

TITLE XXVIII – CIVIL INFRACTIONS CODE

CHAPTER 1. GENERAL PROVISIONS

Sec. 101. Authority

This Civil Infractions Code is adopted pursuant to the inherent authority of the Chitimacha Tribe of Louisiana, as recognized by Article VII, Section 1 of the Constitution and Bylaws of the of the Chitimacha Tribe of Louisiana, and as recognized under Section 16 of the Indian Reorganization Act, now codified at 25 U.S.C. § 5123 as amended. This Civil Infractions Code may be amended at any time by action of the Tribal Council.

Sec. 102. Purpose

The purpose of this Civil Infractions Code is to create a regulatory framework for the enforcement of certain proscribed conduct by setting forth civil infractions, punishable by civil fines, within the jurisdiction of the Tribe, and by authorizing the Tribe to pursue civil remedies against individuals who commit civil infractions. This Civil Infractions Code does not to classify crimes or criminalize conduct.

Sec. 103. Jurisdiction

(a) The Tribe maintains jurisdiction as set forth in Title I, Section 106 of the Code over all persons, activities, and property within the territory of the Tribe based on the inherent sovereign authority of the Tribe and federal law. The Tribe’s inherent sovereign authority includes those powers flowing from the Tribe’s authority to exclude non-members from its territory, including the power to place conditions on non-members’ entry onto and continued presence on lands within the Tribe’s jurisdiction, and the power to regulate non-members’ conduct. The Tribe’s inherent sovereign authority also includes the power to exercise jurisdiction over non-members who have consented to the jurisdiction of the Tribe or the Chitimacha Tribal Court, or whose conduct affects the political integrity, the economic security, or the health or welfare of the Tribe or any of its members.

(b) For purposes of this Section, a person or entity shall have consented to the jurisdiction of the Tribe and the Chitimacha Tribal Court by entering into a consensual relationship

with the Tribe, tribal entities, tribal corporations, or tribal members, including but not limited to contracts or other agreements, by voluntarily entering onto tribal land or property, by engaging in any activity or conduct that is authorized, regulated or conducted by the Tribe, an arm of the Tribe or tribal corporation, or by other facts which the Chitimacha Tribal Court determines manifest an intent to consent to the authority of the Tribe or the jurisdiction of the Chitimacha Tribal Court.

Sec. 104. Definitions.

For the purposes of this Title, the following definitions shall apply:

(a) **Bodily harm.** “Bodily harm” means physical pain or injury, illness, or any impairment of physical condition.

(b) **Bodily injury.** “Bodily injury” means bodily harm for which medical attention is required.

(c) **Code.** “Code” means the Chitimacha Comprehensive Codes of Justice.

(d) **Class A Infractions.** “Class A Infractions” include infractions under

- (1) Chapter 3, Subchapter A (“Homicide”);
- (2) Chapter 3, Subchapter B (“Kidnapping”);
- (3) Chapter 3, Subsection C (“Sexual Infractions”) with the exception of Sections 310-312;
- (4) Chapter 3, Subchapter D (“Computer-Aided Sexual Offenses Involving Minors”);
- (5) Chapter 3, Subchapter E (“Assault and Related Offenses”); Section 507 (“Terroristic Threats”);
- (6) Sections 531 (“Child Abuse”), 532 (“Abandonment of Child”), 533 (“Neglect of a Child”), and 534 (“Cruelty to Juveniles”);
- (7) Chapter 6 (“Domestic Violence”); and
- (8) An infraction under Section 201 (“Attempts”) or Section 202 (“Complicity and Solicitation”) predicated on any of the infractions listed in this Section 104(d)(1)-(7).

(e) **Dangerous weapon.** “Dangerous weapon” means any firearm, whether loaded or unloaded, or any device designed as a weapon and capable of producing death or great bodily

harm, or any other device or instrumentality that, in the manner it is used or intended to be used, is calculated or likely to produce death or great bodily harm.

(f) **Defendant.** “Defendant” means a person who has been issued a Notice of Infraction pursuant to Chapter 8 of this Title.

(g) **Great bodily harm.** “Great bodily harm” means bodily harm or bodily injury which creates a high probability of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily harm or bodily injury.

(h) **Mental states.**

- (1) **“intentional”.** A defendant's state of mind is intentional or a defendant acts intentionally with respect to a result or to conduct if the defendant’s conscious objective is to engage in such conduct or to cause such a result.
- (2) **“negligently”.** A defendant acts negligently or conduct is negligent if, with respect to a result or circumstance, a person should be aware of a substantial and unjustifiable risk that such a result will occur or that such a circumstance exists, and his or her conduct involves a significant deviation from the standard of care that a reasonable person would observe.
- (3) **“recklessly”.** A defendant acts recklessly or conduct is reckless if, with respect to a result or circumstance, a person consciously and unjustifiably disregards a substantial risk that such a result will occur or that such a circumstance exists, and the risk is of such a nature and degree that its disregard involves a gross deviation from the standard of conduct that a reasonable person would observe in the situation.
- (4) **“knowingly”.** A defendant acts knowingly if, when he or she engages in the conduct, he or she knows or has a firm belief, unaccompanied by substantial doubt, that he or she is doing so whether or not it is his or her purpose to do so.

(i) **Minor.** Unless otherwise prescribed by this Code, “Minor” means a person under the age of eighteen (18) years.

(j) **Serious bodily harm.** “Serious bodily harm” means bodily harm or bodily injury which involves a temporary but substantial disfigurement, or which causes a temporary but substantial loss or impairment of the function of any bodily member or organ, or which causes a fracture of any bodily member.

(k) **Tribe.** “Tribe” means the Chitimacha Tribe of Louisiana.

(l) **Tribal Council.** “Tribal Council” means the duly elected governing body of the Chitimacha Tribe of Louisiana as established by Article V of the Tribe’s Constitution and Bylaws.

(m) **Tribal Court.** “Tribal Court” means the Chitimacha Tribal Court as established under Title I, Section 101 of the Code.

(n) **Victim.** “Victim” means any person at whom the commission of an infraction was directed or who suffered loss, damage or bodily harm as a result of the commission of the infraction.

CHAPTER 2. ANTICIPATORY INFRACTIONS.

Sec. 201. Attempts.

(a) **Prohibited acts.** A person, with intent to commit a civil infraction set forth in Chapters 3-6 of this Title, does an act which is a substantial step toward, and more than preparation for, the commission of the infraction, commits an attempt to commit that infraction.

(b) **Impossibility of act.** An act may be an attempt notwithstanding the circumstances under which it was performed or the means employed to commit the infraction intended or the act itself were such that the commission of the infraction was not possible, unless such impossibility would have been clearly evident to a person of normal understanding.

(c) **Defense.** It is a defense to a charge of attempt that the infraction was not committed because the accused desisted voluntarily and in good faith abandoned the intention to commit the infraction.

(d) **Civil Fine.** A person who attempts to commit an infraction shall, upon being adjudicated as having attempted to commit the infraction, be subject to the same fine as if that person had completed the infraction.

Sec. 202. Complicity and Solicitation.

(a) **Prohibited acts.** A person may be adjudicated to have committed a civil infraction based upon the conduct of another person when:

- (1) acting with the state of mind sufficient for the commission of the infraction, the defendant causes another person to engage in such conduct; or
- (2) with the intent that an infraction be committed, the defendant solicits, request, commands, induces or intentionally aids another person to engage in such conduct.

(b) **Defense.** A person is not liable under this Section for the conduct of another if he terminates his complicity prior to the commission of the infraction and gives timely warning to law enforcement authorities or otherwise makes proper effort to prevent the commission of the infraction.

(c) **Civil Fine.** A person who is an accomplice to an infraction shall, upon being adjudicated as being an accomplice to the infraction, be subject to the same fine as if that person had been a principal in the infraction.

CHAPTER 3. CIVIL INFRACTIONS AGAINST PERSONS

Subchapter A. Homicide.

Sec. 301. Murder

A person commits the infraction of Murder by intentionally causing the death of another human being.

Sec. 302. Manslaughter

A person commits the infraction of Manslaughter by recklessly causing the death of another human being.

Sec. 303. Negligent Homicide

A person commits the infraction of Negligent Homicide by negligently causing the death of another human being.

Sec. 304. Causing or Aiding Suicide

A person commits the infraction of Causing or Aiding Suicide by, through force, duress or deception, intentionally causing another person to commit or attempt to commit suicide, or aiding or soliciting another to commit or attempt to commit suicide.

Subchapter B. Kidnapping.

Sec. 305. Kidnapping

A person commits the infraction of Kidnapping by engaging in any of the following acts:

- (a) removing another person against his or her will from his or her place of residence or business, or a substantial distance from the vicinity where he or she is located; or
- (b) confining another person for a substantial period against his or her will.

Subchapter C. Sexual Infractions.

Sec. 306. Definitions – Sexual Infractions

For the purposes of this Subchapter C, the following definitions shall apply:

- (a) “Defendant” means the person alleged to have committed rape.
- (b) “Coercion” means words or circumstances that cause the victim reasonably to fear that the defendant will inflict bodily harm upon, or hold in confinement, the victim or another, or force the victim to submit to a sexual act or contact, but proof of coercion does not require proof of a specific act or threat.
- (c) “Consent” means a voluntary uncoerced manifestation of a present agreement to perform a particular sexual act with the defendant.
- (d) “Force” means the infliction, attempted infliction, or threatened infliction by the defendant of bodily harm or commission or threat of any other infraction by the actor against the victim or another, which causes the victim reasonably to believe that the actor has the present ability to execute the threat.

(e) “Intimate parts” includes the primary genital area, groin, inner thigh, buttocks, or breasts of a person.

(f) “Mentally incapacitated” means that a person under the influence of alcohol, a narcotic, anesthetic, or any other substance, administered to that person without the person’s agreement, who lacks the judgment to give a reasoned consent to a sexual act or contact.

(g) “Mentally impaired” means that a person, as a result of inadequately developed or impaired intelligence or a substantial psychiatric disorder of thought or mood, lacks the judgment to give reasoned consent to a sexual act or contact.

(h) “Physically helpless” means that a victim is asleep or unconscious, unable to withhold consent or to withdraw because of a physical condition, or unable to communicate non-consent and the condition is known or reasonably should have been known by the actor.

