



**BOIS FORTE BAND OF CHIPPEWA  
TRIBAL CODE**

**TITLE 6  
CRIMES AND OFFENSES - VIOLATIONS**

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**TABLE OF CONTENTS**

Title-Chapter-Section.	Page
6.0.0. Reserved for future use.	1
<b>CHAPTER 1 – ANTICIPATORY CRIMES</b>	<b>1</b>
6.1.1. Attempts.	1
6.1.2. Conspiracy.	1
<b>CHAPTER 2 – CRIMES AGAINST THE PERSON</b>	<b>2</b>
6.2.1. Simple Assault.	2
6.2.2. Aggravated Assault - Substantial Bodily Harm.	2
6.2.3. Aggravated Assault - Dangerous Weapon.	2
6.2.4. Aggravated Assault - Dangerous Weapon; Substantial Bodily Harm.	3
6.2.5. Assault - Strangulation.	3
6.2.6. Assault - Great Bodily Harm.	3
6.2.7. Aggravated Assault - Law Enforcement, Conservation, Security Guards, Firefighters, Emergency Medical Personnel, and Other Tribal Officers.	3
6.2.8. Assault of Tribal Justice Personnel.	3
6.2.9. Stalking.	4
6.2.10. Criminal Homicide.	5
6.2.11. Robbery.	5
6.2.12. Abduction.	5
6.2.13. Depriving Another of Custodial or Parental Rights.	5
6.2.14. Reserved for future use.	7
6.2.15. Harassment.	7
6.2.16. Abuse of an Elder or Vulnerable Adult.	7
<b>CHAPTER 3 – SEX CRIMES</b>	<b>14</b>
6.3.1. Definitions.	14
6.3.2. Criminal Sexual Conduct.	16
6.3.3. Sexual Assault.	17

6.3.4. Statutory Rape.	18
6.3.5. Indecent Exposure.	19
6.3.6. Solicitation of Children to Engage in Sexual Conduct.	19
6.3.7. Medical Purposes; Exclusion.	19
6.3.8. Evidence.	19
6.3.9. Prostitution and Sex Trafficking.	19
<b>CHAPTER 4 – COMPUTER-AIDED SEXUAL OFFENSES INVOLVING MINORS</b>	<b>24</b>
6.4.1. Definitions.	24
6.4.2. Pornography Involving Juveniles.	26
6.4.3. Computer-Aided Solicitation of a Minor.	28
<b>CHAPTER 5 – CRIMES AGAINST THE FAMILY</b>	<b>29</b>
6.5.1. Incest.	29
6.5.2. Non-Support of Spouse or Child.	29
6.5.3. Neglect, Abuse, or Endangerment of a Child.	30
<b>CHAPTER 6 – CRIMES AFFECTING TRIBAL GOVERNMENT</b>	<b>31</b>
6.6.1. Bribery.	31
6.6.2. Corruptly Influencing Tribal Officer or Employee.	32
6.6.3. Misconduct of Tribal Officer or Employee.	32
6.6.4. Misuse of Tribal Property.	32
6.6.5. Permitting False Claims Against Tribal Government.	33
6.6.6. Presenting False Claims to Tribal Officer or Body.	33
6.6.7. Impersonating Tribal Officer or Employee.	33
6.6.8. Violations of Approved Tribal Ordinances.	33
6.6.9. Conducting Unauthorized Gaming.	33
6.6.10. Interference with Tribal Officers and Employees in the Lawful Performance of their Duties.	34
<b>CHAPTER 7 – CRIMES AGAINST THE ADMINISTRATION OF JUSTICE</b>	<b>34</b>
6.7.1. Perjury.	34
6.7.2. Escape from Custody.	35
6.7.3. Fleeing a Peace Officer in a Motor Vehicle.	35
6.7.4. Release, Failure to Appear.	36
6.7.5. Disobedience of a Lawful Order of the Court.	36
6.7.6. Obstructing Legal Process.	36

6.7.7. Aiding an Offender.	37
6.7.8. Harboring an Excluded Person.	37
6.7.9. Initiating False Reports.	37
6.7.10. Resisting Arrest with Force or Violence.	37
CHAPTER 8 – CRIMES AGAINST PROPERTY	38
6.8.1. Theft.	38
6.8.2. Tampering with Motor Vehicles.	41
CHAPTER 9 – DAMAGE OR TRESPASS TO PROPERTY	41
6.9.1. Negligent Fires.	41
6.9.2. Arson.	41
6.9.3. Burglary.	42
6.9.4. Criminal Damage to Property.	42
6.9.5. Trespass.	42
6.9.6. Theft from Gaming Establishments.	42
CHAPTER 10 – FORGERY AND RELATED CRIMES	43
6.10.1. Forgery.	43
6.10.2. Obtaining Signature by False Pretense.	43
6.10.3. Fraudulent Statements.	43
CHAPTER 11 – CRIMES AGAINST PUBLIC SAFETY AND HEALTH	43
6.11.1. Possession of Firearm by Convicted Felon.	43
6.11.2. Concealed Use of Firearm.	44
6.11.3. Reckless Use of a Firearm, Dangerous Weapon, or Explosive.	44
6.11.4. Dangerous Weapons.	44
6.11.5. Discharge of Firearm in Inhabited Areas.	44
6.11.6. Possession of Loaded Firearms.	44
6.11.7. Curfew.	45
6.11.8. Curfew/Liability of Adults.	45
6.11.9. Mandatory Reporting of Certain Offenses.	45
6.11.10. Interference with Mandatory Reporting.	45
6.11.11. Intoxicating Liquors or Alcoholic Beverages, Illegal Use.	45
6.11.12. Contributing to Delinquent Acts of Minors.	46
6.11.13. Controlled Substances, Definitions.	46

6.11.14. Possession of a Controlled Substance.	49
6.11.15. Possession of Drug Paraphernalia Prohibited.	52
6.11.16. Manufacture or Delivery of Drug Paraphernalia Prohibited.	53
6.11.17. Delivery of Drug Paraphernalia to a Minor Prohibited.	53
6.11.18. Conspiracies Prohibited.	53
6.11.19. Prohibited Acts; Fraud, Deceit.	53
6.11.20. Methamphetamine-Related Crimes Involving Children and Vulnerable Adults.	54
6.11.21. Heroin and Opium Use Involving Children and Vulnerable Adults.	55
6.11.22. Abuse of Psychotoxic Chemical Solvents.	55
6.11.23. Mandatory Sentences.	56
6.11.24. Stayed Adjudication and Stayed Sentence Limited.	57
6.11.25. Permissive Inference of Knowing Possession.	57
6.11.26. Unlawful Smoking.	57
6.11.27. Unlawful Assembly.	58
6.11.28. Presence at Unlawful Assembly.	58
6.11.29. Riot.	58
6.11.30. Terroristic Threats.	58
6.11.31. Disorderly Conduct.	59
6.11.32. Public Nuisance.	59
6.11.33. Environment, Criminal Acts.	59
CHAPTER 12 – MISCELLANEOUS CRIMES	60
6.12.1. Obscene or Harassing Communications.	60
6.12.2. Coercion.	60
6.12.3. Public Indecency.	61
6.12.4. Animal Cruelty.	61
6.12.5-6.99.99. Reserved for future use.	61



## BOIS FORTE TRIBAL CODE

### PREAMBLE

The purpose of the Bois Forte Tribal Code (BFTC) is to, whenever possible, restore Minobimaadiziwin (the Good Path of Life) to all persons it serves by providing a progressive, non-judgmental path to health and forgiveness, in accordance with the community's traditional practices and values. First and foremost, the Bois Forte Tribal Court shall be guided by the seven defining Anishinabe teachings or core values:

1. *Nibwaakaawin* — Wisdom;
2. *Zaagi'idiwin* — Love;
3. *Minaadendamowin* — Respect;
4. *Zoongide'ewin* — Bravery;
5. *Gwayakwaadiziwin* — Honesty;
6. *Dabaadendiziwin* — Humility; and
7. *Debwewin* — Truth.

*Accordingly, the Bois Forte Tribal Court's focus in all decisions shall be on the impact it will have seven generations in the future.* If necessary, the presiding Judge may consult a community spiritual leader or elder for guidance when endeavoring to adhere to these principles and the Bois Forte Reservation Council may enact a resolution designating appropriate spiritual leaders or elders available for such consultation.

**TITLE 6  
CRIMES AND OFFENSES – VIOLATIONS**

**6.0.0. Reserved for future use.**

**CHAPTER 1 – ANTICIPATORY CRIMES**

**6.1.1. Attempts.**

- (a) **Prohibited Acts.** Whoever, with intent to commit a crime, does an act which is a substantial step toward, and more than preparation for, the commission of the crime is guilty of an attempt to commit that crime, and may be sentenced as provided in subsection (b) of this Section.
- (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 crime intended or the act itself were such that the commission of the crime 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 crime was not committed because the accused desisted voluntarily and in good faith abandoned the intention to commit the crime.
- (d) **Sentences.** Whoever attempts to commit a crime or offense may be sentenced upon conviction as follows:
  - (1) If the maximum sentence provided for the crime or offense includes incarceration, to not more than one-half of the maximum period of incarceration or one-half of the maximum fine which could be imposed, or both, provided for the crime or offense attempted; or
  - (2) If the crime or offense attempted is a Petty Misdemeanor, to a fine not exceeding \$250.00.

**6.1.2. Conspiracy.**

- (a) **Prohibited Acts.** Whoever conspires with another to commit a crime and in furtherance of the conspiracy one or more of the parties does some overt act in furtherance of such conspiracy may be sentenced upon conviction as follows:
  - (1) If the maximum sentence provided for the crime intended includes incarceration, to not more than one-half of the maximum period of incarceration or one-half of the maximum fine which could be imposed, or both, provided for the crime intended; or
  - (2) If the crime or offense intended is a Petty Misdemeanor, to a fine not exceeding

\$250.00.

(b) **Application.** This section applies if:

- (1) The defendant is within the Bois Forte Indian Reservation and conspires with another person who is outside the Bois Forte Indian Reservation;
- (2) The defendant is outside the Bois Forte Indian Reservation and conspires with another person who is inside the Bois Forte Indian Reservation;
- (3) The defendant is outside the Bois Forte Indian Reservation and conspires with another person who is outside the Bois Forte Indian Reservation and an overt act in furtherance of the conspiracy is committed within the Bois Forte Indian Reservation by either of them; or
- (4) The defendant is within the Bois Forte Indian Reservation and conspires with another person who is inside the Bois Forte Indian Reservation.

## **CHAPTER 2 – CRIMES AGAINST THE PERSON**

### **6.2.1. Simple Assault.**

Whoever does any of the following commits simple assault and is guilty of a Class 3 Misdemeanor and, upon conviction, may be sentenced accordingly:

- (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.

(Resolution 39-2018; November 1, 2017)

### **6.2.2. Aggravated Assault - Substantial Bodily Harm.**

Whoever assaults another and inflicts substantial bodily harm is guilty of a Class 2 Misdemeanor and, upon conviction, may be sentenced accordingly.

(Resolution 39-2018; November 1, 2017)

### **6.2.3. Aggravated Assault - Dangerous Weapon.**

Whoever assaults another with a dangerous weapon is guilty of a Class 1 Misdemeanor and, upon conviction, may be sentenced accordingly.

(Resolution 39-2018; November 1, 2017)

#### **6.2.4. Aggravated Assault - Dangerous Weapon; Substantial Bodily Harm.**

Whoever assaults another with a dangerous weapon and inflicts substantial bodily harm is guilty of a Class 1 Misdemeanor and, upon conviction, may be sentenced accordingly.

