- (d) who, regardless of residence or type of service received, is unable or unlikely to report abuse or neglect without assistance because of impairment of mental or physical function or emotional status.

1.03.07 "Protection services" means services which target the prevention and remedy of abuse, neglect, exploitation and isolation of children or vulnerable adult(s).

1.03.08 "Reasonable cause to believe" means if, in light of all the surrounding facts and circumstances which are known or which reasonably should be known to the person at the time, a reasonable person would believe that an act, transaction, event, situation or condition exists, is occurring or has occurred.

## **Section 2      Reporting**

### **2.01 Voluntary Reporting**

2.01.01 Any person who knows or has reasonable cause to believe that a child or vulnerable adult has been abused, neglected, exploited or isolated may report the abuse, neglect, exploitation or isolation of a child or vulnerable adult(s) to:

- (a) Tribal Health and Social Services;
- (b) Tribal Law Enforcement; or
- (c) Tribal ICW Program.

2.01.02 The report should include:

- (a) The name, birth date, address, and tribal status of the youth, if known, and
- (b) A plain statement of the facts on which the report is based, including the date, time, and location of the events.

### **2.02 Mandatory Reporting**

2.02.01 Any person, described below in subsection (c) below, who in his/her professional or occupational capacity, knows or has reasonable cause to believe that a child or vulnerable adult(s) has been abused, neglected, exploited or isolated shall:

- (a) Report abuse, neglect, exploitation or isolation of the child or older person to:
  - 1. Tribal Health and Social Services;
  - 2. Tribal Law Enforcement; or
  - 3. Tribal ICW Program.

(b) Make the report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the child or vulnerable adult(s) has been abused, neglected, exploited or isolated.

2.02.02 If a person who is required to make such a report knows or has reasonable cause to believe that the abuse, neglect, exploitation, or isolation of the child or vulnerable adult(s) involves an act or omission of a Tribal program or Law Enforcement, the reporting party shall report to an agency not previously involved. Each agency, after reducing the report to writing, shall forward a copy of the report to the Health and Social Services Department Director and the General Manager.

2.02.03 A report made pursuant to subsection 1, must be made by the following persons:

- (a) Any employee or volunteer of the Health and Social Services Department, the Indian Child Welfare Department, or the Police Department.
- (b) Any health care provider, including but not limited to physician, nurse, psychologist, marriage and family therapist, alcohol or drug abuse counselor, mental health tech, driver of an ambulance, or other person providing medical services licensed or certified to practice in any state, who examines, attends or treats a child or vulnerable adult who appears to have been abused, neglected, exploited or isolated.
- (c) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a hospital or similar institution upon notification of the suspected abuse, neglect, exploitation or isolation of a child or vulnerable adult by a member of the staff of the hospital.
- (d) A Coroner.
- (e) Every clergyman or religious healer.
- (f) Every person who maintains or is employed by an agency to provide nursing in the home.
- (g) Any person who maintains or is employed by a facility or establishment that provides care for children or vulnerable adults.
- (h) Any person who maintains is employed by or serves as a volunteer for an agency or service which advises persons regarding the abuse, neglect, exploitation or isolation of children or vulnerable adults and refers them to agencies where their requests and needs can be met.

### **2.03 False Reporting**

A false report of child abuse or neglect, if known to be false by the reporter, shall constitute an "obstruction of justice" for purposes of Section 5.7.080 of the Sauk-Suiattle Law and Order Code. Any person making a false report may be prosecuted under that Title in accordance with the Tribe's rules of criminal procedure. Any person who is not within the criminal jurisdiction of the Sauk-Suiattle Tribal Court who knowingly makes a false report of child abuse or neglect is subject to a civil fine not to exceed \$2,500.

## **Section 3      Reports**

### **3.01      Manner of Making Report**

A person may make a report pursuant to Section 2 by telephone or, in light of all the surrounding facts and circumstances which are known or which reasonably should be known to the person at the time, by any other means of oral, written, or electronic communication that a reasonable person would believe, under those facts and circumstances, is a reliable and swift means of communicating information to the person who receives the report. If the report is made orally, the person who receives the report must reduce it to writing as soon as practicable.