(i) “Sexual act” or “sexual activity” means sexual intercourse, cunnilingus, fellatio, anal intercourse, or any intrusion however slight into the genital or anal openings of the victim’s body of any part of the defendant’s body or any object used by the defendant for this purpose, where the act is committed without the victim’s consent, except in those cases where consent is not a defense or is not an element of the offense.

(j) “Sexual contact” includes any of the following acts committed without the victim’s consent, except in those cases where consent is not a defense or is not an element of the infraction, and committed with sexual or aggressive intent:

- (1) The intentional touching by the defendant of the victim’s intimate parts; or
- (2) The touching by the victim of the offender’s, the victim’s, or another’s intimate parts effected by coercion or the use of a position of authority, or by inducement if the victim is under twelve (12) years of age or mentally impaired; or
- (3) The touching by another of the victim’s intimate parts effected by coercion or use of authority; or
- (4) In any of the cases above, the touching of the clothing covering the immediate area of the intimate parts.

(k) “Victim” means the person or intended person against whom an infraction under Sections 307-314 of this Title [offense committed under this Title](#) is committed.

Sec. 307. Rape.

A person who engages in a sexual act with another person, or who causes another person to engage in a sexual act, commits the infraction of Rape if:

- (a) the defendant coerces or forces the other person to submit to the sexual act; or
- (b) the defendant, or someone else with the defendant's knowledge, renders the other person mentally incapacitated for the purpose of engaging in a sexual act; or
- (c) the other person is physically helpless; or
- (d) the defendant knows that the other person submits because the other person falsely supposes the defendant to be someone else, unless the defendant is the spouse of the other person; or
- (e) the other person is under twelve (12) years of age. In this circumstance, neither mistake as to the other person's age nor consent to the act by the other person is a defense; or
- (f) the defendant knows that the other person is mentally impaired, unless the defendant is the spouse of the other person; or
- (g) the other person is in official custody or otherwise detained in a hospital, prison, or other similar institution and the defendant has supervisory or disciplinary authority over the detained person.

Sec. 308. Sexual Assault.

A person commits the infraction of Sexual Assault if that person intentionally has sexual contact with another or causes such other person to have sexual contact with the defendant, and:

- (a) the defendant coerces or forces the other person to submit to the sexual contact; or
- (b) the other person is under twelve (12) years of age. In this circumstance, neither mistake as to the other person's age nor consent to the act by the other person is a defense; or
- (c) the other person is in official custody or otherwise detained in a hospital, prison or other similar institution and the defendant has supervisory or disciplinary authority over the detained person.

Sec. 308A. Sexual Battery.

(a) Prohibited acts. A person commits sexual battery if that person intentionally touches any intimate parts of the victim using any instrumentality or any part of the body of the offender, directly or through clothing, or if the offender causes the touching of their own intimate parts by the victim using any instrumentality or any part of the body of the victim, directly or through clothing, when any of the following occur:

(1) The offender acts without the consent of the victim.

(2) The victim has not yet attained fifteen (15) years of age and is at least three (3) years younger than the offender.

(3) The offender is seventeen (17) years of age or older and any of the following exist:

(i) The act is without consent of the victim, and the victim is prevented from resisting the act because either of the following conditions exist:

a. The victim has paraplegia, quadriplegia, or is otherwise physically incapable of preventing the act due to a physical disability.

b. The victim is incapable, through unsoundness of mind, of understanding the nature of the act, and the offender knew or should have known of the victim's incapacity.

(ii) The act is without consent of the victim, and the victim is sixty-five (65) years of age or older.

(4) The provision of normal medical treatment or normal sanitary care shall not be construed as sexual battery.

(5) Lack of knowledge of the victim's age shall not be a defense.

(b) Penalty. A person who commits sexual battery is guilty of a Felony and, upon conviction, shall be sentenced accordingly.

Sec. 309. Statutory Rape.

A person eighteen (18) years of age or older who engages in a sexual act, with consent, with another person who is fourteen (14) years of age or older but less than sixteen (16) years of

age, when the victim is not the spouse of the offender and when the difference between the age of the victim and the age of the offender is two (2) years or greater, commits the infraction of Statutory Rape.

Sec. 310. Indecent Exposure.

A person who exposes his or her genitals or other intimate parts under circumstances likely to cause affront or alarm commits the infraction of Indecent Exposure.

Sec. 311. Prostitution and Patronizing a Prostitute.

A person commits the infraction of Prostitution or Patronizing a Prostitute if he or she:

- (a) is an inmate of a house of prostitution, manages a house of prostitution, or is otherwise engaged in sexual activity or contact as a business; or
- (b) solicits another person to hire a prostitute or commit an act of prostitution; or
- (c) loiters in view of any public place with the intent of being hired to engage in sexual activity or contact; or
- (d) hires a prostitute to engage in sexual activity or contact or enters or remains in a house of prostitution with intent to engage in sexual activity or contact.

Sec. 312. Bigamy.

A person who marries another person while legally married to a second person commits the infraction of Bigamy. This Section shall not apply to a person whose spouse has been absent for five (5) successive years and is reasonably believed by the defendant to be dead.

Sec. 313. Indecent Behavior with a Juvenile.

A person commits the infraction of Indecent Behavior with a Juvenile if the person is eighteen (18) years of age or older and commits, with the intent to arouse or gratify the sexual desires of either the offender or the victim, a lewd or lascivious act upon a person or in the presence of a child under the age of seventeen (17), where there is an age difference of greater than two (2) years between the offender and the victim.

Sec. 314. Solicitation of a Minor to Engage in Sexual Activity.

Whoever, being eighteen (18) years of age or older, commands, entreats, coerces, or attempts to persuade an individual under the age of fifteen (15) years to engage in a sexual act or contact with the intent to engage in such or similar conduct commits the infraction of Solicitation of a Minor to Engage in Sexual Activity.

Sec. 315. Sex Trafficking, Coercive Sex Trafficking, Aggravated Sex Trafficking.

(a) Prohibited acts.

(1) Trafficking by any means. Whoever commits the following conduct commits sex trafficking:

- i. knowingly receiving, recruiting, enticing, harboring, providing, or obtaining by any means an individual to provide or aid in the provision of a sexual act, sexual contact, or the prostitution of that individual; or
- ii. receiving a profit or anything of value, whether tangible or intangible, knowing or having reason to know it is derived from an act described in clause (i) above.

(2) Trafficking by means of force, coercion, or deception. Whoever commits conduct that falls within the meaning of 18 U.S.C. § 1591(a) commits coercive sex trafficking.

(3) Aggravated Sex Trafficking. Whoever commits the following conduct commits aggravated sex trafficking:

- i. The commission of sex trafficking within ten (10) years of being convicted of sex trafficking; or
- ii. The commission of sex trafficking where the victim is a Child.

(b) Penalties.

(1) Whoever commits sex trafficking as proscribed by Section 315(a)(1) is guilty of a Class A Misdemeanor and, upon conviction, shall be sentenced accordingly.

(2) Whoever commits coercive sex trafficking as proscribed by Section 315(a)(2) is guilty of a Felony and, upon conviction, shall be sentenced accordingly.

(3) Whoever commits aggravated sex trafficking as proscribed by Section 315(a)(3) is guilty of an Enhanced Felony and, upon conviction, shall be sentenced accordingly.

Subchapter D. Computer-Aided Sexual Offenses Involving Minors.

Sec. 3165. Definitions.

For the purposes of this Subchapter D alone, the following terms shall have the following definitions:

(a) “Access software provider” means a provider of software, including client or server software, or enabling tools that do any one or more of the following:

- (1) File, screen, allow, or disallow content.
- (2) Select, choose, analyze, or digest content.
- (3) Transmit, receive, display, forward, cache, search, organize, reorganize, or translate content.

(b) “Cable operator” means any person or group of persons who provides cable service over a cable system and directly, or through one or more affiliates, owns a significant interest in such cable system, or who otherwise controls or is responsible for, through any arrangement, the management and operation of such a cable system.

(c) “Coerce” shall include any of the following:

- (1) Causing or threatening to cause serious bodily injury.
- (2) Physically restraining or threatening to physically restrain another person.
- (3) Abduction or threatened abduction of an individual.
- (4) The use of a plan, pattern, or statement with intent to cause an individual to believe that failure to perform an act will result in the use of force against, abduction of, serious harm to, or physical restraining of an individual.
- (5) The abuse or threatened abuse of law or legal process.
- (6) Threatening to use or the use of debt bondage or fraud.

(d) “Debt bondage” means inducing an individual to provide commercial sexual activity in payment toward or satisfaction of a real or purported debt.

(e) “Distribute” means to issue, sell, give, provide, lend, mail, deliver, transfer, transmute, distribute, circulate, or disseminate by any means.

(f) “Electronic textual communication” means a textual communication made through the use of a computer on-line service, Internet service, or any other means of electronic communication, including but not limited to an Internet chat room, electronic mail, or online messaging service.

(g) “Interactive computer service” means any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including a service or system that provides access to the Internet and such systems operated or services offered by government, libraries, or educational institutions.

(h) “Pornography involving juveniles” is any photograph, videotape, film, or other reproduction, whether electronic or otherwise, of any sexual performance involving a child under the age of eighteen (18).

(i) “Produce” means to photograph, videotape, film, or otherwise reproduce pornography involving juveniles, or to solicit, promote, or coerce any child for the purpose of pornography involving juveniles.

(j) “Sexual conduct” means actual or simulated sexual intercourse, deviant sexual intercourse, sexual bestiality, masturbation, sadomasochistic abuse, or any lewd exhibition of the genitals or anus.

(k) “Sexual performance” means any performance or part thereof that includes actual or simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, or sadomasochistic abuse, or lewd exhibition of the genitals or anus.

(l) “Telecommunications service” means the offering of telecommunications for a fee directly to the public, regardless of the facilities used.

Sec. 3176. Pornography Involving Juveniles.

(a) It shall be unlawful for:

- (1) A person to produce, promote, advertise, distribute, possess, or possess with the intent to distribute pornography involving juveniles;
- (2) A parent, legal guardian, or custodian of a child to consent to the participation of

the child in pornography involving juveniles.