#### **6.2.5. Assault - Strangulation.**

Whoever assaults another by means of intentionally impeding normal breathing or circulation of the blood by applying pressure on the throat or neck or by blocking the nose or mouth of another person is guilty of a Class 1 Misdemeanor and, upon conviction may be sentenced accordingly.

#### **6.2.6. Assault - Great Bodily Harm.**

Whoever assaults another and inflicts great bodily harm is guilty of a Felony, and upon conviction, may be sentenced accordingly.

(Resolution 39-2018; November 1, 2017)

#### **6.2.7. Aggravated Assault - Law Enforcement, Conservation, Security Guards, Firefighters, Emergency Medical Personnel, and Other Tribal Officers.**

Whoever assaults, resists, impedes, intimidates, or interferes with a law enforcement officer, conservation officer, security guard, a firefighter, emergency medical personnel, or other tribal officer when that officer is engaged in the lawful performance of his/her duties or on account of the performance of his/her duties is guilty of a Class 2 Misdemeanor and if the actor commits aggravated assault and inflicts substantial bodily harm, he/she is guilty of a Class 1 Misdemeanor provided that a person who commits an assault described in Sections 6.2.3, 6.2.4, or 6.2.5 is guilty of a Felony and, upon conviction, may be sentenced accordingly.

(Resolution 39-2018; November 1, 2017)

#### **6.2.8. Assault of Tribal Justice Personnel.**

Whoever uses, attempts to use, or threatens use of physical force against a Tribal Justice Personnel is guilty of a Class 2 Misdemeanor, provided that a person who inflicts substantial bodily harm on the Tribal Justice Personnel is guilty of a Class 1 Misdemeanor, and provided further that a person who commits an assault described in Sections 6.2.3, 6.2.4, or 6.2.5 is guilty of a Felony, and, upon conviction, may be sentenced accordingly. For purposes of this Section, a Tribal Justice Personnel shall mean any individual authorized to act for, or on behalf of, the Band or serving the Band for the performance of duties, and engaged in such duties at the time of the assault, which include: 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 suspected of committing a crime, charged with a crime, or convicted of a crime; or 4) incarcerating, supervising, providing treatment for, providing rehabilitation services for, or providing reentry

services for persons charged with a crime or convicted of a crime.

(Resolution 58-2025; January 2, 2025)

### **6.2.9. Stalking.**

(a) **Prohibited Acts.** Whoever stalks another person by committing any of the following acts is guilty of a Class 3 Misdemeanor and, upon conviction, may be sentenced accordingly:

- (1) directly or indirectly, or through third parties, manifests a purpose or intent to injure the person or property of another by commission of an unlawful act;
- (2) follows, monitors, or pursues another, whether in person or through any available technological or other means;
- (3) returns to the property of another if the offender is without a right to the property or consent of one with authority to consent;
- (4) repeatedly makes telephone calls or sends text messages to the victim whether or not conversation ensues;
- (5) repeatedly makes or delivers or causes the delivery by any means, including electronically, of letters, messages, or packages; or
- (6) use another's personal information, without consent, to invite, encourage, or solicit a third party to engage in a sexual act with a victim.

(b) **Aggravated Violation.** Whoever commits any of the following acts is guilty of an aggravated violation of Section 6.2.9:

- (1) A person who commits any offense described in Section 6.2.9(a)(2), is subject to a Class 2 Misdemeanor and, upon conviction, may be sentenced accordingly.
- (2) A person who commits any offense described in subsection (a) of this Section 6.2.9 against a victim under the age of eighteen (18), if the offender is more than thirty-six (36) months older than the victim, and the act is committed with sexual or aggressive intent, is guilty of a Class 1 Misdemeanor and, upon conviction may be sentenced accordingly.

(c) **No Proof of Specific Intent Required.** In a prosecution under this Section, the Band is not required to prove that the offender intended the victim to feel frightened, threatened, or intimidated or, except as otherwise provided in subsection (b)(2) of this Section 6.2.9, that the offender intended to cause any other result.

(Resolution 39-2018; November 1, 2017)

#### **6.2.10. Criminal Homicide.**

Whoever intentionally and without lawful excuse, or during the commission of an assault, robbery, abduction, burglary, or sex crime, or through gross negligence and/or recklessness, causes the death of another human being shall be guilty of a Felony and, upon conviction, sentenced accordingly.

(Resolution 39-2018; November 1, 2017)

#### **6.2.11. Robbery.**

Whoever, having knowledge of not being entitled thereto, takes personal property from the person or in the presence of another and uses or threatens the imminent use of force against any person, with or without employing a dangerous weapon, to overcome the person's resistance or powers of resistance to, or to compel acquiescence in, the taking or carrying away of the property is guilty of a Class 1 Misdemeanor and, upon conviction, may be sentenced accordingly.

(Resolution 39-2018; November 1, 2017)

#### **6.2.12. Abduction.**

(a) **Prohibited Acts.** Whoever, for any of the following purposes, confines or removes from one place to another, any person without the voluntarily-given consent of such person or, if the person so confined or so removed is under the age of 16 years, without the voluntarily-given consent of such person's parent, guardian, or other legal custodian, is guilty of abduction:

- (1) to hold for ransom or reward for release, or as a shield or hostage;
- (2) to facilitate commission of any crime or flight thereafter;
- (3) to commit substantial bodily harm or to terrorize the victim or another; or
- (4) to hold in involuntary servitude.

(b) **Penalty.** Whoever violates subsection (a) is guilty of a Class 1 Misdemeanor; however, if the victim suffers great bodily harm during course of the abduction, or the person abducted is under the age of 16, the offender is guilty of a Felony.

(Resolution 39-2018; November 1, 2017)

#### **6.2.13. Depriving Another of Custodial or Parental Rights.**

(a) **Prohibited Acts.** Whoever intentionally does any of the following acts is guilty of a Class 1 Misdemeanor and, upon conviction, may be sentenced accordingly:

- (1) Conceals a minor child from the child's parent where the action manifests an intent substantially to deprive that parent of parental rights or conceals a minor child from another person having the right to visitation or custody where the action manifests an intent to substantially deprive that person of rights to visitation or custody;
- (2) Takes, obtains, retains, or fails to return a minor child in violation of a lawfully issued order of the Bois Forte Tribal Court, or of any other state or tribal court having personal jurisdiction over such child at the time such order was issued, which order has transferred legal custody of such child to another person or to a tribal or state agency, department, institution, or governmental subdivision or unit having powers to accept, place, and supervise the placement of minor Indian children; or
- (3) Takes, obtains, retains, or fails to return a minor child from or to a parent after commencement of an action relating to child visitation or custody but prior to the issuance of an order determining custody or visitation rights, where the action manifests an intent to substantially deprive that parent of parental rights.

(b) **Defenses.** No person violates subsection (a) of this Section if the action:

- (1) Is taken to protect the child from physical or sexual assault or substantial emotional harm;
- (2) Is taken to protect the person taking the action from physical or sexual assault;
- (3) Is consented to by the parent, step-parent, or legal custodian of the child; or
- (4) Is otherwise authorized by a court order issued prior to the violation of subsection (a) of this Section.

The defenses provided in this subsection are in addition to and do not limit other defenses, if any, available under this Chapter or other provisions of the Bois Forte Tribal Code.

(c) **Dismissal of Complaint.** A complaint brought under this Section shall be dismissed if:

- (1) The person voluntarily returns the child within fourteen (14) days after taking, detaining, or failing to return the child in violation of this Section; or
- (2) The person taking the action and the child remain within the Bois Forte Indian Reservation and within a period of fourteen (14) days after taking the action, the person commences a child custody proceeding, by motion or otherwise, in a court having jurisdiction to hear such a matter or the attorney representing the person taking the action consents to service of process in child custody proceedings in a court having competent jurisdiction to hear such a matter commenced, by motion

or otherwise, by the party whose rights are being deprived.

(Resolution 39-2018; November 1, 2017)

**6.2.14. Reserved for future use.**

**6.2.15. Harassment.**

A person who knowingly and repeatedly commits 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, writing, or sounds to another person for no lawful purpose, or who records images, writings, or sounds of another person for no lawful purpose, or who stalks, follows, peers or peeps into windows, or who commits 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, is guilty of a Class 2 Misdemeanor and, upon conviction, shall be sentenced accordingly.

**6.2.16. Abuse of an Elder or Vulnerable Adult.**

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

- (1) **“Abuse”** means any conduct, which is not performed for a lawful, medical, or therapeutic purpose, that:
  - (A) Inflicts, or could reasonably be expected to inflict, physical pain or injury to an elder or vulnerable adult, including hitting, slapping, biting, kicking, pinching, or similar types of conduct;
  - (B) Inflicts, or could reasonably be expected to inflict, emotional distress or mental anguish to an elder or vulnerable adult, including by using words or conduct that a reasonable person would find cruel, disparaging, derogatory, humiliating, harassing, or threatening;
  - (C) Results in the unreasonable confinement or involuntary seclusion of an elder or vulnerable adult, including separating victim from other persons against the victim’s will or against the will of the victim’s legal representative; or
  - (D) Constitutes the commission of any one of the following offenses, as prescribed by the Bois Forte Tribal Code, against an elder or vulnerable adult: Attempts to commit an act of abuse (Section 6.1.1); Conspiracy to commit an act of abuse (Section 6.1.2); any form of Assault defined in Sections 6.2.1 through 6.2.6; Stalking (Section 6.2.9); Criminal Homicide (Section 6.2.10); Robbery (Section 6.2.11); Abduction (Section 6.2.12); Depriving Another of Custodial or Parental Rights (Section 6.2.13); Domestic Violence (Title 12, Sections 12.1.3(d), 12.2.1); Criminal Sexual Conduct (Section 6.3.2); Sexual Assault

(Section 6.3.3); Indecent Exposure (Section 6.3.5); Prostitution and Sex Trafficking (Section 6.3.9); Incest (Section 6.5.1); Obscene or Harassing Communications (Section 6.12.1); or Coercion (Section 6.12.2).

(2) **“Aggravated elder abuse”** means:

- (A) Any intentional act of abuse or any act of neglect that causes an elder or vulnerable adult to suffer grave bodily injury, death, or extreme emotional distress;
- (B) Any intentional act of financial exploitation that deprives an elder or vulnerable adult of the basic necessities of life or subsistence, including, but not limited to, being homeless or residing in unsanitary or uninhabitable living conditions, being unclothed, having severely limited access to food or water, or having severely limited access to life-sustaining medication or medically necessary healthcare;
- (C) Any violation of a crime enumerated under subsection (b) of this Section that occurs within one (1) year of a conviction for the same crime; or
- (D) Any act of abuse, neglect, financial exploitation, or violation of a protection order committed by a caretaker.

(3) **“Bois Forte Elder Services”** means the Bois Forte Band of Chippewa’s agency or officials responsible for providing services to elders and vulnerable adults who are victims of the crimes enumerated under this Section or the subject of protection under Title 15 of the Bois Forte Tribal Code.

(4) **“Bois Forte Police Department”** means the law enforcement agency charged with exercising the criminal or civil jurisdiction of the Bois Forte Band of Chippewa and enforcing the Bois Forte Tribal Code.

(5) **“Caregiver”** means a person who, by operation of federal, state, or tribal law, tribal custom, or their own volition, has care, custody, or control of, or who stands in a position of trust with, an elder or vulnerable adult.

(6) **“Elder”** means a person who is fifty-five (55) years of age or older.