### 3.02 Contents of Report

The report shall contain the following information, when possible:

- (a) Name and address of the child or vulnerable adult(s);
- (b) Name and address of person responsible for his/her care, if there is one;
- (c) Name and address of person who is alleged to have abused, neglected, exploited or isolated the person;
- (d) Nature and extent of the abuse, neglect, exploitation, or isolation of the person;
- (e) Any evidence of previous abuse; and
- (f) Basis of reporter's belief that the child or vulnerable adult(s) has been abused, neglected, exploited or isolated.

### 3.03 Confidentiality of Report

3.03.01 Reports made pursuant to Sec. 2 and records and investigations relating to those reports, are confidential.

3.03.02 No person, law enforcement agency or public or private agency, institution or facility may release data or information concerning the reports and investigation of the abuse, neglect, exploitation or isolation of child or vulnerable adult(s), except:

- (a) Pursuant to a criminal prosecution; or
- (b) To persons or agencies enumerated in subsection 3.04 of this section.

3.03.03 Willful disclosure of confidential information not in accordance with this Section shall constitute "Reckless Endangerment" for purposes of Section 5.2.140 of the Sauk-Suiattle Law and Order Code. Any person who willfully discloses may be prosecuted under that Title in accordance with the Tribe's rules of criminal procedure.

### 3.04 When disclosure permitted or required.

3.04.01 Except as otherwise provided below, data or information concerning the reports and investigations of the abuse, neglect, exploitation or isolation of a child or vulnerable adult(s) is available only to:

- (a) A physician providing care to the person who may have been abused, neglected, exploited or isolated;
- (b) An agency responsible for or authorized to undertake the care, treatment and supervision of the person;
- (c) A prosecutor or other law enforcement official who requires the information in connection with an investigation of the abuse, neglect, exploitation or isolation of the child or vulnerable adult(s);
- (d) A court which has determined, en camera, that public disclosure of such information is necessary for the determination of an issue before it;
- (e) A legal guardian of the person, if the identify of the person who was responsible for reporting the alleged abuse, neglect, exploitation or isolation of the child or vulnerable adult(s) to the tribal agency is protected, and the legal guardian of the person is not the person suspected of such abuse, neglect, exploitation or isolation;
- (f) If the child or vulnerable adult(s) is deceased, the executor or administrator of his estate, if the identify of the person responsible for reporting the alleged abuse to the agency is protected and the executor or administrator is not the person suspected of the abuse; or

(g) The person named in the report as allegedly being used, if that person is legally competent.

3.04.02 If the person who is reported to have abused, neglected, exploited or isolated a child or vulnerable adult is the holder of a license or certificate to provide care to child or vulnerable adult(s), the information contained in the report must be submitted to the licensing board.

3.04.03 Tribal agencies investigating reported abuse, neglect, exploitation, or isolation are not prohibited from disclosing information gathered concerning the reports and investigations of the abuse, neglect, exploitation or isolation of a child or vulnerable adult(s) to other federal, state, or local agencies or the legal representatives of the person on whose behalf the investigation is being conducted if:

- (a) The agency making the disclosure determines that the disclosure is in the best interest of the child or vulnerable adult(s); and
- (b) The appropriate safeguards are taken to ensure the confidentiality of the information.

#### **Section 4 Law Enforcement Agency Responsibilities**

A law enforcement agency shall promptly seek to obtain a warrant for the arrest of any person the agency has probable cause to believe is criminally responsible for the abuse, neglect, or isolation of a child or vulnerable adult(s).

#### **Section 5 Immunity from Civil or Criminal Liability**

Immunity from civil or criminal liability extends to every person who in good faith:

- (a) Participated in making a report;
- (b) Causes or conducts an investigation of the alleged abused, neglect, exploitation or isolation of the child or vulnerable adult(s);
- (c) Submits information to a licensing board.

#### **Section 6 Admissibility of Evidence**

In any proceeding that results from a report made or action taken, the report or its contents or any other fact related to the case or to the condition of the child or vulnerable adult(s) who is the subject of the report, may not be excluded on the grounds that the matter would otherwise be privileged against disclosure.

#### **Section 7. Duties of Tribal Health and Social Services or ICW Program**

7.01 Tribal Health and Social Services, or ICW program as appropriate, shall:

- (a) Identify and record, aggregate demographic information in a quarterly report to the Tribal Council on the child or vulnerable adult(s) who is alleged to have been abused, neglected, exploited or isolated and the person who is alleged to be responsible for such abuse, neglect, exploitation or isolation.
- (b) Obtain information from programs for preventing the abuse of children or vulnerable adult(s), analyze and compare the programs, and make recommendations to assist the organizers of the programs in achieving the most efficient and effective service possible.