(b) **Prima facie evidence.** The following shall be prima facie evidence of the intent to sell or distribute:

- (1) Possession of three or more similar photographs, images, films, videotapes, or other visual reproductions; or
- (2) Possession of three or more photographs, images, films, videotapes, or other visual reproductions and possession of any type of file sharing technology or software.

(c) **Defenses prohibited.** The following shall not serve as a defense to an adjudication that a person committed the infraction of Pornography Involving Juveniles:

- (1) Lack of knowledge of the juvenile's age; or
- (2) The juvenile's consent to participating in the activity prohibited by this Section.

(d) **Determining the age of the victim.** The trier of fact may determine, utilizing the following factors, whether the person displayed or depicted in any photograph, videotape, film, or other video reproduction introduced in evidence was under the age of eighteen (18) or thirteen (13) at the time of the filing or recording:

- (1) The general body growth, bone structure, and bone development of the person;
- (2) The development of pubic or body hair on the person;
- (3) The development of the person's sexual organs;
- (4) The context in which the person is placed or the age attributed to the person in any accompanying video, printed, or text material;
- (5) Available expert testimony and opinion as to the chronological age or degree of physical or mental maturity or development of the person;
- (6) Such other information, factors, and evidence available to the trier of fact which the court determines as relevant, probative, and reasonably reliable.

(e) **Inapplicability.** The provisions of this Section shall not apply to a provider of an interactive computer service, provider of a telecommunications service, or a cable operator as defined by the provisions of this Section.

Sec. 3187. Computer-Aided Solicitation of a Minor.

(a) The infraction of Computer-Aided Solicitation of a Minor is committed when:

- (1) A person eighteen (18) years of age or older knowingly contacts or communicates, through the use of electronic textual communication, with a person who has not yet attained the age of seventeen (17) where there is an age difference of greater than two (2) years, or a person reasonably believed to have not yet attained the age of seventeen (17) and reasonably believed to be at least two (2) years younger, for the purpose of or with the intent to persuade, induce, entice, or coerce the person to engage or participate in sexual conduct, or with the intent to engage or participate in sexual conduct in the presence of the person who has not yet attained the age of seventeen (17), or person reasonably believed to have not yet attained the age of seventeen (17); or
 - (2) A person eighteen (18) years of age or older knowingly contacts or communicates, through the use of electronic textual communication, with a person who has not yet attained the age of seventeen where there is an age difference of greater than two (2) years, or a person reasonably believed to have not yet attained the age of seventeen (17) and reasonably believed to be at least two (2) years younger, for the purpose of or with the intent to arrange for any third party to engage in any of the conduct proscribed by the provisions of Paragraph (1) of this Subsection (a); or
 - (3) The contact or communication subject to Paragraphs (1) or (2) of this Subsection (a) is initially made through electronic textual communication and subsequent communication is made through the use of any other form of communication.
- (b) **Defenses prohibited.** The following shall not serve as a defense to commission of the infraction of Computer-Aided Solicitation of a Minor:
- (1) That the person reasonably believed to be under the age of seventeen (17) is a commissioned law enforcement officer or peace officer acting in his official capacity;
 - (2) That the juvenile consented to participation in the activity prohibited by this Section.

Subchapter E. Assault and Related Offenses.

Sec. 3198. Assault Defined.

For the purpose of this Subchapter E, “assault” is:

- (a) an act done with intent to cause fear in another of immediate bodily harm or death; or
- (b) the intentional infliction of or attempt to inflict bodily harm upon another.

Sec. 32019. Simple Assault.

A person who does any of the following commits the infraction of a Simple Assault:

- (a) commits an act with intent to cause fear in another of immediate bodily harm or death;
- or
- (b) intentionally inflicts or attempts to inflict bodily harm upon another.

Sec. 3210. Aggravated Assault – Severe Bodily Harm.

A person commits the infraction of Aggravated Assault – Severe Bodily Harm by assaulting another and inflicting severe bodily harm.

Sec. 3221. Aggravated Assault – Dangerous Weapon.

A person commits the infraction of Aggravated Assault – Dangerous Weapon by assaulting another with a dangerous weapon.

Sec. 3232. Aggravated Assault – Great Bodily Harm.

A person commits the infraction of Aggravated Assault – Great Bodily Harm who assaults another and inflicts great bodily harm.

Sec. 324. Strangulation.

A person who intentionally impedes the normal breathing or circulation of the blood by applying pressure on the throat or neck or by blocking the nose or mouth of the victim for the purpose of harming the victim or provoking fear in the victim is guilty of a Felony and, upon conviction, shall be sentenced accordingly.

Sec. 3253. Aggravated Assault – Public Official.

A person commits the infraction of Aggravated Assault – Public Official by assaulting, resisting, impeding, intimidating, or interfering with a commissioned law enforcement officer, tribal court judge, tribal court staff, tribal prosecutor, security guard, firefighter, medical emergency personnel, social worker, teacher, a Chitimacha Tribal Council member, or a Chitimacha Tribal Council member’s immediate staff, when that official is engaged in the lawful performance of his or her duties, including when providing services to a victim or a child, or on account of the performance of the official’s duties.

Sec. 325A. Assault of Tribal Justice Personnel.

A person who uses, attempts to use, or threatens to use physical force against a Tribal Justice Personnel is guilty of a felony, and upon conviction, shall be sentenced accordingly. For purpose of this Section, a Tribal Justice Personnel shall mean any individual authorized to act for, or on behalf of, the Tribe or serving the Tribe during, or because of, the performance or duties of that individual in any of the following activities:

- (1) preventing, detecting, investigating, making arrests relating to, making apprehensions for, or prosecuting a crime;
- (2) adjudicating, participating in the adjudication of, or supporting the adjudication of a crime;
- (3) detaining, providing supervision for, or providing services for persons charged with a crime; or
- (4) incarcerating, supervising, providing treatment for, providing rehabilitation services for, or providing reentry services for persons convicted of a crime.

Subchapter F. Abusive Conduct.

Sec. 3264. Harassment and Stalking.

(a) Prohibited Acts.

i. A person who does any of the following commits ~~the infraction of~~ Harassment; by knowingly and repeatedly committing unwanted or intrusive communications, acts, or gestures, including using a telephone, the Internet, a computer-aided device, cellular telephone, facsimile machine, video recorder, or any other similarly

situated communication device, to repeatedly transmit images, writings, or sounds to another person for no lawful purpose;³ or recording images, writings, or sounds of another person for no lawful purpose;³ or stalking, following, peering or peeping into windows, or committing any similar acts that are intended to adversely and unlawfully affect the safety, security, or privacy of another, regardless of the relationship between the offender and the victim.

ii. A person who engages in any conduct, including conduct identified in subdivision (a), directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others, or to suffer substantial emotional distress, commits stalking.

Sec. 3275. Abuse of a Vulnerable Adult.

(a) **Definitions.** For the purposes of this Section, the following definitions shall apply:

- (1) “Abuse” means an act against a vulnerable adult that constitutes a violation of or an attempt to violate:
 - (i) the infraction of Assault as defined in Section 318 or Section 310 (Indecent Exposure);
 - (ii) sexual conduct in violation of Sections 307 (Rape), 308 (Sexual Assault), or 311 (Prostitution);

In addition, abuse means:

- (iii) Conduct which is not performed for any lawful or therapeutic purpose, which produces or could reasonably be expected to produce physical pain or injury or emotional distress to a vulnerable adult, including hitting, slapping, biting, kicking, pinching or other similar conduct, or the use of repeated or malicious oral, written, or gestured language that would be considered by a reasonable person to be disparaging, derogatory, humiliating, harassing, or threatening; or
- (iv) The use of any deprivation procedure, unreasonable confinement, or involuntary seclusion, including the forced separation of the

- vulnerable adult from other persons against the will of the vulnerable adult or the legal representative of the vulnerable adult.
- (2) “Caregiver” means an individual or facility who has responsibility for the care of a vulnerable adult as a result of a family relationship, or who has assumed responsibility for all or a portion of the care of a vulnerable adult voluntarily, by contract, or by agreement.
- (3) “Financially exploits” means:
- (i) Willfully using, withholding, or disposing of funds or property of a vulnerable adult; or
 - (ii) Forcing, compelling, coercing, or enticing a vulnerable adult against the vulnerable adult’s will to perform services for the profit or advantage of another.
- (4) “Neglect” means a caregiver’s failure to supply a vulnerable adult with care or services, including food, clothing, shelter, health care, or supervision which is:
- (i) Reasonable and necessary to obtain or maintain the vulnerable adult’s physical or mental health or safety considering the physical and mental capacity or dysfunction of the vulnerable adult; and
 - (ii) Which is not the result of an accident or therapeutic conduct.
- (5) “Vulnerable adult” means any person eighteen (18) years or older who:
- (i) Is a resident or inpatient of a facility or receives services from a licensed medical, therapeutic, or home care provider;
 - (ii) Regardless of residence or whether any type of service is received possesses an infirmity or other physical, mental, or emotional dysfunction that impairs the individual’s ability to provide adequately for the individual’s own care without assistance and because of the dysfunction or infirmity and the need for care or services, the individual ability to protect the individual’s self from abuse, neglect, or financial exploit is impaired.

(b) **Prohibited acts.** A caregiver who knowingly and intentionally neglects, abuses, or financially exploits a vulnerable adult commits the infraction of Abuse of a Vulnerable Adult.

(c) **Affirmative defenses.** When a caretaker in good faith selects and depends on spiritual means or prayer for treatment or care of disease or remedial care of a vulnerable adult, this treatment or care is “health care” within the meaning of this Section.

CHAPTER 4. INFRACTIONS AGAINST PRIVATE PROPERTY.

Subchapter A. Arson.

Sec. 401. Arson.

Except as specifically provided in this Section, a person who starts or maintains a fire or causes and explosion with intent to destroy or damage a building, occupied structure, motor vehicle, field, crop, or standing timber of another commits the infraction of Arson, except that a person who burns grass thatch or participates in a prescribed burn of timbered land is not guilty of arson.

Subchapter B. Burglary and Related Offenses.

Sec. 402. Burglary.

A person commits the infraction of Burglary by entering a building or occupied structure, or a separately secured or occupied portion of a building or structure, with intent to commit a violent crime or crime related to theft therein, unless the premises are at the time open to the public or the defendant is licensed or privileged to enter.