(7) **“Financial exploitation”** means:

- (A) The improper or unauthorized use, withholding, or disposition of an elder or vulnerable adult’s funds, property, or resources;
- (B) Forcing, compelling, coercing, or enticing an elder or vulnerable adult to perform services, or withholding or disposing of his or her funds, property, or resources, for the profit or advantage of another;

- (C) A caretaker’s failure, without lawful excuse or reason, to use or manage an elder or vulnerable adult’s funds, property, or resources in the manner prescribed by the elder or vulnerable adult; or
  - (D) Using the property or personal identifying information of an elder or vulnerable adult to commit, or committing against an elder or vulnerable adult, any one of the following offenses, as prescribed by the Bois Forte Tribal Code: Theft (Section 6.8.1); Forgery (Section 6.10.1); Obtaining Signature by False Pretense (Section 6.10.2); or Fraudulent Statements (Section 6.10.3).
- (8) **“Neglect”** means:
- (A) A caretaker’s wanton, reckless, or grossly negligent failure to provide for the basic needs of an elder or vulnerable adult by not supplying the resources, services, or supervision necessary to maintain the victim’s physical, emotional, and mental health, including the failure to provide services or resources that are central to the practice of the victim’s customs, traditions, or religion; or
  - (B) An act or omission by any person that either interferes with or prevents the delivery of services or resources that are necessary to maintain an elder or vulnerable adult’s physical, emotional, and mental health.
- (9) **“Protective order”** means an emergency protective order or an elder or vulnerable adult protection order issued pursuant to Title 15 – Tribal Elder and Vulnerable Adult Civil Protection Code, of the Bois Forte Tribal Code.
- (10) **“Vulnerable adult”** means any person eighteen (18) years or older who is unable to make decisions or take action to protect him or herself from abuse, neglect, or financial exploitation due to a physical or mental impairment, illness, or chronic condition, including alcoholism or chemical dependency, a developmental disability, or a cognitive degenerative condition.:

**(b) Crimes and Penalties.**

- (1) Abuse of an Elder or Vulnerable Adult.
- (A) Crime. A person who commits any act of abuse commits the crime of Abuse of an Elder or Vulnerable Adult.
  - (B) Penalty. A person convicted of Abuse of an Elder or Vulnerable Adult shall be subject to the greater of the following penalties:
    - (i) The penalties prescribed for persons convicted of committing a Class 1 Misdemeanor; or

(ii) If the conviction hereunder is for a crime enumerated in Section 6.2.16(a)(1)(D) and designated as a Felony by the Bois Forte Tribal Code, then the penalties prescribed for persons convicted of committing a Felony shall apply.

(2) Financial Exploitation of an Elder or Vulnerable Adult.

(A) Crime. A person who does any act of financial exploitation commits the crime of Financial Exploitation of an Elder or Vulnerable Adult.

(B) Penalty. A person who commits Financial Exploitation of an Elder or Vulnerable Adult is guilty of a Class 1 Misdemeanor and, upon conviction, shall be sentenced accordingly.

(3) Neglect of an Elder or Vulnerable Adult.

(A) Crime. A person who does any act of neglect commits the crime of Neglect of an Elder or Vulnerable Adult.

(B) Penalty. A person who commits Neglect of an Elder or Vulnerable Adult is guilty of a Class 1 Misdemeanor and, upon conviction, shall be sentenced accordingly.

(4) Aggravated Elder Abuse.

(A) Crime. A person who does any act of aggravated elder abuse commits the crime of Aggravated Elder Abuse.

(B) Penalty. A person who commits Aggravated Elder Abuse is guilty of a Felony and, upon conviction, shall be sentenced accordingly.

(5) Violation of a Protective Order.

(A) Crime. A person commits Violation of a Protective Order if he or she willfully violates any term or condition of a protective order or any term or condition of a lawful order issued by a properly constituted judicial authority pursuant to a criminal or civil case in tribal, federal, or state court that:

(i) Enjoins the perpetrator from threatening to commit or committing any acts of abuse, financial exploitation, or neglect against an elder or vulnerable adult;

(ii) Prohibits the perpetrator from intimidating, harassing, menacing, annoying, contacting, or otherwise communicating with an elder or vulnerable adult;

(iii) Removes and/or excludes the perpetrator from the residence or a reasonable

area surrounding the residence of an elder or vulnerable adult;

(iv) Requires the perpetrator to stay away from the residence, place of employment, place of worship, or another specified and regularly visited place of an elder or vulnerable adult; or

(v) Prohibits the perpetrator from using or possessing a firearm or other weapon specified in the order.

(B) Penalty. A person who commits Violation of a Protective Order is guilty of a Class 1 Misdemeanor and, upon conviction, shall be sentenced accordingly.

**(c) Mandatory Investigations; Tribal Court's Duty to Deliver Orders.**

(1) Upon receipt of a protective order issued by the Bois Forte Tribal Court or any report of suspected abuse, financial exploitation, or neglect, the Bois Forte Police Department shall promptly conduct an investigation for the purposes of determining whether probable cause exists to prosecute an offense under the Bois Forte Tribal Code, including under this Section 6.2.16; provided, however, that no such investigation is required if the Bois Forte Police Department determines that the investigation would duplicate an existing investigation involving the same facts, alleged perpetrator, and victim.

(2) The Bois Forte Tribal Court shall promptly deliver a copy of any protective order it issues under Title 15, or extension, modification, or termination thereof, or any conviction it orders under this Section 6.2.16 to the Bois Forte Police Department and Bois Forte Elder Services.

**(d) Video Tape Depositions.**

(1) Video Tape Depositions Authorized. In any case where a defendant is charged with a crime against an elder or vulnerable adult, or in any case involving a victim or witness who is an elder or vulnerable adult, the Tribal Prosecutor may file a motion with the Bois Forte Tribal Court at any time prior to the commencement of the trial for an order that a deposition be taken of the testimony of the elder or vulnerable adult victim or witness and that the deposition be recorded and preserved on a video imaging format. The Bois Forte Tribal Court shall identify the witness and fix the date and time for the deposition in the order.

(2) Timing; Cross-Examination. The Tribal Prosecutor shall file a motion requesting a recorded deposition prior to the commencement of the trial and at least fourteen (14) days prior to the taking of the deposition, except that for good cause shown, the Bois Forte Tribal Court may permit the filing of a motion requesting a recorded deposition less than fourteen (14) days prior to taking the deposition. The defendant shall receive reasonable notice of the date, time, and place of the deposition. The defendant shall have the right to be present and to be represented by counsel at the

deposition, which right the defendant waives by failing to appear after receiving notice of the date, time, and place of the deposition.

(3) Types of Depositions; Discovery; Process. Notwithstanding any other provision of the Bois Forte Tribal Code:

(A) To the greatest extent possible, the Bois Forte Tribal Court shall schedule a deposition to take place within fourteen (14) days of the date it receives the motion, unless the Tribal Prosecutor establishes good cause for scheduling the deposition at an earlier time.

(B) The Bois Forte Tribal Court shall grant a motion for a deposition if the Tribal Prosecutor provides a reasonable basis for why the victim or witness may not be available for trial and that the victim or witness's testimony will be material to the case. Filing the motion creates a rebuttable presumption that a deposition should be taken to prevent injustice. The Bois Forte Tribal Court may deny the motion for deposition if it finds that granting the motion will not prevent injustice. The Tribal Prosecutor may file a new request for a deposition if circumstances change prior to trial.

(C) The Tribal Prosecutor and the defendant shall exchange all available discovery not later than five days (5) prior to the scheduled deposition. If the discovery is not timely provided, either party may file a motion with the Bois Forte Tribal Court to reschedule the deposition in order to obtain the discovery required to adequately prepare for the deposition.

(D) A deposition authorized under this Subdivision 4 must be taken, preserved on a video imaging format, and conducted as directed by the Bois Forte Tribal Court. After the deposition is taken, the Tribal Prosecutor shall transmit the recording to the Bois Forte Tribal Court. At least five (5) days before trial, the Tribal Prosecutor shall provide a copy of the deposition to the defendant or the defendant's attorney.

(4) Admissibility. If at the time of trial the Bois Forte Tribal Court finds that the victim or witness is unavailable, consistent with the meaning of Rule 804(a) of the Federal Rules of Evidence, the Bois Forte Tribal Court may admit the recording of the victim's or witness' deposition as former testimony under Rules 804(b)(1) of the Federal Rules of Evidence.

**(e) Rights of Elders and Vulnerable Adults as Victims.**

(1) An elder or vulnerable adult who is the victim of a crime enumerated under subsection (b) of this Section shall have the following rights:

(A) The right to have the Bois Forte Police Department or responding law enforcement officer(s) obtain transportation to an emergency medical treatment

facility, if medical treatment is required;

- (B) The right to have the Bois Forte Police Department or responding law enforcement officer(s) remain at the scene until the victim, and any minor child or other family or household member present at the location at the time of the incident, can be transported to shelter or until the safety of all family or household members is otherwise obtained;
- (C) The right to ask the Tribal Prosecutor to file a criminal complaint;
- (D) The right to petition the Tribal Court for a protection order or appointment of a guardian under Title 15 of the Bois Forte Tribal Code;
- (E) If the crime resulted in any damages incurred by an elder or vulnerable adult, including damages resulting from the loss of property or monies spent on medical services to treat physical or emotional injuries, the Tribal Prosecutor shall seek restitution for those losses against the perpetrator;
- (F) The right to be informed by the Tribal Court of all hearing dates and continuances;
- (G) The right to request a copy of the police report and arrest data from law enforcement at no cost;
- (H) The right to be informed by the Tribal Prosecutor of the release of the defendant and of the prosecutor's decision to decline prosecution of the defendant or to dismiss criminal charges filed against the defendant;
- (I) The right to be informed by law enforcement, with the assistance of Bois Forte Elder Services, by telephone or in person, when bail and conditions of release have been established, before the defendant is released from custody;
- (J) The right to be present at the sentencing hearing or at the hearing during which a plea is presented to the Tribal Court, and to express orally or in writing, at the victim's option, any objection to the plea agreement or other proposed disposition (or if not present, to communicate objections to the Tribal Prosecutor who shall make these objections known to the Tribal Court);
- (K) The right to submit a presentence victim-impact statement, consistent with the statement described in Title 12, Chapter 5, Section 12.5.1(b) of the Bois Forte Tribal Code, to the Tribal Court at the time of sentencing or a dispositional hearing, which may be presented to the Tribal Court orally or in writing or by the Tribal Prosecutor upon the victim's request; and
- (L) If the defendant is eligible for probation, the right to advise the Tribal Court of the conditions of probation required to assure the safety of the victim.

- (2) The duly appointed guardian of an elder or vulnerable adult victim may exercise the rights guaranteed under subsections(e)(1)(C)-(D) and (F)-(L) of this Section 6.2.16. Upon a request granted by the Bois Forte Tribal Court, a caretaker or family member who is not the guardian of an elder or vulnerable adult victim may exercise the rights guaranteed under subsections(e)(1)(C)-(D) and (F)-(L) of this Section 6.2.16.

**(f) Severability; Prior Inconsistent Laws Repealed.**

- (1) Severability. In the event that a court finds invalid any clause or provision of this Section 6.2.16, such invalid clause or provision shall be severed from the remaining body of the Section, and the remainder of this Section shall remain in full force and effect.
- (2) Prior Inconsistent Laws Repealed. Any existing laws that are inconsistent with this Section 6.2.16 are expressly repealed.

(Resolution 39-2018; November 1, 2017)

(Amended through Resolution 58-2025; January 2, 2025)

## **CHAPTER 3 – SEX CRIMES**

### **6.3.1. Definitions.**

- (a) **“Sexual penetration”** means sexual intercourse, cunnilingus, fellatio, anal intercourse, or any intrusion however slight into the genital or anal openings of the complainant’s body of any part of the actor’s body or any object used by the actor for this purpose, where the act is committed without the complainant’s consent, except in those cases where consent is not a defense.
- (b) **“Sexual contact”** includes any of the following acts committed without the complainant’s consent, except in those cases where consent is not a defense, and committed with sexual or aggressive intent:
  - (1) The intentional touching by the actor of the complainant’s intimate parts;
  - (2) The touching by the complainant of the actor’s, the complainant’s, or another’s intimate parts effected by coercion or the use of a position of authority, or by inducement if the complainant is under 13 years of age or mentally impaired;
  - (3) The touching by another of the complainant’s intimate parts effected by coercion or the use of authority; or
  - (4) In any of the cases above, the touching of the clothing covering the immediate area

of the intimate parts.