7.02 The director of Tribal Health and Social Services shall organize one or more teams to assist in strategic assessment and planning of protective services, issues regarding the delivery of service, programs or individual plans for preventing, identifying, remedying or treating abuse, neglect, exploitation or isolation of children or vulnerable adults. Members of the team must be experienced in preventing, identifying, remedying or treating abuse, neglect, exploitation or isolation of such persons. The team may include the following representatives of law enforcement, and physical and mental health programs:

- (a) Social Services Director;
- (b) Substance Abuse Counselor;
- (c) Chief of Police or designee;
- (d) ICW Committee Member;
- (e) Community Health Nurse; or
- (f) Mental Health Provider.

### **Section 8 Petition for Removal of Guardian of a Child or Vulnerable Adult(s)**

8.01 The Tribal Prosecutor, Health and Social Services or ICW Program may petition the Court under this ordinance for the removal of the guardian of a child or vulnerable adult(s), or the termination or modification of that guardianship, if, based on its investigation, the above mentioned programs have reasonable cause to believe that the guardian is abusing, neglecting, exploiting or isolating the child or vulnerable adult(s).

8.02 In the case of a petition for removal of a guardian of a child, the Tribal Prosecutor and the ICW program shall initiate proceedings under the Youth Code if the child is further believed to be in a Youth in Need of Care as defined under tribal law.

8.03 This Section 8 is not intended to supersede any provisions in the Youth Code applicable to a guardianship established thereunder.

### **Section 9 Penalties**

#### **9.01 Criminal.**

##### **9.01.01 Abuse, Neglect, Exploitation and Isolation**

(a) Abuse of a child or vulnerable adult under this Chapter shall constitute a general crime for purposes of the Sauk-Suiattle Law and Order Code. Any person who abuses a child or vulnerable adult may be prosecuted under that Title in accordance with the Tribe's rules of criminal procedure.

(b) Neglect of a child or vulnerable adult shall constitute a general crime for purposes of the Sauk-Suiattle Law and Order Code. Any person who neglects a child or vulnerable adult may be prosecuted under that Title in accordance with the Tribe's rules of criminal procedure.

(c) Exploitation of a child or vulnerable adult shall constitute a general crime for purposes of the Sauk-Suiattle Law and Order Code. Any person who exploits a child or vulnerable adult may be prosecuted under that Title in accordance with the Tribe's rules of criminal procedure.

(d) Isolation of a child or vulnerable adult shall constitute a general crime for purposes of the Sauk-Suiattle Law and Order Code. Any person who isolates a child or vulnerable adult may be prosecuted under that Title in accordance with the Tribe's rules of criminal procedure.

##### **9.01.02 Failure to Report When Required**

Knowingly failing to report an incident of abuse, neglect, exploitation, or isolation of a child or vulnerable adult shall constitute "Reckless Endangerment" for purposes of Section 5.2.140 of the

Sauk-Suiattle Law and Order Code. Any person who knowingly fails to report may be prosecuted under that Title in accordance with the Tribe's rules of criminal procedure.

**9.02 Civil.** Any person determined by the court to have abused, neglected, exploited, or isolated a child or vulnerable adult or a service provider who knowingly fails to report such an incident:

(a) shall be charged a fine not to exceed \$2,500 , in addition to any criminal penalties;  
and

(b) may be excluded from the Reservation if he or she is an individual that may be excluded as defined in the Civil Exclusion Ordinance.

#### CERTIFICATION

Pursuant to the authority contained in Article VII, Section 1(N) of the Constitution and Bylaws of the Sauk-Suiattle Indian Tribe, ratified by the Tribe on July 19, 1975 and certified by the Secretary of Interior on September 17, 1975, pursuant to the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), the foregoing Ordinance was adopted this 7th, day of December at a Regular Council Meeting held at the Sauk-Suiattle Indian Reservation at which a quorum was present, by a vote of 5 for, 0 against, 1 abstain, and 1 absent.

  
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Janice W. Mabee, Chairman

ATTEST:

  
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Cynthia M. Harris, Secretary