Sec. 403. Trespass.

A person who, knowing that he or she is not licensed or privileged to do so, does any of the following commits the infraction of Trespass:

(a) enters or surreptitiously remains in any building or occupied structure, or separately secured or occupied portion of a building or structure;

(b) enters or remains in any place that belongs to another after being notified that he or she is forbidden to do so, either orally, in writing, or by a fence or other enclosure manifestly designed to exclude intruders; or

(c) intentionally allows an animal to occupy or graze on the lands of another person.

Subchapter C. Theft and Related Infractions.

Sec. 404. Theft.

A person who does any of the following commits the infraction of Theft:

(a) intentionally takes or exercises unauthorized control over, or makes an unauthorized transfer of an interest in, the property of another with intent to deprive the owner thereof; or

(b) intentionally obtains the property of another by misrepresentation or deception; or

(c) intentionally obtains the property of another by threat of force; or

(d) receives, retains or disposes of the property of another knowing that it has been stolen or believing that it has probably been stolen, unless the property is received, retained or disposed of with interest to restore it to the owner; or

(e) comes into control of property of another that the defendant knows was lost, mislaid, or delivered under a mistake as to the nature or amount of the property or the identity of the recipient, and with intent to deprive the owner thereof, fails to take reasonable measures to restore the property to the person entitled to have it; or

(f) intentionally obtains services, known by the defendant to be available only for compensation, by avoiding payment for the services, or, having control over the disposition of services of another to which he or she is not entitled, knowingly diverts those services to the defendant's own benefit or to the benefit of another not entitled thereto; or

(g) intentionally disposes of, uses, or transfers any interest in property which has been entrusted to the defendant as a parent or guardian of a minor, or for any other reason, for other than the purpose or purposes for which the property was placed in trust; or

(h) intentionally misbrands or alters the brand or mark on any livestock of another person is guilty of theft; or

(i) intentionally takes or uses a movable which belongs to another, either without the other's consent, or by means of fraudulent conduct, practice, or representation, but without any intent to deprive the other of the movable permanently. A "movable" is property whose physical location can be changed.

Sec. 405. Robbery.

A person commits the infraction of Robbery if he or she, in the course of committing or attempting to commit a theft or while fleeing from the commission or attempted commission of a theft, does any of the following:

- (a) inflicts or attempts to inflict bodily injury upon another person; or
- (b) threatens or menaces another with immediate bodily injury.

Sec. 406. Mischief.

A person commits the infraction of Mischief if he or she intentionally or recklessly does any of the following:

- (a) damages intangible property of another person; or
- (b) tampers with tangible property of another person so as to endanger person or property.

Sec. 407. Issuing Bad Checks.

(a) **Prohibited acts.** A person who issues any check, draft or money order upon any bank or other depository knowing that there are not sufficient funds in his or her account to pay such check, draft or money order in full upon presentation commits the infraction of Issuing Bad Checks.

(b) **Limitation.** No person shall commit the infraction of Issuing Bad Checks unless he or she has been notified in writing of the insufficiency of funds, has been given at least ten (10) days in which to make restitution, and has failed to make such restitution.

Subchapter D. Forgery and Related Infractions.

Sec. 408. Forgery.

A person who, with intent to deceive or harm the Chitimacha Tribe of Louisiana or any other person, knowingly and falsely signs, executes, or alters a writing or written instrument or

record so that it purports to have been made by another or by himself under an assumed fictitious name, or at another time, or with different provisions, or by authority of one who did not give such authority commits the infraction of Forgery.

Sec. 409. Obtaining Signature by False Pretense.

A person commits the infraction of Obtaining Signature by False Pretense by obtaining through false pretense the signature of another to a writing that is the subject of forgery under Section 408.

CHAPTER 5. INFRACTIONS AGAINST THE PUBLIC ORDER.

Subchapter A. Explosives and Weapons Offenses.

Sec. 501. Carrying a Concealed Dangerous Weapon.

A person commits the infraction of Carrying a Concealed Dangerous Weapon if he or she carries, concealed about his or her person without specific governmental approval, a dangerous weapon (as defined by Section 104(d)).

Sec. 502. Possession of Explosives.

A person who possesses, transports or controls any nitroglycerin, dynamite or other dangerous explosive, unless such explosive is possessed in the prosecution of or to effect a lawful purpose previously approved by the Tribal Council, commits the infraction of Possession of Explosives.

Sec. 503. Use of Dangerous Weapons by Children.

(a) Prohibited acts.

- (1) A parent, guardian, or other person commits the infraction of Use of Dangerous Weapons by Children by having charge or custody of a minor under seventeen (17) years of age and knowingly allowing such minor to carry or use in public a dangerous weapon.
- (2) A person who is under the age of seventeen (17) commits the infraction of Use of Dangerous Weapons by Children by knowingly possessing a dangerous weapon.

(b) **Exclusion.** The provisions of this Section shall not apply where the person who is under the age of seventeen (17) is in the company and under the direct or indirect control of a parent, guardian, or other adult person.

Sec. 504. Unlawful Discharge of Firearms.

A person who does any of the following acts commits the infraction of Unlawful Discharge of Firearms:

- (a) discharges a firearm in a careless or reckless manner so as to endanger a person or property within the Chitimacha Reservation;
- (b) discharges a firearm while located on the Chitimacha Reservation; or
- (c) discharges a firearm in a firearm-free zone.

Sec. 505. Unlawful Possession of Firearms.

A person other than a commissioned law enforcement officer engaged in official duties who does any of the following acts commits the infraction of Unlawful Possession of Firearms:

- (a) possesses, obtains, receives, sells or uses a short-barreled rifle (16" or less) or short-barreled shotgun (18" or less);
- (b) possesses or owns a firearm after having been convicted in any jurisdiction of a felony-level offense; or
- (c) possesses a firearm in a firearm-free zone, subject to the exclusions provided under Section 506(e).

Sec. 506. Firearm-Free Zone.

(a) **Definitions.** For the purpose of this Section, the following definitions shall apply:

- (1) "School" means any institution designed for the teaching of students (or "pupils") under the direction of educators;
- (2) "School property" means all property used for school purposes, including but not limited to school playgrounds, as well as any building or area owned by the Tribe and used or operated as a playground or recreational facility and all parks and recreational areas administered by the Tribe; and

(3) “Child day care center property” means property where children are cared for during the day by a person other than the child’s legal guardians, typically performed by someone outside the child’s immediate family.

(b) **Firearm-free zone.** For the purposes of this Title, “firearm-free zone” is an area inclusive of any school, school property, child day care center property, and within five hundred feet of any such location, and within a school bus or day care bus.

(c) **Notice to the public.** The Chitimacha Tribal Police Department shall:

(1) Publish a map clearly delineating the boundaries of each firearm-free zone in accordance with the specifications in Subsection (b). The firearm-free zone map shall be a public document and submitted to the Clerk of Court for the Tribal Court; and

(2) Create signage that clearly communicates that an area is a firearm-free zone and that such zone extends to five hundred feet (500’) from the boundary of the area, and shall post the signs in a visible manner on or near each school and school property, on and in each school bus, on or near each child day care center property, and on and in each day care bus.

(d) **Prohibited acts.** A person who covers, defaces, alters, or destroys any sign or other marking identifying a firearm-free zone as provided in this Section commits an infraction under this Section.

(e) **Properties excluded.** The provisions of this Section shall not apply to:

(1) A government property devoted to law enforcement;

(2) A commercial establishment which is permitted by law to have firearms or armed security; or

(3) Private premises, including a home or vehicle, where a firearm is kept pursuant to law.

Subchapter B. Threats Made Against the Public Order.

Sec. 507. Terroristic Threats.

(a) **Prohibited acts.** A person who does any of the following commits the infraction of Terroristic Threats:

- (1) Threatens to commit violence with purpose to terrorize another or to cause evacuation of a building, place of assembly or facility of public transportation or otherwise cause serious public inconvenience, or in reckless disregard of the risk of causing such terror or serious public inconvenience; or
- (2) Communicates to another with purpose to terrorize another or in reckless disregard of the risk of causing such terror, that explosives or an explosive device or any incendiary device is present at a named place or location, whether or not the same is in fact present.

(b) **Affirmative defense.** It shall be an affirmative defense that the person communicating the information provided for in Subsection (a) was not involved in the commission of a crime of violence or creation of a circumstance dangerous to human life and reasonably believed his actions were necessary to protect the welfare of the public.

Sec. 508. Aiding Others in Terrorism.

A person who raises, solicits, collects, or provides material support or resources with the intent that such will be used, in whole or in part, to plan, prepare, carry out, or aid in any act of terrorism or hinders the prosecution of terrorism, including harboring or concealing a person who is known or believed by the offender to have committed an act of terrorism or suppressing evidence which may aid in the discovery or apprehension of a person who is known or believed by the offender to have committed an act of terrorism, commits the infraction of Aiding Others in Terrorism.

Subchapter C. Drugs and Related Offenses.

Sec. 509. Unlawful Production, Distribution, Intent to Distribute, Sale, Possession, or Use of Drugs.

(a) Definitions.