- (c) “**Complainant**” means the victim or intended victim of the sex crime without regard to whether or not said “complainant” is the person who actually signed the criminal complaint.
- (d) “**Actor**” means the person alleged to have committed an act of criminal sex crime.
- (e) “**Coercion**” means words or circumstances that cause the complainant reasonably to fear that the actor will inflict bodily harm upon, or hold in confinement, the complainant or another, or force the complainant to submit to sexual penetration or contact, but proof of coercion does not require proof of a specific act or threat.
- (f) “**Consent**” means a voluntary uncoerced manifestation of a present agreement to perform a particular sexual act with the actor.
- (g) “**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, lacks the judgment to give a reasoned consent to sexual contact or sexual penetration.
- (h) “**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 a reasoned consent to sexual contact or penetration.
- (i) “**Physically helpless**” means that a person is:
  - (1) Asleep or not conscious;
  - (2) Unable to withhold consent or to withdraw because of a physical condition; or
  - (3) Unable to communicate non-consent and the condition is known or reasonably should have been known to the actor.
- (j) “**Position of authority**” includes, but is not limited to, any person who is a parent or acting in the place of a parent and charged with any of a parent’s rights, duties, or responsibilities to a child, or a person who is charged with any duty or responsibility for the health, welfare, or supervision of a child, either independently or through another, no matter how brief, at the time of the act.
- (k) “**Significant relationship**” means a situation in which the actor is:
  - (1) The complainant’s parent, stepparent, or guardian;
  - (2) Any of the following persons related to the complainant by blood, marriage, or adoption: brother, sister, stepbrother, stepsister, first cousin, aunt, uncle, nephew,

niece, grandparent, great-grandparent, great-uncle, great-aunt, or

- (3) An adult who jointly resides intermittently or regularly in the same dwelling as the complainant and who is not the complainant's spouse.
- (l) **"Force"** means the infliction, attempted infliction, or threatened infliction by the actor of bodily harm or commission or threat of any other crime by the actor against the complainant or another, which:
  - (1) Causes the complainant to reasonably believe that the actor has the present ability to execute the threat; and
  - (2) If the actor does not have a significant relationship to the complainant, also causes the complainant to submit.
- (m) **"Intimate parts"** includes the primary genital area, groin, inner thigh, buttocks, or breast of a human being.

(Resolution 39-2018; November 1, 2017)

### **6.3.2. Criminal Sexual Conduct.**

- (a) **Prohibited Acts.** Whoever engages in sexual penetration with another person or in sexual contact with a complainant under thirteen (13) years of age is guilty of criminal sexual conduct if any one or more of the following circumstances exist;
  - (1) The complainant is under thirteen (13) years of age and the actor is more than thirty-six (36) months older than the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;
  - (2) The complainant is at least thirteen (13) years of age but less than sixteen (16) years of age and the actor is more than forty-eight (48) months older than the complainant and in a position of authority over the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;
  - (3) The actor uses force or coercion to accomplish the sexual penetration;
  - (4) The actor knows or has reason to know that the complainant is mentally impaired, mentally incapacitated, or physically helpless;
  - (5) The actor is aided or abetted by one or more accomplices and either an accomplice uses force or coercion to cause complainant to submit or an accomplice is armed with a dangerous weapon and uses or threatens to use the weapon to cause the complainant to submit;
  - (6) The actor has a significant relationship to the complainant and the complainant was

under sixteen (16) years of age at the time of the sexual penetration. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense; or

- (7) The actor has a significant relationship to the complainant, the complainant was under sixteen (16) years of age at the time of the sexual penetration, and;
  - (A) The actor or accomplice used force or coercion to accomplish the penetration;
  - (B) The complainant suffered personal injury; or
  - (C) The sexual abuse, as defined in Section 6.5.3, involved multiple acts committed over an extended period of time.

Neither mistake as to the complainant's age nor consent to the act is a defense.

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

(Resolution 39-2018; November 1, 2017)

### **6.3.3. Sexual Assault.**

- (a) **Prohibited Acts.** Whoever engages in sexual contact with another person is guilty of sexual assault if any of the following circumstances exist:
  - (1) The complainant is under thirteen (13) years of age and the actor is more than thirty-six (36) months older than the complainant. The prosecutor is not required to prove that the sexual contact with a complainant under thirteen (13) years of age was coerced. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;
  - (2) The complainant is at least thirteen (13) but less than sixteen (16) years of age and the actor is more than forty-eight (48) months older than the complainant and in a position of authority over the complainant. Neither mistake as to the complainant's age nor consent to the act is a defense;
  - (3) Circumstances existing at the time of the sexual contact cause the complainant to have a reasonable fear of imminent great bodily harm to the complainant or another;
  - (4) The actor is armed with a dangerous weapon and uses or threatens to use the dangerous weapon to cause the complainant to submit;
  - (5) The actor uses force or coercion to accomplish the sexual contact;
  - (6) The actor knows or has reason to know that the complainant is mentally impaired,

mentally incapacitated or physically helpless;

- (7) The actor is aided or abetted by one or more accomplices and the accomplice uses force or coercion to cause the complainant to submit;
- (8) The actor has a significant relationship to the complainant and the complainant was under 16 years of age at the time of the sexual contact. Neither mistake as to the complainant's age nor consent by the complainant is a defense;
- (9) The actor has a significant relationship to the complainant, the complainant was under sixteen (16) years of age at the time of the sexual contact, and
  - (A) The actor or an accomplice used force or coercion to accomplish the contact;
  - (B) The complainant suffered personal injury; or
  - (C) The sexual abuse, as defined in Section 6.5.3, involved multiple acts committed over an extended period of time.

Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense; or

- (10) The complainant is in official custody or otherwise detained in a hospital, prison or other similar institution and the actor has supervisory or disciplinary authority over the detained person.

- (b) **Penalty.** A person who commits sexual assault is guilty of a Class 1 Misdemeanor, except that a person who commits and act that violates subsection (a)(9) above is guilty of a Felony and, upon conviction, shall be sentenced accordingly.

(Resolution 39-2018; November 1, 2017)

#### **6.3.4. Statutory Rape.**

- (a) **Prohibited Acts.** 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 difference between the age of the victim and the age of the offender is two (2) years or greater, commits statutory rape.
- (b) **Penalty.** A person who commits statutory rape is guilty of a Class 2 Misdemeanor and, upon conviction, shall be sentenced accordingly.

(Resolution 39-2018; November 1, 2017)

### **6.3.5. Indecent Exposure.**

- (a) **Prohibited Acts.** A person who exposes his or her genitals or other intimate parts under circumstances likely to cause affront or alarm commits indecent exposure.
- (b) **Penalty.** A person who commits indecent exposure is guilty of a Class 3 Misdemeanor and, upon conviction, shall be sentenced accordingly. On a second or subsequent conviction under this section, the offender shall be guilty of a Class 2 Misdemeanor and, upon conviction, shall be sentenced accordingly.

(Resolution 39-2018; November 1, 2017)

### **6.3.6. Solicitation of Children to Engage in Sexual Conduct.**

Whoever, being eighteen (18) years of age or older, commands, entreats, or attempts to persuade an individual under the age of fifteen (15) years to engage in sexual contact or sexual penetration with the intent to engage in such or similar conduct is guilty of a Felony and, upon conviction, may be sentenced accordingly.

(Resolution 39-2018; November 1, 2017)

### **6.3.7. Medical Purposes; Exclusion.**

Sections 6.3.1 through 6.3.9 do not apply to sexual penetration or sexual contact when done for a bona fide medical purpose.

(Resolution 39-2018; November 1, 2017)

### **6.3.8. Evidence.**

In any prosecution under Sections 6.3.1 through 6.3.9, the Court may be guided by the principles of evidence contained in Minnesota Statutes (1998) § 609.347, or any subsequent amendments thereto, except insofar as such principles may have been specifically rejected by resolution enacted by the Bois Forte Reservation Tribal Council or which have been determined by written decision of the Court to be a denial of either equal protection or due process rights or are otherwise invalid as being contrary to federal or tribal law.

(Resolution 39-2018; November 1, 2017)

### **6.3.9. Prostitution and Sex Trafficking.**

#### **(a) Definitions.**

##### **(1) “Coercion” means:**

- (A) Threatening to use force on the individual or a child, family member, or pet of

the individual;

- (B) Abusing a position of power or another individual's position of vulnerability;
  - (C) Abusing or threatening to abuse the law or legal process;
  - (D) Controlling or threatening to control an individual's access to an intoxicating beverage or toxic or controlled substance, as defined in this Chapter;
  - (E) Destroying, taking, or threatening to destroy or take an individual's property;
  - (F) Inducing an individual to provide commercial sexual activity in payment toward a real or purported debt;
  - (G) Exploiting an individual's physical or mental impairment when the impairment has a substantial adverse effect on the individual's cognitive or volitional function; or
  - (H) Threatening any harm, whether physical or nonphysical, including psychological, financial, or reputational harm, that is sufficiently serious, under all the surrounding circumstances, to compel a reasonable person of the same background and in the same circumstances to perform or to continue performing commercial sexual activity in order to avoid incurring that harm.
- (2) **“Commercial sexual activity”** means sexual activity for which anything of value is given to, promised to, or received by an individual.
- (3) **“Force”** includes, but is not limited to, abduction, physical restraint or confinement, sexual or physical violence, or serious harm.
- (4) **“Fraud”** means intentional misrepresentation of a material existing fact made with knowledge of its falsity, including, but not limited to, written or verbal statements about employment, wages, working conditions, or other financial opportunities.
- (5) **“Prostitute”** means an individual 18 years of age or older who engages in Prostitution by offering or agreeing to be hired by another individual to engage in commercial sexual activity.
- (6) **“Prostitution”** means a Prostitute engaging, offering, or agreeing to engage for hire in commercial sexual activity with a Patron. Prostitution excludes any third-party benefit.
- (7) **“Patron”** means an individual who engages in Prostitution by hiring, offering to hire, or agreeing to hire a Prostitute to engage in commercial sexual activity.
- (8) **“Promoting Prostitution”** means any of the following:

- (A) Soliciting or procuring Patrons for a Prostitute;
  - (B) Providing, leasing, or otherwise permitting premises or facilities owned or controlled by the person to aid in Prostitution;
  - (C) Knowingly owning, managing, supervising, controlling, keeping, or operating, either alone or with others, a place where Prostitution occurs for the purpose of promoting Prostitution; or
  - (D) Knowingly admitting a Patron to a place for the purpose of Prostitution.
- (9) “**Sexual activity**” means sexual penetration or sexual contact, as defined in Section 6.3.1.
- (10) “**Sex Trafficking**” means, while acting other than a Patron, knowingly:
- (A) Soliciting, recruiting, enticing, harboring, providing, transporting, patronizing, or obtaining by any means a person to engage in a commercial sex act; or
  - (B) Benefiting financially or receiving anything of value, other than as a Sex Trafficking Victim, from participation in a venture which has engaged in an act described above in paragraph (A).
- (11) “**Aggravated Sex Trafficking**” means any person engaging in any of the acts defined in subsection (a)(10)(A) and (B), above:
- (A) knowing, or in reckless disregard of the fact, that means of force, threats of force, fraud, coercion, or any combination of such means will be used to cause the person to engage in a commercial sex act; or
  - (B) knowing, or having had a reasonable opportunity to observe, that the person has not attained the age of 18 years and will be caused to engage in a commercial sex act.
- (12) “**Participation in a venture**” means knowingly assisting, supporting, or facilitating a violation of subsection (a)(10)(A), above.
- (13) “**Venture**” means any group of two or more individuals associated in fact, whether or not a legal entity.
- (14) “**Sex Trafficking Victim**” means a person subjected to the practices described in subsection (a)(10) and (11).
- (b) **Prostitution – Prohibited Acts.** Whoever engages in Prostitution or Promoting Prostitution is guilty of a Class 3 Misdemeanor and, upon conviction, may be sentenced

accordingly.