(1) “Drug” or “drugs” ~~shall include~~ means:

- a.** A “controlled substance” as defined by the Controlled Substances Act and 21 CFR Part 1308 ~~as of March 4, 2016;~~

~~a.b. Gasoline, airplane glue, or any other similar noxious substance when inhaled for the purpose of producing intoxication;~~

~~b. “Synthetic cannabinoids,” which shall be defined as Composition of schedules, which states: Synthetic cannabinoids. Unless specifically excepted, or contained within a pharmaceutical product approved by the United States Food and Drug Administration, or unless listed in another schedule, any material, compound, mixture, or preparation, which contains any quantity of a synthetic cannabinoid found to be in any of the following chemical groups, or any of those groups which contain any synthetic cannabinoid salts, isomers, salts of isomers, or nitrogen-heterocyclic analogs, whenever the existence of such salts, isomers, salts of isomers, or nitrogen-heterocyclic analogs is possible within the specific chemical groups:~~

~~(i) Naphthoylindoles:~~

~~Any compound containing a 3-(1-naphthoyl)indole structure, whether or not substituted in the indole ring to any extent or the naphthyl ring to any extent;~~

~~(ii) Naphthylmethylindoles:~~

~~Any compound containing a 1-H-indol-3-yl-(1-naphthyl) methane structure, whether or not substituted in the indole ring to any extent or the naphthyl ring to any extent;~~

~~(iii) Naphthoylpyrroles:~~

~~Any compound containing a 3-(1-naphthoyl)pyrrole structure, whether or not substituted in the pyrrole ring to any extent or the naphthyl ring to any extent;~~

~~(iv) Naphthylmethylindenenes:~~

~~Any compound containing a 1-(1-naphthylmethyl) indene structure, whether or not substituted in the indene ring to any extent or the naphthyl ring to any extent;~~

~~(v) Phenylacetylindoles:~~

~~Any compound containing a 3-phenylacetylindole structure, whether or not substituted in the indole ring to any extent or the phenyl ring to any extent;~~

~~(vi) Cyclohexylphenols:~~

~~Any compound containing a 2-(3-hydroxycyclohexyl)phenol structure, whether or not substituted in the cyclohexyl ring to any extent or the phenyl ring to any extent;~~

~~(vii) Benzoylindoles:~~

~~Any compound containing a 3-(benzoyl)indole structure, whether or not substituted in the indole ring to any extent or the phenyl ring to any extent;~~

~~(viii) Tetrahydrodibenzopyrans:~~

~~whether or not substituted in the tricyclic ring system except where contained in cannabis or cannabis resin;~~

~~(ix) Hexahydrodibenzopyrans:~~

~~whether or not substituted in the tricyclic ring system except where contained in cannabis or cannabis resin;~~

~~(x) Cyclopropanoylindoles:~~

~~Any compound containing a 3-(cyclopropanoyl)indole structure, whether or not substituted in the indole ring to any extent or the cyclopropyl ring to any extent;~~

~~(xi) Adamantoylindoles:~~

~~Any compound containing a 3-(1-adamantoyl)indole structure, whether or not further substituted in the indole ring to any extent or whether or not substituted in the adamantyl ring to any extent;~~

~~(xii) Naphthylamidoindoles:~~

~~Any compound containing a N-(naphthyl)indole-3-carboxamide structure, whether or not further substituted in the indole ring to any extent or whether or not substituted in the naphthyl ring to any extent;~~

~~(xiii) Quinolinyndolecarboxylates:~~

~~Any compound containing a quinolin-8-yl-1H-indole-3-carboxylate structure, whether or not substituted in the indole ring to any extent or the quinoline ring to any extent;~~

~~(xiv) Adamantylamidoindoles:~~

~~Any compound containing a N-(adamantyl)-indole-3-carboxamide structure, whether or not further substituted in the indole ring to any extent or whether or not substituted in the adamantyl ring to any extent;~~

~~(xv) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide;~~

~~(xvi) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indole-3-carboxamide;~~

~~(xvii) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide;~~

~~(xviii) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide;~~

~~(xix) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide;~~

~~(xx) (1-(5-fluoropentyl)-1H-benzimidazol-2-yl)(naphthalen-1-yl)methanone;~~

~~(xxi) (4-methylpiperazin-1-yl)(1-pentyl-1H-indol-3-yl)methanone;~~

~~(xxii) Naphthalen-1-yl-1-(4-fluorobenzyl)-1H-indole-3-carboxylate;~~

~~(xxiii) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide;~~

~~(xxiv) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide;~~

~~(xxv) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)-1H-indole-3-carboxamide;~~

~~(xxvi) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)-1H-indole-3-carboxamide;~~

~~(xxvii) Naphthalen-1-yl-1-(5-fluoropentyl)-1H-indole-3-carboxylate; or~~

~~(xxviii) N-benzyl-1-pentyl-1H-indole-3-carboxamide.~~

c. (3) “Legend drugs,” defined as any drug or drug product bearing on the label
—of the manufacturer or distributor, as required by the Federal Food and
Drug Administration, the statement “Caution: Federal law prohibits
—dispensing without prescription.”

(2) “Drug” or “drugs” excludes:

- a. Products derived from “hemp,” as that term is defined in 7 U.S.C. § 1639o, including cannabidiol or CBD products sold over the counter; and
- b. Medical marijuana, tetrahydrocannabinol or THC, or a chemical derivative of tetrahydrocannabinol or THC, when possessed and used in accordance with Louisiana’s Therapeutic Use of Marijuana laws, La. R.S. § 40:1046.

(b) **Prohibited acts.** A person who knowingly produces, distributes, intends to distribute, sells, possesses or uses drugs, ~~including a controlled substance, marijuana, synthetic cannabinoids, legend drugs without a prescription, or any narcotic drug, including any substance containing opium, coca leaves, any opiate or any substance, compound or derivative thereof, any salt, compound, isomer derivative, or preparation thereof which is the chemical equivalent or identical with any of the substances referred to above, but not including the isoquinoline alkaloids of opium, or who shall inhale the fumes of any gasoline, airplane glue, or any other similar noxious substance for the purposes of producing intoxication~~ commits the infraction of Unlawful Production, Distribution, Intent to Distribute, Sale, Possession or Use of Drugs.

Sec. 509-A. Unlawful Distribution, Sale, Possession and/or Use of Drug Paraphernalia.

(a) **Prohibited acts.** A person who knowingly, or under circumstances where one reasonably should know, sells, lends, gives, exchanges, or otherwise distributes, possesses or uses drug paraphernalia commits the infraction of Unlawful Distribution, Sale, Possession, and/or Use of Drug Paraphernalia.

(b) **Definition.** For the purposes of this Section, “**Drug Paraphernalia**” shall be defined as any equipment, product, or material of any kind which is primarily intended or designed for use in manufacturing, compounding, converting, concealing, producing, processing, preparing, injecting, ingesting, inhaling, or otherwise introducing into the human body ~~a controlled substance, possession of which is unlawful~~ drugs, as defined under Section 509(a). The term “**Drug Paraphernalia**” also includes any equipment, product, or material of any kind primarily intended or designed for ingesting, inhaling, or otherwise introducing ~~marijuana, cocaine, hashish, hashish oil, PCP, or amphetamines~~ drugs into the human body, such as:

- metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
- water pipes;
- carburetion tubes and devices;
- smoking and carburetion masks;
- roach clips: meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;
- miniature spoons with level capacities of one-tenth cubic centimeter or less;
- chamber pipes;
- carburetor pipes;
- electric pipes;
- air-driven pipes;
- chillums;
- bongs;
- ice pipes or chillers;
- wired cigarette papers, or;
- cocaine free base kits.

(c) **Determining factors.** In determining whether an object is drug paraphernalia, a court or other authority shall consider, in addition to all other legally relevant factors, the following:

- (1) Statements by the an owner or by anyone in control of the object concerning its use;
- (2) The proximity of the object to ~~controlled substances~~drugs;
- (3) The existence of any residue of ~~controlled substances~~drugs on the object;
- (4) instructions, oral or written, provided with the item concerning its use;
- (5) descriptive materials accompanying the item which explain or depict its use;
- (6) national and local advertising concerning its use;
- (7) the manner in which the item is displayed for sale;
- (8) whether the owner, or anyone in control of the item, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;
- (9) direct or circumstantial evidence of the ratio of sales of the item(s) to the total sales of the business enterprise;
- (10) the existence and scope of legitimate use of the item in the community; and
- (11) expert testimony concerning its use.

Sec 509-B. Violation of Unlawful Production, Distribution, Intent to Distribute, Sale, Possession or Use of Drugs in a Drug Free Zone.

(a) A person commits the infraction of Violation of Unlawful Production, Distribution, Intent to Distribute, Sale, Possession or Use of Drugs in a Drug Free Zone by violating a provision of Section 509, Unlawful Production, Distribution, Intent to Distribute, Sale, Possession or Use of Drugs:

- (1) on any property used for school purposes by any school, within two thousand feet (2,000') of any such property, or while on a school bus;

- (2) on property used as a drug treatment facility or within two thousand feet (2,000') of any such property, when included within an area marked as a drug free zone; or
- (3) on any housing authority property, child day care center property, or within two thousand feet (2,000') of any such property, if the area is posted as a drug free zone.

(b) In order for the provisions of this Section to apply to housing authority property, or child day care center property, the building must be posted as a drug free zone as provided herein. The design and posting of the signs shall be at the discretion of the entity that owns or has authority over the religious building, public housing authority property, or child day care center property. In order to post the area as a drug free zone, the signs shall be located in a visible manner on or near each housing authority property, or child day care center property indicating that such area is a drug free zone, that such zone extends for a distance of two thousand feet (2,000'), and that a violation of Title III, Section 509, Unlawful Production, Distribution, Intent to Distribute, Sale, Possession or Use of Drugs will subject the offender to penalties under law.

(c) **Defense prohibited.** Lack of knowledge that the prohibited act occurred on or within two thousand feet (2,000') of school or drug treatment facility property shall not be a defense.

(d) **Definitions.** For purposes of this Section:

- (1) "School" means any institution designed for the teaching of students (or "pupils") under the direction of educators.
- (2) "School property" means all property used for school purposes, including but not limited to school playgrounds, as well as any building or area owned by the Tribe and used or operated as a playground or recreational facility and all parks and recreational areas administered by the Tribe.
- (3) "Drug treatment facility" means all property used for diagnostic, treatment, and rehabilitative services to patients and their families with problems related to alcohol, drug, or substance abuse.
- (4) "Housing authority property" means all property owned or operated by a housing authority or agency created by The Chitimacha Tribe of Louisiana.

- (5) “Child day care center property” means property where children are cared for during the day by a person other than the child’s legal guardians, typically performed by someone outside the child’s immediate family.

Sec. 509-C. Distribution to Persons Under Age Eighteen.

(a) A person who is twenty-five (25) years of age or older who violates Section 509 of this Code by distributing a drug to a person he or she knows is under eighteen (18) years of age commits the infraction of Distribution to a Person Under Age Eighteen.

(b) A person who is at least eighteen (18) years of age but under twenty-five (25) who violates Title III, Section 509 by distributing a drug to a person he or she knows is under eighteen (18) years of age commits the infraction of Distribution to a Person Under Age Eighteen under this Subsection (b), provided that the drug recipient is at least three years (3) younger than the offender.