- (c) **Prostitution – Increased Sentences.** Whoever violates subsection (b) of this section after having been previously convicted of a similar violation within a period of one (1) year prior to the second or subsequent offense is guilty of a Felony and, upon conviction, may be sentenced accordingly.
- (d) **Sex Trafficking – Prohibited Acts.** Whoever intentionally or knowingly engages in Sex Trafficking is guilty of a Class 1 Misdemeanor and, upon conviction, may be sentenced accordingly.
- (e) **Sex Trafficking – Increased Sentences.** Whoever violates subsection (d) of this section after having been previously convicted of a similar violation within a period of one (1) year prior to the second or subsequent offense is guilty of a Felony and, upon conviction, may be sentenced accordingly.
- (f) **Aggravated Sex Trafficking – Prohibited Acts.** Whoever intentionally or knowingly engages in Aggravated Sex Trafficking is guilty of a Felony and, upon conviction, may be sentenced accordingly.
- (g) **Victim Immunity; Victim Access to Expungement.**
  - (1) A person is not criminally liable for the offenses of Prostitution, Sex Trafficking, or any other nonviolent offense if the person committed the offense while being a Sex Trafficking Victim.
  - (2) A person may not be arrested or charged with the offenses of Prostitution, Sex Trafficking, or any other nonviolent offense if the person committed the offense as a Sex Trafficking Victim and as a minor.
  - (3) A person convicted of a non-violent offense, including Prostitution and Sex Trafficking, committed while being victim of, or as a result of being a victim of Sex Trafficking, may apply to the Bois Forte Tribal Court to expunge the applicant's record of conviction for the offense. The Court may grant such application on a finding that the applicant's participation in the offense occurred while being a Sex Trafficking Victim or as a result of being a Sex Trafficking Victim.
- (h) **Forfeiture of Assets Aiding In or Derived From a Prostitution or Sex Trafficking Crime.** Upon conviction of a Class 1 Misdemeanor or Felony violation of Prostitution or Sex Trafficking, the Court, in addition to imposing a sentence on such person, may order forfeiture of any of the foregoing property:
  - (1) Any property constituting, or derived from, any proceeds the person obtained, directly or indirectly, as a result of such violation; and

- (2) Any of the person's property used, intended to be used, in any manner or part, to commit, or to facilitate the commission of, such violation.
- (i) **Rights of Sex Trafficking Victims.** All Sex Trafficking Victims shall have the following rights:
- (1) The right to have law enforcement obtain transportation to an emergency medical treatment facility, if medical treatment is required;
  - (2) The right to have law enforcement remain at the scene until the victim, and any minor child or other family or household member present at the location at the time of the incident, can be transported to shelter or until the safety of all family or household members is otherwise obtained;
  - (3) The right to ask the Tribal Prosecutor to file a criminal complaint;
  - (4) If applicable relationship exists, the right to go the Tribal Court and file an application requesting a Domestic Violence protection order and obtain the relief described in 12.6.1(e);
  - (5) If the offense resulted in damage to or loss of property to the Sex Trafficking Victim, the Tribal Prosecutor shall seek restitution for those losses;
  - (6) The right to be informed by the Tribal Court of all hearing dates and continuances;
  - (7) The right to request a copy of the police report and arrest data from law enforcement at no cost;
  - (8) The right to be informed by the Tribal Prosecutor of the release of the defendant, if the Tribal Prosecutor has decided to decline prosecution of the defendant or to dismiss the criminal charges filed against the defendant;
  - (9) The right to be informed by law enforcement, with the assistance of the Bois Forte Victim Services, by telephone or in-person when bail and conditions of release have been established, before the defendant is released;
  - (10) The right to be present at the sentencing hearing and at the hearing during which a plea is presented to the Tribal Court and to express orally or in writing, at the victim's option, any objection to the plea agreement or other proposed disposition (or if not present, to communicate objections to the Tribal Prosecutor who shall make these objections known to the Tribal Court);
  - (11) The right to submit a presentence victim-impact statement, as described in Section 12.5.1(b), to the Tribal Court at the time of sentencing or disposition hearing, which may be presented to the Tribal Court orally or in writing, at the victim's option, or by the Tribal Prosecutor if the victim requests; and

(12) If the defendant is eligible for probation, the right to advise the Tribal Court of conditions of probation required to assure the safety of the victim.

(j) **Lack of Knowledge of Victim’s Age and Consent Not Defenses.** A Defendant’s lack of knowledge of a victim’s age or consent provided by the victim are not defenses to the offenses of Prostitution or Sex Trafficking.

(k) **Mandated Reporting.**

(1) Suspected Prostitution or Sex Trafficking of a person under the age of eighteen (18) years old shall constitute a mandated report for individuals required to make such reports under applicable Bois Forte, state, or federal law.

(2) Bois Forte Victim Services shall deliver any report of suspected Sex Trafficking within a reasonable time of the grant of consent of the adult victim and taking care to protect the confidentiality rights of the adult victim.

(3) The Bois Forte Police Department shall deliver any report of Sex Trafficking, irrespective of how the report was delivered or the report’s source, to Bois Forte Victim Services within thirty-six (36) hours of receiving the report.

(4) No report shall be deemed a public record and all reports are subject to all applicable Bois Forte, state, or federal victim confidentiality laws.

(Resolution 39-2018; November 1, 2017)

(Amended through Resolution 58-2025; January 2, 2025)

## **CHAPTER 4 – COMPUTER-AIDED SEXUAL OFFENSES INVOLVING MINORS**

### **6.4.1. Definitions.**

For purposes of this Chapter 4 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; or

(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 management, 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; or
  - (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.

#### **6.4.2. Pornography Involving Juveniles.**

- (a) **Prohibited Acts.** It shall be unlawful for:
  - (1) A person to produce, promote, advertise, distribute, possess, or possess with the intent to distribute pornography involving juveniles; or
  - (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 prosecution for a violation of this Section:
  - (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) **Penalty.**
  - (1) **Possession.** Whoever intentionally possesses pornography involving juveniles is guilty of a Class 2 Misdemeanor and, upon conviction, shall be sentenced accordingly. On a second conviction under this subsection (d)(1), the offender shall be guilty of a Class 1 Misdemeanor and, upon conviction, shall be sentenced accordingly without the benefit of parole, probation, or suspension of the sentence.
  - (2) **Distribution.** Whoever distributes or possesses with the intent to distribute

pornography involving juveniles shall be guilty of a Class 1 Misdemeanor and, upon conviction, shall be sentenced accordingly. On a second conviction under this subsection (d)(2), the offender shall be guilty of a Felony and, upon conviction, shall be sentenced accordingly.

- (3) **Parent, Guardian, or Custodian Consent.** Any parent, legal guardian, or custodian of a child who consents to the participation of the child in pornography involving juveniles shall be guilty of a Class 1 Misdemeanor and, upon conviction, shall be sentenced accordingly. On a second conviction under this subsection (d)(3), the offender shall be guilty of a Felony and, upon conviction, shall be sentenced accordingly without the benefit of parole, probation, or suspension of the sentence.
  - (4) **Production.** Whoever engages in the promotion, advertisement, or production of pornography involving juveniles shall be guilty of a Class 1 Misdemeanor and, upon conviction, shall be sentenced accordingly. On a second conviction under this subsection (d)(4), the offender shall be guilty of a Felony and, upon conviction, shall be sentenced accordingly without the benefit of parole, probation, or suspension of the sentence.
  - (5) **Pornography Involving Juveniles Under the Age of Thirteen.** Whoever commits the crime of pornography involving juveniles punishable by the penalties prescribed in subsections (d)(1)-(4) when the juvenile victim is under the age of thirteen (13) years and the offender is eighteen (18) years of age or older shall be guilty of a Felony and, upon conviction, shall be sentenced accordingly. On a second conviction under this subsection (d)(5), the offender shall be guilty of a Felony and upon conviction, shall be sentenced accordingly without the benefit of parole, probation, or suspension of the sentence.
- (e) **Determining the Age of the Victim.** In prosecutions for violations of this section, 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; and

- (6) Such other information, factors, and evidence available to the trier of fact which the court determines as relevant, probative, and reasonably reliable.
- (f) **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.

#### 6.4.3. Computer-Aided Solicitation of a Minor.

(a) **Prohibited Acts.** Computer-aided solicitation of a minor is committed when:

- (1) A person seventeen (17) 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 believe to have not yet attained the age of seventeen (17);
  - (2) A person seventeen (17) 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 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 subsection (a)(1); or
  - (3) The contact or communication subject to subsection-(a)(1)-(2) 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 prosecution violation of this Section:
- (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.

(c) **Penalty.**

- (1) **Victim thirteen years or more.** Whoever violates the provisions of this section

when the victim is thirteen (13) years or more but has not attained the age of seventeen (17) shall be guilty of a Class 1 Misdemeanor and, upon conviction, shall be sentenced accordingly. On a second conviction under this subsection (c)(1), the offender shall be guilty of a Felony and, upon conviction, shall be sentenced accordingly.

- (2) **Victim under the age of thirteen.** Whoever violates the provisions of this section when the victim is under thirteen (13) years of age shall be guilty of a Felony and, upon conviction, shall be sentenced accordingly. On a second conviction under this subsection (c)(2), the offender shall be guilty of a Felony and, upon conviction, shall be sentenced accordingly without the benefit of parole, probation, or suspension of the sentence.
- (3) **Offender reasonably perceived age of victim.** Whoever violates the provisions of this section, when the victim is a person reasonably believed to have not yet attained the age of seventeen (17), is guilty of a Class 1 Misdemeanor and, upon conviction, shall be sentenced accordingly. On a second conviction under this subsection (c)(3), the offender shall be guilty of a Felony and, upon conviction, shall be sentenced accordingly.
- (4) **Sexual conduct involved.** If the computer-aided solicitation results in actual sexual conduct between the offender and victim and the difference between the age of the victim and the age of the offender is five (5) years or greater, the offender is guilty of a Felony and, upon conviction, shall be sentenced accordingly without the benefit of parole, probation, or suspension of the sentence.

(Resolution 39-2018; November 1, 2017)

## CHAPTER 5 – CRIMES AGAINST THE FAMILY

### 6.5.1. Incest.

Whoever has sexual intercourse with another nearer of kin to the actor than second cousin, computed by the rules of civil law, whether or not of the half or the whole blood, with knowledge of the relationship is guilty of a Class 1 Misdemeanor and, upon conviction, may be sentenced accordingly.

(Resolution 39-2018; November 1, 2017)

### 6.5.2. Non-Support of Spouse or Child.

- (a) **Prohibited Acts.** Whoever is legally obligated to provide care or support for a spouse who is in necessitous circumstances, or whoever is legally obligated to provide care or support of a minor child, whether or not said child is in the custody of another, and who knowingly omits and fails to provide such care and support without lawful excuse to do so is guilty of a Class 3 Misdemeanor and, upon conviction, may be sentenced

accordingly.

- (b) **Increased Sentence.** If the knowing omission or failure without lawful excuse to provide such care and support continues for a period in excess of ninety (90) days, the person is guilty of a Class 1 Misdemeanor and, upon conviction, shall be sentenced accordingly.