Sec. 510. Falsification of Drug Tests.

A person who does any of the following acts commits the infraction of Falsification of Drug Tests:

(a) Submits to court-ordered drug testing, either after arrest for an offense and as a condition of pretrial release or after conviction of, or plea of guilty to, an offense and as a condition of probation, and intentionally falsifies or alters or attempts to falsify or alter the results of such a drug test by the substitution of urine or other samples or specimens or the use of any device in order to obscure or conceal the presence of a substance that the test is administered to detect; or

(2) Knowingly delivers, possesses with the intent to deliver, or manufactures with the intent to deliver a substance or device designed or intended solely to falsify or alter drug test results.

Subchapter D. Offenses Involving Governmental Processes.

Sec. 511. Bribery.

A person commits the infraction of Bribery if he or she intentionally offers, gives, or agrees to give another, or solicits, accepts, or agrees to accept from another, anything of value as consideration:

- (a) to influence the recipient's official action as a public servant; or
- (b) to induce the recipient's violation of a known legal duty as a public servant.

Sec. 512. Interfering with Elections.

A person commits the infraction of Interfering with Elections if he or she does any of the following:

(a) coerces, threatens, injures or intimidates another person with respect to voting, qualifying to vote, qualifying or campaigning as or for a candidate for elective office, or qualifying or acting as an election official, in any primary, special, or general election of the Chitimacha Tribe of Louisiana;

(b) in connection with any election of the Chitimacha Tribe of Louisiana, makes or induces any false voting registration;

(c) in connection with any election of the Chitimacha Tribe of Louisiana, offers, gives, or agrees to give anything of pecuniary value to another person as consideration for the recipient's voting or withholding his or her vote or voting for or against any candidate or issue or for such conduct by another;

(d) solicits, accepts, or agrees to accept anything of pecuniary value as consideration for conduct prohibited under Subsections (b) or (c); or

(e) otherwise obstructs or interferes with the lawful conduct of an election of the Chitimacha Tribe of Louisiana or registration therefore.

Sec. 513. Prohibited Campaigning.

A person who violates Title X, Chapter 6, Section 608 of the Code commits the infraction of Prohibited Campaigning.

Sec. 514. Hindering Law Enforcement.

A person commits the infraction of Hindering Law Enforcement if he or she knows that another person has or may have committed a criminal offense or civil infraction and intentionally interferes with, hinders, delays, or prevents the discovery, arrest, prosecution, conviction, or punishment of such other person by:

- (a) harboring or concealing such other person;
- (b) providing such other person with a weapon, money, transportation, disguise, or other means of avoiding discovery or apprehension;
- (c) warning such other person of impending discovery or apprehension, unless the warning is intended to induce such person to give himself up to a law enforcement officer;
- (d) giving false information or a false report to a law enforcement officer, knowing such information or report to be false, or
- (e) attempting to influence the deliberations of a jury.

Sec. 515. Perjury.

A person who, in any official proceeding of the Chitimacha Tribe of Louisiana, makes a false statement or interpretation under oath or equivalent affirmation, or swears or affirms the truth of a statement or interpretation previously made when the statement or interpretation is material and the defendant does not believe it to be true, commits the infraction of Perjury. Falsification is “material” if it could have affected the course or outcome of the proceeding.

Sec. 516. Civil Contempt.

- (a) A person commits the infraction of Civil Contempt by failing to comply with any process, order, subpoena, warrant, or command of the Chitimacha Tribal Court, as long as:
 - (1) the process, order, subpoena, warrant, or command remains in force;
 - (2) the purpose of the process, order, subpoena, warrant, or command may still be served by compliance;
 - (3) the noncompliance by the person to whom the process, order, subpoena, warrant, or command is directed is willful; and

(4) the person to whom the process, order, subpoena, warrant, or command is directed is able to comply or is able to take reasonable measures that would enable the person to comply.

(b) All courts of the Chitimacha Tribe of Louisiana have power to render a person in contempt of the court's authority.

Sec. 517. Resisting a Law Enforcement Officer.

(a) **Prohibited acts.** A person commits the infraction of Resisting a Law Enforcement Officer if the person has reasonable grounds to believe that the victim is a law enforcement officer acting in the performance of his or her official duties and does any of the following:

(1) refuses to give his or her name or provides false information regarding his or her identity; or

(2) flees from a law enforcement officer.

(b) **Legality of arrest irrelevant.** A person commits the infraction of Resisting a Law Enforcement Officer regardless of whether the arrest is lawful.

(c) **Affirmative defense.** It is a defense to a prosecution under this Section to resist force that is clearly excessive.

Sec. 518. Resisting Arrest with Force or Violence.

(a) **Prohibited acts.** A person commits the infraction of Resisting Arrest with Force or Violence if the person has reasonable grounds to believe that the victim is a law enforcement officer acting in the performance of his or her official duties and the person does any of the following:

(1) creates a substantial risk of bodily harm to a law enforcement officer; or

(2) knowingly uses force or violence to resist the arrest.

(b) **Legality of arrest irrelevant.** A person commits the infraction of Resisting Arrest with Force or Violence regardless of whether the arrest is lawful.

(c) **Affirmative defense.** It is a defense to a prosecution under this Section to resist force that is clearly excessive.

Sec. 519. Resisting Arrest with Bodily Injury.

(a) **Prohibited acts.** A person commits the infraction of Resisting Arrest with Bodily Injury if the person has reasonable grounds to believe that the victim is a law enforcement officer acting in the performance of his or her official duties and the person intentionally inflicts bodily injury upon a law enforcement officer after being told by a law enforcement officer that he or she is under arrest.

(b) **Legality of arrest irrelevant.** A person commits the infraction of Resisting Arrest with Bodily Injury regardless of whether the arrest is lawful.

(c) **Affirmative defense.** It is a defense to a prosecution under this Section to resist force that is clearly excessive.

Sec. 520. Escape.

A person who unlawfully removes himself or herself from official detention or fails to return to official detention following temporary leave granted for a specific purpose or limited period commits the infraction of Escape. "Official detention" does not include supervision of probation or parole or constraint incidental to release on bail.

Sec. 521. Obstruction of Justice.

(a) "Tribal Justice Personnel" means an individual authorized to act for, or on behalf of, the Tribe or serving the Tribe during, or because of, the performance or duties of that individual in:

- (1) preventing, detecting, investigating, making arrests relating to, making apprehensions for, or prosecuting a criminal offense;
- (2) adjudicating, participating in the adjudication of, or supporting the adjudication of a criminal offense;
- (3) detaining, providing supervision for, or providing services for persons charged with a criminal offense; or
- (4) incarcerating, supervising, providing treatment for, providing rehabilitation

services for, or providing reentry services for persons convicted of a criminal offense.

(b) **Prohibited acts.** Whoever intentionally does any of the following acts commits obstruction of justice:

(1) obstructs, hinders, or prevents the lawful execution of any legal process, civil or criminal, or apprehension of another on a charge or conviction of a criminal offense;

(2) obstructs, resists, or interferes with a law enforcement officer while the officer is engaged in the performance of official duties; or

(3) by force or threat of force, endeavors to obstruct Tribal Justice Personnel who are lawfully engaged in the performance of their official duties for the purpose of deterring or interfering with the performance of those duties.

Subchapter E. Disorderly Conduct and Related Offenses.

Sec. 5221. Disorderly Conduct.

A person who, with intent to harass, alarm or annoy another person, or in reckless disregard of the fact that another person is harassed, annoyed or alarmed by his or her behavior, does any of the following acts commits the infraction of Disorderly Conduct:

(a) engages in fighting, or in violent, tumultuous, or threatening behavior;

(b) makes loud or disturbing noise after 10:00 p.m. unless in connection with a function previously authorized by the Chitimacha Tribal Council;

(c) in a public place, uses abusive or obscene language, or makes an obscene gesture;

(d) obstructs vehicular or pedestrian traffic, or the use of a public facility;

(e) persistently follows another person in or about a public place or places;

(f) solicits sexual activity, as defined in Section 306, while loitering in a public place;

(g) creates a hazardous, physically offensive, or seriously alarming condition by an act which serves no legitimate purpose;

(h) appears in an intoxicated condition; or

(i) interrupts any lawful assembly of people.

Sec. 5221-A. Possession and/or Consumption of Alcohol in Designated Park/Recreational Areas Prohibited.

A person who possesses and/or consumes alcohol within any designated park/recreational area on the Chitimacha Reservation commits the infraction of Possession and/or Consumption of Alcohol in a Designated Park/Recreational Area unless:

(a) specific authorization for same has been obtained in accordance with Title XIV of this Code; or

(b) the person is acting in conjunction with an authorized tribal or community activity.

Any person violating a provision of this section shall be issued a citation for a “Civil Infraction,” for which the procedures contained within Title VII, Chapter 2, shall apply. A person who is issued a citation for a “Civil Infraction” under this section may not also be issued a citation for a “Civil Infraction” under Section 521-A of Title III of the Code.

Sec. 5232. Mistreatment of Animals.

A person commits the infraction of Mistreatment of Animals by:

(a) intentionally, recklessly or negligently, unnecessarily or cruelly beating, mutilating, killing, torturing or abusing any animal, or causing same to be cruelly beaten, mutilated, killed, tortured or abused; or

(b) failing to adequately house, feed, water or maintain and care for any animal or animals that the person owns, keeps, or is responsible for.

Subchapter F. Gambling.

Sec. 5234. Illegal Gambling.

(a) A person commits the infraction of Illegal Gambling by operating a Class II gaming activity without a license or violating any other provision of Chapter IV of Title XII of this Code.

(b) In addition to the offenses provided for under Subsection (a), a person who does any of the following acts commits the infraction of Illegal Gambling:

(1) conducts a wagering pool or lottery for his or her own profit;

- (2) receives wagers for or on behalf of another person for his or her own profit;
- (3) alone or with others, owns, controls, manages, or finances a gambling business;
- (4) knowingly leases or otherwise permits a place to be regularly used to carry on a gambling business;
- (5) maintains a coin-operated gaming device for his or her own profit;
- (6) is under the age of twenty-one (21) and:
 - (i) plays casino games, gaming devices, or slot machines; or
 - (ii) enters any other designated gaming area licensed or operated under the laws of the Chitimacha Tribe of Louisiana or the laws of the State of Louisiana;

(c) **Exclusions.** “Illegal Gambling” does not include:

- (1) lawful contests of speed, strength, or endurance in which awards are made only to entrants or to the owners of entrants;
- (2) lawful business transactions; or
- (3) activities authorized by Title XII of this Code.