(Resolution 39-2018; November 1, 2017)

### **6.5.3. Neglect, Abuse, or Endangerment of a Child.**

#### **(a) Definitions.**

- (1) **“Child”** means any person under the age of eighteen (18) years.
- (2) **“Caretaker”** means an individual who has responsibility for the care of a child as result of a family relationship or who has assumed responsibility for all or a portion of the care of a child.
- (3) **“Sexual abuse”** means the subjection of a child by a person responsible for the child’s care, by a person who has a significant relationship to the child, as defined in Section 6.3.1(k), or by a person in a position of authority, as defined in Section 6.3.1(j), to any act which constitutes a crime or offense as defined in Sections 6.3.2 through 6.3.9.

- (b) **Prohibited Acts.** Whoever, being a parent, legal guardian, or caretaker does any of the following is guilty of a Class 1 Misdemeanor, except where the abuse involved any form of criminal sexual conduct, as defined in Section 6.3.2, in which case the offender is guilty of a Felony and, upon conviction, shall be sentenced accordingly:

- (1) Willfully deprives a child of necessary food, clothing, shelter, health care, or supervision appropriate to the child’s age, when the parent, legal guardian, or caretaker is reasonably able to make the necessary provisions and which deprivation substantially harms the child’s physical or emotional health;
- (2) Knowingly permits the continuing physical abuse or sexual abuse of a child;
- (3) Intentionally causing or permitting a child to be placed in a situation likely to substantially harm the child’s physical or mental health or cause the child’s death;
- (4) Knowingly causing or permitting the child to be present where any person is selling or possessing a controlled substance;
- (5) Knowingly causing or permitting the child, if under the age of sixteen, to habitually and/or continually be absent from school attendance without lawful excuse; or

- (6) By an intentional act or a series of intentional acts with respect to a child, evidences unreasonable force or cruel discipline that is excessive under the circumstances.
- (c) **Defenses.** It is defense to a prosecution under subsection (b) above that at the time of the neglect, abuse, or endangerment there was a reasonable apprehension in the mind of the defendant that acting to stop or prevent the neglect, abuse, or endangerment would result in substantial bodily harm to the defendant or to the child in retaliation.
- (d) **Permitted Actions.**
- (1) If a parent, legal guardian, or caretaker responsible for the child's care in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the child, this treatment or care is "health care" within the meaning of this section.
  - (2) This section does not prevent a parent, legal guardian, or caretaker from causing or permitting a child to engage in activities that are appropriate to the child's age, stage of development, and experience, or from selecting health care as permitted in subsection (d)(1) above.
  - (3) Reasonable force may be used upon or toward the person of a child without the child's consent when used by a parent, legal guardian, teacher, or other caretaker of a child, or of a pupil, in the exercise of lawful authority, to restrain or correct the child or pupil or when necessary to restrain the child or pupil from self-injury or injury to any other person or property.
- (e) **Order for Protection.** Upon application, petition, or motion of the tribal prosecutor, or the Chief of Police or other designated deputy of the Nett Lake Police Department, or upon the Court's own motion, the Bois Forte Tribal Court may issue an order for protection of any child who is the victim of a violation of this section when the same is deemed necessary for the protection of the physical or emotional health of said child. The procedures for seeking, obtaining and issuing such an order for protection shall be as set forth in Title 12.

(Resolution 39-2018; November 1, 2017)

## CHAPTER 6 – CRIMES AFFECTING TRIBAL GOVERNMENT

### 6.6.1. Bribery.

- (a) **Prohibited Acts.** Whoever commits any of the following acts is guilty of a Class 1 Misdemeanor and, upon conviction, shall be sentenced accordingly:
- (1) Offers, gives, or promises to give, directly or indirectly, to any tribal officer, official, employee, or to any member of a Bois Forte Tribal Court jury or other deliberative panel, any benefit, reward, consideration, or other thing of value to

which said officer, official, employee, member of a tribal court jury or other deliberative panel is not legally entitled with the intent to influence such person in the official discharge of said person's duties, conduct, or deliberations; or

- (2) Being a tribal officer, official, employee, member of a Bois Forte Tribal Court jury or other deliberative panel knowingly accepts, solicits, or attempts to solicit any benefit, reward, consideration, or other thing of value to which said officer, official, employee, member of a Bois Forte Tribal Court jury or other deliberative panel, is not entitled.

(Resolution 39-2018; November 1, 2017)

#### **6.6.2. Corruptly Influencing Tribal Officer or Employee.**

Whoever by menace, deception, concealment of facts, or other corrupt means, attempts to influence the vote or other performance of duty of any member of the Bois Forte Reservation Tribal Council, or of any other person who is an employee of the Bois Forte Reservation Tribal Council or its agencies, divisions, and departments is guilty of a Class 1 Misdemeanor and, upon conviction, shall be sentenced accordingly.

(Resolution 39-2018; November 1, 2017)

#### **6.6.3. Misconduct of Tribal Officer or Employee.**

A tribal officer or employee who commits any of the following acts is guilty of a Class 1 Misdemeanor and, upon conviction, may be sentenced accordingly:

- (a) Intentionally fails or refuses to perform a known mandatory, non-discretionary, ministerial duty of the office or employment within the time or in the manner required by law;
- (b) In the capacity of such officer or employee, does an act knowing it is in excess of lawful authority or knowing it is forbidden by law to be done in that capacity;
- (c) Under the pretense or color of official authority intentionally and unlawfully injures another in the other's person, property, or rights; or
- (d) In the capacity of such officer or employee, makes a return, certificate, official report, or other like document having knowledge it is false in any material respect.

(Resolution 39-2018; November 1, 2017)

#### **6.6.4. Misuse of Tribal Property.**

Whoever intentionally takes, uses, conceals, transfers, damages, or destroys any public property, real or personal, of the Bois Forte Band without the lawful authority to do so is guilty of

a Class 1 Misdemeanor and, upon conviction, may be sentenced accordingly.

(Resolution 39-2018; November 1, 2017)

#### **6.6.5. Permitting False Claims Against Tribal Government.**

A tribal officer or employee who intentionally audits, allows, or pays any claim or demand upon the Bois Forte Reservation Tribal Council, or upon any agency, division, or department thereof, which the tribal officer or employee knows is false or fraudulent in whole or in part is guilty of a Class 1 Misdemeanor and, upon conviction, may be sentenced accordingly.

(Resolution 39-2018; November 1, 2017)

#### **6.6.6. Presenting False Claims to Tribal Officer or Body.**

Whoever, with intent to defraud, presents a claim or demand, with knowledge that it is false in whole or in part, for audit, allowance, or payment to a tribal officer or body authorized to make such audit, allowance, or payment is guilty of a Class 1 Misdemeanor, and upon conviction, may be sentenced accordingly.

(Resolution 39-2018; November 1, 2017)

#### **6.6.7. Impersonating Tribal Officer or Employee.**

Whoever falsely impersonates a tribal officer or employee with the intent to mislead another into believing that the impersonator is actually such officer or employee, or has the powers and authority of such an officer or employee, is guilty of a Class 2 Misdemeanor and, upon conviction, shall be sentenced accordingly.

(Resolution 39-2018; November 1, 2017)

#### **6.6.8. Violations of Approved Tribal Ordinances.**

Whoever intentionally violates an ordinance designed to preserve the peace, safety, and welfare of the Bois Forte Band of Chippewa which has been hereafter duly enacted by the Bois Forte Reservation Tribal Council is guilty of a Petty Misdemeanor and, upon conviction, shall be sentenced accordingly unless said ordinance specifically provides that a violation thereof constitutes a greater offense.

#### **6.6.9. Conducting Unauthorized Gaming.**

Whoever conducts any form of gaming regulated by Bois Forte Reservation Tribal Council Ordinance No. 43-94 without a valid license or in a manner not authorized by tribal law is guilty of a Class 1 Misdemeanor, and upon conviction, may be sentenced accordingly.

(Resolution 39-2018; November 1, 2017)

#### **6.6.10. Interference with Tribal Officers and Employees in the Lawful Performance of their Duties.**

- (a) **Prohibited Acts.** Whoever intentionally interferes with or obstructs any tribal officer or employee engaged in the lawful performance of their duties for the purpose of preventing or obstructing said officer or employee from performing said duties and, after being requested to cease said interference or obstruction, knowingly continues to do so is guilty of a Class 3 Misdemeanor and, upon conviction, may be sentenced accordingly.

(Resolution 39-2018; November 1, 2017)

- (b) **Exercise of Civil Rights.** Nothing contained herein shall be construed to restrict any tribal member, or any other person, from freely exercising their constitutionally protected rights of free speech, freedom of assembly or the right to peacefully petition for redress of grievances.

### **CHAPTER 7 – CRIMES AGAINST THE ADMINISTRATION OF JUSTICE**

#### **6.7.1. Perjury.**

- (a) **Acts Constituting.** Whoever makes a false material statement not believing it to be true in any of the following cases is guilty of a Class 1 Misdemeanor and, upon conviction, may be sentenced accordingly:
- (1) In or for an action, hearing, or proceeding of any kind in which the statement is required or authorized by law to be made under oath or affirmation;
  - (2) In any writing which is required or authorized by law to be under oath or affirmation including an application for a license or other benefit from the Bois Forte Band; or
  - (3) In any other case in which the penalties for perjury are imposed by law and no specific sentence is provided.

(Resolution 39-2018; November 1, 2017)

- (b) **Defenses Not Available.** It is not a defense to a violation of this section that:
- (1) The oath or affirmation was taken or administered in an irregular manner;
  - (2) The declarant was not competent to give the statement;
  - (3) The declarant did not know that the statement was material or believed it to be immaterial;
  - (4) The statement was not used or, if used, did not affect the proceeding for which it

was made; or

(5) The statement was inadmissible under the law of evidence.

(c) **Inconsistent Statements.** When the declarant has made two inconsistent statements under such circumstances that one or the other must be false and not believed by the declarant when made, it shall be sufficient for conviction under this section to charge and the trier of fact to find that, without determining which, one or the other of such statements was false and not believed by the declarant. The period of limitations for prosecution under this subdivision runs from the first such statement.

### **6.7.2. Escape from Custody.**

(a) **Prohibited Acts.**

(1) Whoever, being held in lawful custody on a charge or conviction of a crime, escapes or attempts to escape, or who escapes while detained in a jail or other correctional facility, is guilty of a Class 1 Misdemeanor and, upon conviction, shall be sentenced accordingly.

(2) Whoever intentionally permits or assists another person, said other person being in the actor's lawful custody on a charge or a conviction of a crime, to escape is guilty of a Class 1 Misdemeanor and, upon conviction, shall be sentenced accordingly.

(3) Whoever, whether being detained pursuant to lawful arrest or being held in lawful custody on a charge or conviction of a crime, escapes or attempts to escape and uses physical force or a dangerous and/or deadly weapon to effect said escape or attempted escape is guilty of a Class 1 Misdemeanor and, upon conviction, shall be sentenced accordingly.

(4) Whoever, being held in lawful custody on a charge or a conviction of a crime, escapes or attempts to escape without using physical force or a dangerous and/or deadly weapon is guilty of a Class 2 Misdemeanor and, upon conviction, shall be sentenced accordingly.

(5) Whoever, being detained pursuant to a lawful arrest, escapes or attempts to escape without using physical force or a dangerous and/or deadly weapon is guilty of a Class 3 Misdemeanor and, upon conviction, shall be sentenced accordingly.

(Resolution 39-2018; November 1, 2017)

### **6.7.3. Fleeing a Peace Officer in a Motor Vehicle.**

(a) **Definitions.**

(1) **"Flee"** means to increase speed, extinguish motor vehicle headlights or taillights,

or to use any other means with intent to elude a peace officer following a signal given by any peace officer to the driver of a motor vehicle.

- (2) **“Peace officer”** means any law enforcement officer of the Bureau of Indian Affairs and/or the Nett Lake Police Department, any Bois Forte Conservation Officer, or any other tribal, federal, or state law enforcement officer charged with the prevention of and detection of crime and the enforcement of general criminal and conservation laws and who, at the time of the act, has the full power of arrest within the Bois Forte Indian Reservation.

- (b) **Prohibited Acts.** Whoever by means of a motor vehicle flees or attempts to flee a peace officer who is acting in the lawful exercise of an official duty, and the actor knows or should reasonably know the same to be a peace officer, is guilty of a Class 1 Misdemeanor and, upon conviction, shall be sentenced accordingly.

(Resolution 39-2018; November 1, 2017)

#### **6.7.4. Release, Failure to Appear.**

Whoever, being charged with or convicted of an offense and being held in lawful custody therefor, is released from custody with or without bail or recognizance or to perform work, community service, or for any other purpose, on condition that the release personally appear before the tribal court when required to do so with respect to such charge or conviction, and intentionally fails, without lawful excuse, to so appear when required or return to custody upon completion of the work, community service, or other purpose for which release from custody was permitted, is guilty of a Class 1 Misdemeanor and, upon conviction, shall be sentenced accordingly.

(Resolution 39-2018; November 1, 2017)

#### **6.7.5. Disobedience of a Lawful Order of the Court.**

Whoever intentionally and without lawful excuse, disobeys, refuses to obey, or fails to perform as required, a lawful order, subpoena, warrant, or command duly issued, made, or given by the tribal court is guilty of a Class 1 Misdemeanor and, upon conviction, may be sentenced accordingly.

(Resolution 39-2018; November 1, 2017)

#### **6.7.6. Obstructing Legal Process.**

Whoever intentionally 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 or interferes with a peace officer while the officer is engaged in the performance of official duties, or by force, threat of force, coercion, inducement, or duress prevents or dissuades or attempts to prevent or dissuade a person who is or may become a witness from attending or testifying at any trial, proceeding, or inquiry authorized by law, or from providing information to

any law enforcement authorities concerning a crime, is guilty of a Class 1 Misdemeanor and, upon conviction, shall be sentenced accordingly.

(Resolution 39-2018; November 1, 2017)

**6.7.7. Aiding an Offender.**

- (a) Whoever harbors, conceals, aids, or assists by word or acts another whom the actor knows or has reason to know has committed a crime under the laws of this or another jurisdiction with intent that such offender shall avoid or escape from arrest, trial, conviction, or punishment, is guilty of a Class 1 Misdemeanor and, upon conviction, may be sentenced accordingly.
- (b) Whoever knowingly harbors, conceals, or aids a person who is on probation, parole, or supervised release because of a felony level conviction and for whom an arrest and detention order has been issued, with intent that the person evade or escape being taken into custody under the order, is guilty of a Class 1 Misdemeanor and, upon conviction, may be sentenced accordingly.

**6.7.8. Harboring an Excluded Person.**

- (a) Whoever knowingly harbors, conceals, or aids a person's entrance and presence on the Bois Forte Reservation who has been excluded from the Bois Forte Reservation and whom the actor knows or has reason to know has been excluded from the Bois Forte Reservation, is guilty of a Class 2 Misdemeanor and, upon conviction, may be sentenced accordingly.
- (b) As used in this section, exclusion from the Bois Forte Reservation means exclusion pursuant to Section 4.7.20 of the Bois Forte Tribal Code, exclusion or banishment pursuant to the inherent authority of the Bois Forte Reservation Tribal Council, or restricted access to the Bois Forte Reservation by a lawful court order.

**6.7.9. Initiating False Reports.**

Whoever initiates a false alarm or report which is transmitted to any organization that deals with emergencies involving danger to life or property, or initiates a false report to any law enforcement agency alleging the commission of a criminal offense, or who initiates a false report to any governmental agency of an act required by this code to be reported to any such agency, and the actor knows or reasonably should know that said alarm or report is false, is guilty of a Class 3 Misdemeanor and, upon conviction, shall be sentenced accordingly.

(Resolution 39-2018; November 1, 2017)

**6.7.10. Resisting Arrest with Force or Violence.**

- (a) A person commits resisting arrest with force or violence if the person has reasonable

ground to believe 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) Intentionally inflicts bodily injury upon a law enforcement officer after being told that he or she is under arrest; or
  - (2) Knowingly uses force or violence to resist arrest and creates a substantial risk of bodily harm to a law enforcement officer.
- (b) **Penalty.** A person who commits resisting arrest with force or violence is guilty of a Class 1 Misdemeanor and, upon conviction, shall be sentenced accordingly.
- (c) **Legality of Arrest Irrelevant.** A person is guilty of resisting arrest with force or violence regardless of whether the arrest is lawful.
- (d) **Affirmative Defense.** It is a defense to a prosecution under this section to resist force that is clearly excessive.

(Resolution 39-2018; November 1, 2017)

## CHAPTER 8 – CRIMES AGAINST PROPERTY

### 6.8.1. Theft.

(a) **Definitions.**

- (1) **“Property”** means all forms tangible property, whether real or personal, without limitation including documents of value, electricity, gas, water, corpses, domestic animals, dogs, pets, fowl, and heat supplied by pipe or conduit by tribal agencies, municipalities, or public utilities.
- (2) **“Movable property”** means property whose physical location can be changed, including without limitation things growing on, affixed to, or found in land.
- (3) **“Value”** means the retail market value at the time of the theft, or if the market value cannot be ascertained, the cost of the replacement of the property within a reasonable time after the theft.
- (4) **“Representing”** means describing, depicting, containing, constituting, reflecting, or recording.
- (5) **“Services”** includes but are not limited to labor, professional services, transportation services, electronic computer services, the supplying of hotel accommodations, restaurant services, entertainment services, advertising services, telecommunication services, and the supplying of equipment for use.

- (6) **“Property of another”** includes property in which the actor is a co-owner or has a lien, pledge, bailment, or lease or other subordinate interest, and the property of a partnership of which the actor is a member, unless the actor and the victim are husband and wife. It does not include property in which the actor in good faith asserts a claim as a collection fee or commission out of property or funds recovered, or by virtue of a lien, setoff, or counterclaim.
  - (7) **“Motor vehicle”** for the purpose of this section means a self-propelled device for moving persons or property or pulling implements from one place to another, whether the device is operated on land, rails, water, or in the air.
  - (8) **“False representation”** includes a promise made with the intent not to perform or the issuance of a check, draft, or order for the payment of money, except a forged instrument punishable under Section 6.10.1, or the delivery of property knowing that the actor is not entitled to draw upon the drawee therefor or to order the payment or delivery thereof.
- (b) **Prohibited Acts.** Whoever does any of the following is guilty of the offense of theft and may be sentenced as provided in subsection (c) herein:
- (1) Intentionally and without claim of right takes, uses, transfers, conceals, or retains possession of property of another without the other’s consent and with the intent to deprive the owner permanently of possession of the property;
  - (2) Having a legal interest in movable property, intentionally and without consent, takes the property out of the possession of a pledgee or other person having a superior right of possession, with intent thereby to deprive the pledgee or other person permanently of the possession of the property;
  - (3) Obtains for the actor or another the possession, custody, or title to property of or performance of services by a third person by intentionally deceiving the third person with a false representation which is known to be false;
  - (4) By swindling, whether by artifice, trick, or device, or any other means, obtains property of service from another person;
  - (5) Finds lost property, including property that was mislaid or misdelivered, and, knowing or having reasonable means to ascertain the true owner, appropriates it to the finder’s own use or to that of another not entitled thereto without first having made reasonable effort to find the owner and offer and surrender the property to the owner;
  - (6) Intentionally obtains property or services, offered upon the deposit of a sum of money or tokens in currency, coin, or token operated machine or other receptacle, without making the required deposit or otherwise obtaining the consent of the owner;

- (7) Leases or rents personal property under a written instrument and who with intent to place the property beyond the control of the lessor conceals or aids or abets the concealment of the property, or any part thereof, or any lessee of property who sells, conveys, or encumbers the property or any part of the property without the written consent of the lessor, without informing the person to whom the lessee, conveys, or encumbers that the same is subject to such lease and with intent to deprive the lessor of possession thereof;
- (8) Intentionally takes or drives a motor vehicle without the consent of the owner or an authorized agent of the owner;
- (9) Receives, retains, conceals, or disposes of property of another, knowing or having good reason to know that the property was stolen, either within or without the Bois Forte Indian Reservation; or
- (10) Commits any of the acts listed in this subsection but with intent to exercise temporary control only, and:
  - (A) The control exercised manifests an indifference to the rights of the owner or the restoration of the property to the owner;
  - (B) The actor pledges or otherwise attempts to subject the property to an adverse claim; or
  - (C) The actor intends to restore the property only on condition that the owner pay a reward or buy back or make any other consideration.

(c) **Sentences.**

- (1) Whoever commits a violation of subsection (b)(1) through (9) above, and the value of the property or services taken exceeds \$300.00, is guilty of a Class 1 Misdemeanor and, upon conviction, may be sentenced accordingly.
- (2) Whoever commits a violation of subsection (b)(1) through (9) above, and the value of the property taken is more than \$50.00 but does not exceed \$300.00, or whoever commits a violation of this section, subsection (b)(10) above, and the value of the property or services taken is more than \$50.00, is guilty of a Class 2 Misdemeanor and, upon conviction, may be sentenced accordingly.
- (3) Whoever commits a violation of subsection (b) above and the value of the property taken does not exceed \$50.00 is guilty of a Class 3 Misdemeanor.

(Resolution 39-2018; November 1, 2017)

### 6.8.2. Tampering with Motor Vehicles.

- (a) **Definitions.** “**Motor vehicle**” for the purpose of this section means a self-propelled device for moving persons or property or pulling implements from one place to another, whether the device is operated on land, rails, water, or in the air.
- (b) **Prohibited Acts.** Whoever does any of the following acts is guilty of a Class 3 Misdemeanor and, upon conviction, shall be sentenced accordingly:
  - (1) Rides in or on a motor vehicle knowing that the vehicle was taken and is being driven by another without the owner’s permission; or
  - (2) Tamper with or enters into or on a motor vehicle without the owner’s permission.

## CHAPTER 9 – DAMAGE OR TRESPASS TO PROPERTY

### 6.9.1. Negligent Fires.

Whoever is culpably negligent in causing a fire to burn or get out of a control thereby causing loss, damage, or injury to another and:

- (a) Bodily harm is incurred by another person, or property of another is destroyed, damaged, or is expended in a reasonable effort to extinguish said fire and the value of the property is in excess of \$300.00, the actor is guilty of a Class 1 Misdemeanor and, upon conviction, shall be sentenced accordingly; or
- (b) Property of another is destroyed, damaged, or is expended in a reasonable effort to extinguish said fire and the value of the property damaged is \$300.00 or less, is guilty of a Class 3 Misdemeanor.

(Resolution 39-2018; November 1, 2017)

### 6.9.2. Arson.

- (a) **Definition.** “**Arson**” is the intentional destruction or damage of any real or personal property by means of fire and/or explosives without the lawful consent of the owner thereof, or which is set for the purpose of causing bodily harm or fear of bodily harm to another, or which is set for the purpose of collecting insurance or similar proceeds that the actor or the owner, occupant, or possessor of the property would not otherwise be entitled to receive except for said fire and/or explosion.
- (b) **Penalties.** Whoever commits arson is guilty of a Class 1 Misdemeanor and, upon conviction, shall be sentenced accordingly.

### **6.9.3. Burglary.**

Whoever enters a structure suitable for affording shelter for human beings, including any appurtenant or connected structure, without consent and with intent to commit a crime is guilty of a Class 1 Misdemeanor and, upon conviction, shall be sentenced accordingly.