Subchapter G. Exploitation of Children.

Sec. 5254. Contributing to the Delinquency of a Minor.

A person, including a parent or other person with lawful custody of a minor, who intentionally, negligently, or recklessly causes, encourages, contributes to or aids a minor in committing a delinquent act or status offense commits the infraction of Contributing to the Delinquency of a Minor.

Sec. 5265. Failure to Support a Dependent Person.

A person who knowingly fails to provide support he or she is legally obligated to provide to his or her child born in or out of wedlock or to another dependent commits the infraction of Failure to Support a Dependent Person.

Sec. 5276. Failure to Send a Child to School.

A person who, without justification or excuse, fails to send a child under his or her care to school commits the infraction of Failure to Send a Child to School. For the purpose of this Section, a child is a person under the age of sixteen (16) years of age.

Sec. 5287. Unlawful Possession of Intoxicating Beverages by Minors.

A person under the age at which persons are permitted by the law of Louisiana to possess intoxicating beverages who purchases or has in his or her possession any intoxicating beverage commits the infraction of Unlawful Possession of Intoxicating Beverages by Minors. In addition to any other penalties authorized by law for such an offense, all alcoholic beverages possessed in violation of this Section will be forfeited to the Chitimacha Tribe of Louisiana, and disposed of in accordance with the order of the Court.

Sec. 5298. Unlawful Sale of Intoxicating Beverages to Minors.

A person who knowingly sells or barter to any person who is under the age at which persons are permitted by the law of Louisiana to possess intoxicating beverages any intoxicating liquors or alcoholic beverages commits the infraction of Unlawful Sale of Intoxicating Beverages to Minors.

Sec. 53029. Unlawful Sale of Tobacco to Minors.

A person who knowingly sells or barter to any person who is under the age at which persons are permitted by the law of Louisiana to possess tobacco products any tobacco products, including dip, chew, cigarettes, tobacco oil, tobacco vapor, e-cigarettes, or any similar product, commits the infraction of Unlawful Sale of Tobacco to Minors.

Sec. 5310. Unlawful Possession or Consumption of Alcohol on School Property.

A person who intentionally possesses or consumes an alcoholic beverage on school property commits the infraction of Unlawful Possession or Consumption of Alcohol on School

Property. For the purposes of this Section, “school property” means all property or buildings used for elementary and secondary school purposes, including but not limited to school playgrounds.

Sec. 5321. Child Abuse.

Any person who abuses a child as defined in Title V, Section 103(f) of this Code commits the infraction of Child Abuse.

Sec. 5332. Abandonment of a Child.

Any person having the responsibility for the care and welfare of a child under eighteen (18) years of age who abandons that child as defined in Title V, Section 103(a) of this Code commits the infraction of Abandonment of a Child.

Sec. 5343. Neglect of a Child.

Any person having the responsibility for the care and welfare of a child under eighteen (18) years of age who neglects that child as defined in Title V, Section 103(h) of this Code commits the infraction of Neglect of a Child.

Sec. 5354. Cruelty to Juveniles.

Any person, irrespective of that person’s relationship with the juvenile, whoever commits an offense in violation of Sections 531 to 533 of this Title that causes serious bodily harm or serious neurological impairment to the victim commits the infraction of Cruelty to Juveniles.

Sec. 5365. Juvenile Sexting.

(a) **Definitions.** For the purposes of this Section, the following definitions shall apply:

- (1) “Indecent visual depiction” means any photograph, videotape, film, or other reproduction of a person under the age of seventeen (17) years engaging in sexually explicit conduct, and includes data stored on any computer, telecommunication

device, or other electronic storage media which is capable of conversion into a visual image.

(2) “Sexually explicit conduct” means masturbation or lewd exhibition of the genitals, pubic hair, anus, vulva, or female breast nipples of a person under the age of seventeen (17) years.

(3) “Telecommunication device” means an analog or digital electronic device which processes data, telephonic, video, or sound transmission as part of any system involved in the sending or receiving of voice, sound, data, or video transmissions.

(4) “Transmit” means to give, distribute, transfer, transmute, circulate, or disseminate by use of a computer or telecommunication device.

(b) **Prohibited acts.** A person under the age of seventeen (17) commits the infraction of Juvenile Sexting by:

(1) Knowingly using a computer or telecommunications device to transmit an indecent visual depiction of himself or herself to another person;

(2) Knowingly possessing or transmitting an indecent visual depiction that was transmitted by another under the age of seventeen (17) years in violation of paragraph (a)(1) of this Section.

Subchapter H. Curfew Violations.

Sec. 5376. Failure to Enforce Curfew.

Any parent, guardian or other person having custody of a child who permits such child to violate any of the provisions of the curfew established by Title V, Section 701 of this Code commits the infraction of Failure to Enforce Curfew.

Sec. 5387. Nonresidents Curfew.

Any nonresident of the Chitimacha Reservation who walks, runs, rides a bicycle, or loiters upon any street, highway, road, alley, or vacant premises on the Chitimacha Reservation between

the hours of 10:15 p.m. and 5:00 a.m. of the following day commits the infraction of Curfew Violation.

(b) **Penalty.** Any person violating a provision of this section shall be issued a citation for a “Civil Infraction”, for which the procedures contained within Title VII, Chapter 2, shall apply. A person who is issued a citation for a “Civil Infraction” under this section may not also be issued a citation for a “Civil Infraction” under Section 537 of Title III of the Code.

Subchapter I. Driving While Under the Influence.

Sec. 5398. Driving While Under the Influence of Intoxicating Liquors or Drugs.

Any person who engages in the prohibited conduct as defined under Title VII, Chapter 6, Sections 642 (Driving while Under the Influence of Intoxicating Liquors or Drugs), 650 (Underage Driving while Under the Influence of Intoxicating Liquors or Drugs), or 651 (Commercial Driving while Under the Influence of Intoxicating Liquors or Drugs) commits the infraction of Driving While Under the Influence of Intoxicating Liquors or Drugs.

Subchapter J. Public Nuisances Related to the Public Order, Health, and Sanitation.

Sec. 5439. Loitering.

A person commits the infraction of Loitering by:

(a) wandering the streets habitually or frequenting the streets habitually at late or unusual hours of the night, or loitering around any public place of assembly, without lawful business or reason to be present; or

(b) being found in or near any structure, movable, vessel, or private grounds, without being able to account for his or her lawful presence therein.

Sec. 5410. Public Urination and Defecation.

A person commits the infraction of Public Urination and Defecation by urinating or defecating on any public street, alley, sidewalk or floor of any public building or of any building where the public gathers or has access, or in any other place, whether public or private, where such act could be observed by any member of the public, except in such place that has been designated as a restroom.

Sec. 5421. Wearing Pants Below the Waist in Public.

A person commits the infraction of Wearing Pants Below the Waist in Public by appearing in public and intentionally wearing pants or shorts at least three (3) inches below the waist in a manner that exposes the person's skin or undergarments.

Sec. 5423. Windshield Obstruction.

(a) **Infraction:** A person commits the infraction of Windshield Obstruction by driving or operating a motor vehicle with any object or material placed on or affixed to the front windshield or to front side windows of the vehicle so as to obstruct or reduce the driver's clear view through the front windshield or front side windows, or by placing on or affixing to the front windshield or the front side windows of a motor vehicle any transparent material if the material alters the color or reduces the light transmission of the windshield or front side windows.

(b) **Exclusion:** Subparagraph (a) of this Section does not apply to any of the following:

- (1) A sun screening device when used in conjunction with automotive safety glazing materials on the front side window, with a light transmission of at least forty (40) percent, all tolerances included, or on the side window behind the driver with a light transmission of at least twenty-five (25) percent, all tolerances included. All sun screening devices shall not have a luminous reflectance of more than twenty (20) percent.
- (2) A transparent material, not red or amber in color, affixed to the topmost portion of the windshield not to extend more than five inches down from the top.
- (3) An adjustable nontransparent sun visor mounted forward of the side windows and not attached to the glass.
- (4) Publically owned law enforcement vehicles.

CHAPTER 6. DOMESTIC VIOLENCE

Sec. 601. Domestic Violence.

Any person who engages in the prohibited act of domestic violence under Title III, Section 610(a) of this Code commits the infraction of Domestic Violence. For the purposes of this Section, the term “domestic violence” shall have the same meaning as that term is defined in Title III, Section 609 of this Code.

Sec. 602. Violation of No Contact Order.

Any person who engages in the prohibited act of violating a contact order under Title III, Section 611(a) of this Code commits the infraction of Violation of No Contact Order. For the purposes of this Section, the term “no contact order” shall have the same meaning as that term is defined in Title III, Section 609 of this Code. The victim’s consent is not a defense to commission of the infraction under this Section.

Sec. 603. Violation of a Domestic Violence Protection Order.

Any person who engages in the prohibited act of violating a domestic violence protection order under Title III, Section 612(a) of this Code commits the infraction of Violation of a Domestic Violence Protection Order. For the purposes of this Section, the term “domestic violence protection order” shall have the same meaning as that term is defined in Title III, Section 609 of this Code. The victim’s consent is not a defense to commission of the infraction under this Section.

CHAPTER 7. CIVIL REMEDIES

Sec. 701. Civil Remedies.

- (a) The Tribal Court may impose a civil fine of up to \$2,500 for each committed infraction set forth in Chapters 3-6 of this Title. Subject to the approval of Tribal Council, the Tribal Court shall promulgate a fine schedule that fixes the amount of the fine for each infraction set forth in Chapters 3-6 of this Title.
- (b) In addition to imposing a fine pursuant to Subsection (a), the Tribal Prosecutor or the Tribal Court may recommend to the Tribal Council that a defendant adjudicated as having committed an infraction or infractions be temporary excluded from the Reservation of the Chitimacha Tribe of Louisiana. The Tribal Council may also temporarily exclude a

defendant adjudicated as having committed an infraction or infractions on its own accord without a recommendation by the Tribal Prosecutor or the Tribal Court. Any proceedings to temporarily exclude a defendant must conform to the procedures for temporary exclusion adopted by the Tribal Council, if any.

CHAPTER 8. PROCEDURE

Sec. 801. Scope

These rules govern the procedure for all cases involving civil infractions, which are commissions of any of the offenses listed under Chapters 3-6 of this Title. These rules shall be construed to secure the just and speedy determination of every civil infraction case.

Sec. 802. Notice of Infraction

- (a) Civil Infraction Form. Civil infraction cases shall be filed on a form entitled “Notice of Infraction”.
- (b) Contents. The Notice of Infraction shall contain the following information on the copy given to the defendant:
 - (1) The name, address, and phone number of the Tribal Court.
 - (2) The name, address or residence, date of birth, sex, and physical characteristics of the defendant, in addition to the defendant’s membership status in any federally recognized Indian tribes, the applicable tribe, or, if not a member of a federally recognized Indian tribe, an indication that the defendant is a “non-Indian.”
 - (3) The infraction which the defendant is alleged to have committed and the accompanying statutory citation or ordinance number, the date, time, and place the infraction occurred, the date the notice of infraction was issued, the name and, if applicable, the number of the citing officer.
 - (4) A statement that the defendant must respond to the notice of infraction within fourteen (14) days of issuance if the notice is personally served, or if the notice is served by mail, within twenty-one (21) days of the date the notice is mailed.
 - (5) A space for the defendant to sign a promise to respond to the notice of infraction

within the time required in one of the ways provided in this Chapter.

- (6) A space for entry of the monetary penalty which the defendant may pay in lieu of appearing in court.
- (7) A statement that a mailed response must be received no later than on the day the response is due.
- (8) A statement that the notice represents a determination that a civil infraction has been committed by the person named in the notice, and the determination shall be final unless contested as provided in this Chapter.
- (9) A statement that a civil infraction is a noncriminal offense for which imprisonment may not be imposed as a sanction.
- (10) A statement of the options provided in this Chapter for responding to the notice, and the procedures necessary to exercise these options.
- (11) A statement that at any hearing to contest the determination the Tribe has the burden of proving, by a preponderance of the evidence, that the infraction was committed; and that the person may subpoena witnesses, including the officer who issued the notice of infraction.

Sec. 803. Initiation

- (a) An infraction case is initiated by the issuance, service, and filing of a notice of infraction in accordance with this Chapter.
- (b) A notice of infraction may be issued, subject to the limitations provided under subsection (d), upon certification that the issuer has probable cause to believe, and does believe, that a person has committed an infraction contrary to law.

The certification may be provided:

- (1) By an enforcement officer. The infraction need not have been committed in the officer's presence, except as specifically required by law.
 - (2) By the Tribal Prosecutor.
- (c) A notice of infraction that does not cite a Class A Infraction may be served either by:
 - (1) The citing officer serving the notice of infraction on the person named in the notice of infraction at the time of issuance.

- (2) The citing officer or the Tribal Prosecutor filing the notice of infraction with the Tribal Court, in which case the Tribal Court shall have the notice served either personally or by mail, postage prepaid, on the person named in the notice of infraction at his or her address. If a notice of infraction served by mail is returned to the Tribal Court as undeliverable, the Tribal Court shall issue a summons.
- (d) A notice of infraction citing any Class A Infraction may only be served by the Tribal Prosecutor through the Tribal Court as described in subsection (c)(2), provided that:
- (1) at least 30 days have passed since certification of probable cause; and
 - (2) there is no ongoing criminal prosecutions of the actions giving rise to the Class A Infraction(s) in any court of competent jurisdiction.

If at least 30 days have passed since certification of probable cause and there remains an ongoing criminal prosecution of the actions giving rise to the Class A Infraction(s) in a court of competent jurisdiction, the Tribal Prosecutor may not serve the notice of infraction until all criminal prosecutions for such actions have reached a final disposition.

- (e) When a notice of infraction has been issued, the notice shall be filed with the Tribal Court. The notice must be filed within forty-eight (48) hours after issuance of the notice, excluding Saturdays, Sundays, and federal, state, or Tribal holidays. A notice of infraction not filed within the time limits of this section may be dismissed without prejudice.

Sec. 804. Response to Notice

- (a) A person who has been served with a notice of infraction must respond to the notice within twenty-one (21) days of the date the notice is personally served, regardless of the form of service.
- (b) Any person served with a notice of infraction under this Chapter may respond to the notice by:
- (1) paying the amount of the monetary penalty in one of three ways:
 - i. mailing payment of the statutory fine for the infraction to the Clerk of Tribal Court or other designated official, provided that payments sent by mail are received by the Clerk of Tribal Court or other designated

official within the time allotted for a response under Section 804(a) of this Code;

- ii. making payment directly to the Clerk of Tribal Court or other designated official; or
- iii. executing a financial agreement for payment of the statutory fine that is approved by the defendant and the Clerk of Tribal Court or other designated official as evidenced by signature of both parties affixed to the financial agreement.

If the person cited takes any of the actions under this subsection 804(b)(1), the person shall be deemed to have admitted the infraction and to have waived the person's right to a hearing on the issue of commission of the infraction.

- (2) requesting a hearing to contest the allegation that the defendant committed the infraction.

Sec. 805. Failure to Respond

If the defendant fails to timely respond to a notice of infraction, the Tribal Court shall enter an order finding that the defendant has committed the infraction, and shall assess any monetary penalties provided for by law.

Sec. 806. Scheduling Contested Hearing

- (a) Upon timely receipt of a request for a contested hearing under Section 804 of this Chapter, the Tribal Court shall schedule a contested hearing. The hearing shall be scheduled for not less than twenty-one (21) days, nor more than sixty (60) days from the date of written notice of the hearing date, unless otherwise agreed by the defendant and Tribal Prosecutor in writing.
- (b) The Tribal Court shall send the defendant written notice of the time, place and date of the hearing within seven (7) days of the receipt of the request for a contested hearing. The

notice of the hearing shall also include statements:

- (1) advising the defendant of the defendant's rights at the hearing; and
 - (2) advising the defendant that failure to appear will result in the Tribal Court entering a judgment against the defendant finding that the defendant has committed the infraction, and assessing against the defendant any monetary penalties provided by law.
- (c) The Tribal Court may schedule the contested hearing for the same time as the contested hearing of another infraction alleged to have been committed by the defendant. The Court may schedule the contested hearing for the same time as the trial arising out of the same occurrence as the infraction.

Sec. 807. Contested Hearings – Preliminary Proceedings

- (a) Subpoena. The defendant and the Tribe may request the issuance of subpoenas to compel the testimony of witnesses. The issuance and service of subpoenas shall comport with Sections 104 and 105 of Title IV of the Code.
- (b) Witness List. Upon request of the defendant, at least fourteen (14) days prior to a contested hearing, the Tribal Prosecutor shall provide the defendant or defendant's lawyer with a list of witnesses the Tribe intends to call at the hearing. The list must be provided at least seven (7) days prior to the hearing. Upon request of the Tribe, at least seven (7) days prior to a contested hearing, the defendant shall provide the Tribe with a list of witnesses the defendant intends to call at the hearing. The list must be provided at least three (3) days prior to the hearing.
- (c) Amendment of Notice. The Tribal Court may permit a notice of infraction to be amended at any time before judgment if no additional or different infraction is charged, and if substantial rights of the defendant are not prejudiced. A continuance shall be granted if the defendant satisfies the Tribal Court that the additional time is needed to defend against the amended notice of infraction.
- (d) Sufficiency. No notice of infraction shall be deemed insufficient for failure to contain a definite statement of the essential facts constituting the specific infraction, which the defendant is alleged to have committed, nor by reason of defects or imperfections which

do not tend to prejudice substantial rights of the defendant.

Sec. 808. Contested Hearings

- (a) Generally. The Tribal Court shall conduct the hearing for contesting the notice of infraction on the record in accordance with applicable law.
- (b) No Right to Jury Trial. The defendant shall have no right to a jury trial on the question of whether the defendant committed the infraction or infractions for which he or she was cited.
- (c) Representation by Lawyer. At a contested hearing, the Tribe shall be represented by the Tribal Prosecutor or delegated prosecuting authority. The defendant may be represented by a lawyer or lay counselor at the defendant's own expense.
- (d) Rules of Evidence. The Chitimacha Rules of Evidence shall apply to contested hearings.
- (e) Factual Determination. The Tribal Court shall determine whether the Tribe has proved by a preponderance of the evidence that the defendant committed the infraction. If the Tribal Court finds the infraction was committed, it shall enter an appropriate order on its records. If the Tribal Court finds the infraction was not committed, it shall enter an order dismissing the case.
- (f) Admissibility of Notice of Infraction. The Tribal Court may consider the notice of infraction and any other written report made under oath submitted by the officer who issued the notice or whose written statement was the basis for the issuance of the notice in lieu of the officer's personal appearance at the hearing. The person named in the notice may subpoena witnesses, including the officer, and has the right to present evidence and examine witnesses present in court.
- (g) Disposition. If the Tribal Court determines that the infraction has been committed, it may assess a monetary penalty against the defendant. The monetary penalty assessed may not exceed the monetary penalty provided for by law. The Court has continuing jurisdiction and authority to supervise disposition for not more than one (1) year.
- (h) Costs and Attorney Fees. Each party to a civil infraction case is responsible for costs incurred by that party. No costs or attorney fees may be awarded to either party in a civil infraction case.

Sec. 809. Failure to Appear

- (a) Entry of Judgment. If the defendant fails to appear at a requested hearing, the Tribal Court shall enter a judgment against the defendant finding that the defendant has committed the infraction and assessing against the defendant any monetary penalties provided by law, including court costs.
- (b) Setting Aside Judgment Upon Failure to Appear. For good cause shown and upon terms the Tribal Court deems just, the Tribal Court may set aside a judgment entered upon a failure to appear.

Sec. 810. Appeals

A defendant may appeal to the Chitimacha Court of Appeals a judgment entered after a contested hearing finding that the defendant has committed an infraction or infractions.

(Added by Ordinance #03-19; Adopted: May 30, 2019; Effective: May 30, 2019)