### **6.9.4. Criminal Damage to Property.**

- (a) Whoever intentionally, and without the consent of the lawful owner thereof or without other lawful authority, disturbs, injures, damages, or destroys any livestock, domestic animals, or real or personal property of another having a value of \$100.00 or less is guilty of a Class 3 Misdemeanor and, upon conviction, shall be sentenced accordingly.
- (b) Whoever shall intentionally, and without the consent of the lawful owner thereof, disturb, injure, damage or destroy any livestock, domestic animals, or real or personal property of another having a value in excess of \$100.00 but not in excess of \$300.00 is guilty of a Class 2 Misdemeanor and, upon conviction, shall be sentenced accordingly.
- (c) Whoever shall intentionally, and without the consent of the lawful owner thereof, disturb, injure, damage or destroy any livestock, domestic animals, or real or personal property of another having a value in excess of \$300.00 is guilty of a Class 1 Misdemeanor and, upon conviction, shall be sentenced accordingly.

(Resolution 39-2018; November 1, 2017)

### **6.9.5. Trespass.**

Whoever, without lawful authority, shall willfully enter upon the lands or premises owned or lawfully occupied by another or owned by or on behalf of the Bois Forte Band of Chippewa, after having been forbidden to do so by the owner or lawful occupant or by the authorized agent or representative of the Bois Forte Band of Chippewa, or who after being asked to leave said lands or premises refuses to do so without lawful excuse, is guilty of a Class 3 Misdemeanor and, upon conviction, shall be sentenced accordingly.

(Resolution 39-2018; November 1, 2017)

### **6.9.6. Theft from Gaming Establishments.**

- (a) Whoever abstracts, purloins, willfully misapplies, or takes and carries away with intent to steal, any money, funds, or other property of a value of \$1,000 or less belonging to an establishment licensed by the Bois Forte Band pursuant to Reservation Tribal Council Ordinance No. 43-94 is guilty of a Class 2 Misdemeanor and, upon conviction, shall be sentenced accordingly.
- (b) Whoever abstracts, purloins, willfully misapplies, or takes and carries away with intent to steal, any money, funds, or other property of a value in excess of \$1,000 belonging

to an establishment licensed by the Bois Forte Band pursuant to Reservation Tribal Council Ordinance No. 43-94 is guilty of a Class 1 Misdemeanor and, upon conviction, shall be sentenced accordingly.

(Resolution 39-2018; November 1, 2017)

## **CHAPTER 10 – FORGERY AND RELATED CRIMES**

### **6.10.1. Forgery.**

Whoever, with intent to defraud, falsely signs, executes, or alters a writing or written instrument so that it purports to be 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 is guilty of a Class 1 Misdemeanor and, upon conviction, shall be sentenced accordingly.

(Resolution 39-2018; November 1, 2017)

### **6.10.2. Obtaining Signature by False Pretense.**

Whoever, by false pretense, obtains the signature of another to a writing, which is the subject of forgery under Section 6.10.1 is guilty of a Class 1 Misdemeanor and, upon conviction, shall be sentenced accordingly.

(Resolution 39-2018; November 1, 2017)

### **6.10.3. Fraudulent Statements.**

Whoever, with intent to injure or defraud, circulates or publishes a false statement, oral or written, relating to a corporation, association, or individual, intending thereby to give a false apparent value to the property, whether real or personal, of such corporation, association or individual is guilty of a Class 1 Misdemeanor and, upon conviction, shall be sentenced accordingly.

(Resolution 39-2018; November 1, 2017)

## **CHAPTER 11 – CRIMES AGAINST PUBLIC SAFETY AND HEALTH**

### **6.11.1. Possession of Firearm by Convicted Felon.**

Whoever, having been previously convicted of a felony under federal law or under the laws of the State of Minnesota or of any other state, and who has in his possession, custody, or control a firearm, whether loaded or not, which is either concealed from open view in any manner or which is capable of being so concealed about the person, or which is possessed in violation of any existing terms of probation or parole under either federal or state law is guilty of a Class 1 Misdemeanor and, upon conviction, shall be sentenced accordingly.

(Resolution 39-2018; November 1, 2017)

**6.11.2. Concealed Use of Firearm.**

Whoever shall go about in public places armed with a firearm, whether loaded or not, which is concealed from open view upon his person, unless said person shall have on his person a valid permit to do so issued by either the Bois Forte Reservation Tribal Council or its designee, is guilty of a Class 1 Misdemeanor and, upon conviction, shall be sentenced accordingly.

(Resolution 39-2018; November 1, 2017)

**6.11.3. Reckless Use of a Firearm, Dangerous Weapon, or Explosive.**

Whoever recklessly handles or uses a firearm, other dangerous weapon, or an explosive so as to endanger the safety of another, or who intentionally points a firearm of any kind which is capable of killing or injuring a human being, whether the firearm is loaded or not, at or toward another person is guilty of a Class 1 Misdemeanor and, upon conviction, shall be sentenced accordingly.

(Resolution 39-2018; November 1, 2017)

**6.11.4. Dangerous Weapons.**

Whoever possesses any other dangerous article, device, or substance for the purpose of said article, device, or substance being used unlawfully as a dangerous weapon shall be guilty of a Class 2 Misdemeanor and, upon conviction, shall be sentenced accordingly.

(Resolution 39-2018; November 1, 2017)

**6.11.5. Discharge of Firearm in Inhabited Areas.**

Whoever intentionally discharges a firearm without lawful excuse in any inhabited area of the Bois Forte Indian Reservation or in close proximity to any dwelling, school, public building, church, public area, or in an area designated as “no hunting” under the Conservation Code is guilty of a Class 3 Misdemeanor and, upon conviction, shall be sentenced accordingly.

(Resolution 39-2018; November 1, 2017)

**6.11.6. Possession of Loaded Firearms.**

Whoever possesses a loaded and/or uncased firearm in any residential area of the Bois Forte Reservation and not within his or her own place of abode is guilty of a Petty Misdemeanor and, upon conviction, shall be punished accordingly.

#### **6.11.7. Curfew.**

Any person under the age of sixteen (16) years who is unaccompanied by a parent or guardian, or unless in attendance at or returning directly from an organized school, church, youth organization, or tribal function, or is in a private or public place other than the place where the person intends to spend the night with the permission of the owner or lawful, adult occupant of such place, or is in a motor vehicle driving or riding about except as allowed above, after the hour of 11:00 p.m. is guilty of an offense which shall be dealt with in accordance with the juvenile delinquency provisions of Title 7, Bois Forte Tribal Code, as if it were a Petty Misdemeanor had it been committed by an adult.

#### **6.11.8. Curfew/Liability of Adults.**

Any parent, guardian, or custodian of a child less than sixteen (16) years of age who permits such child to violate Section 6.11.7 or negligently fails to require such child to obey Section 6.11.7, is guilty of a Petty Misdemeanor, and if convicted shall be sentenced accordingly, and in addition thereto may be liable for any property damage caused by such child while in violation of curfew.

#### **6.11.9. Mandatory Reporting of Certain Offenses.**

- (a) Whoever, by reason of their profession, occupation, or employment is required by applicable federal and/or state law to report certain incidents, acts, or offenses to federal, tribal, or local law enforcement and/or child protection agencies, is hereby required to report the same in a like manner to the Nett Lake Police Department.
- (b) Whoever, without lawful excuse, refuses or fails to report as required in subsection (a), above, is guilty of a Class 3 Misdemeanor and, upon conviction, shall be sentenced accordingly.

(Resolution 39-2018; November 1, 2017)

#### **6.11.10. Interference with Mandatory Reporting.**

Whoever is in a position of supervisory or administrative authority over a person mandated under applicable federal and/or state law to report certain incidents, acts, or offenses to federal, tribal, or local law enforcement and/or child protection agencies and prevents, hinders, inhibits, or interferes with such reporting is guilty of a Class 2 Misdemeanor and, upon conviction, shall be sentenced accordingly.

(Resolution 39-2018; November 1, 2017)

#### **6.11.11. Intoxicating Liquors or Alcoholic Beverages, Illegal Use.**

- (a) **“Intoxicating liquor”** or **“alcoholic beverages”** means ethyl alcohol, distilled, fermented, spirituous, vinous and malt liquors, regardless of percentage of alcohol by weight and includes, but is not limited to, beer, ale, wine, whiskey, gin, rum, brandy,

vodka, schnapps, and all other liquor and alcoholic beverages whether commercially sold or home-made.

- (b) **“Possess”** includes, but is not limited to, being in a room, any motorized vehicle including snowmobiles and ATV’s, a boat, trailer, or a public or private place where the intoxicating liquor or alcoholic beverage is openly displayed and accessible to the person under the age of twenty-one (21) years. Lack of knowledge of the existence of or lack of accessibility to of such intoxicating liquor or alcoholic beverage shall be an affirmative defense which must be asserted and established by a preponderance of the evidence.
- (c) Whoever, being under the age of twenty-one (21), purchases, receives, possesses, or consumes any intoxicating liquors or alcoholic beverage is guilty of an offense and, upon conviction, shall be sentenced to not more than ninety (90) days incarceration or to pay a fine not exceeding Three Hundred Dollars (\$300.00), or both.
- (d) Whoever, being under the age of twenty-one (21), misrepresents his age in order to obtain intoxicating liquor or alcoholic beverages for consumption by himself or others is guilty of an offense and, upon conviction, shall be sentenced to not more than thirty (30) days incarceration or to pay a fine not exceeding Three Hundred Dollars (\$300.00), or both.
- (e) Whoever knowingly furnishes, supplies, sells, barter, or gives any person under the age of twenty-one (21) any intoxicating liquors or alcoholic beverages is guilty of an offense and, upon conviction, shall be sentenced to not more than one hundred eighty (180) days incarceration or to pay a fine not exceeding Seven Hundred Fifty Dollars (\$750.00), or both.

#### **6.11.12. Contributing to Delinquent Acts of Minors.**

Whoever by any act, deed, or word encourages, contributes toward, or causes or tends to cause any minor to commit an offense in violation of the Bois Forte Tribal Code is guilty of a Class 2 misdemeanor and, upon conviction, shall be sentenced accordingly.

#### **6.11.13. Controlled Substances, Definitions.**

(a) **Definitions.** The following terms shall apply to Sections 6.11.13 through 6.11.25:

- (1) **“Controlled substance”** means a drug, substance, or immediate precursor listed in 21 CFR Part 1308, as amended. The term shall not include distilled spirits, wine, malt beverages, intoxicating liquors or tobacco.
- (2) **“Park zone”** means an area designated as a public park by tribal or federal government. “Park zone” includes the area within 3,000 feet of the park boundary.
- (3) **“Person”** includes every individual, co-partnership, corporation or association of

one or more individuals.

(4) **“School zone”** means:

(A) Any property owned, leased, or controlled by a school district, a tribal government, or an organization operating a nonpublic school where an elementary, middle, secondary school, secondary vocational center, or other school providing educational services in grade pre-kindergarten through grade 12 is located, or used for educational purposes, or where extracurricular or co-curricular activities are regularly provided; including, but not limited to, property regularly used for activities for children such as day-care centers, Boys and Girls Clubs, and teen centers;

(B) The area surrounding the property as described in subsection (a)(4)(A) above to a distance of 3,000 feet beyond the property; and

(C) The area within a school bus when that bus is being used to transport one or more elementary or secondary school students.

(5) **“Immediate precursor”** means a substance which the Minnesota Board of Pharmacy has found to be and by rule designates as being the principal compound commonly used or produced for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit such manufacture.

(6) **“Sell”** means:

(A) To sell, give away, barter, deliver, exchange, distribute or dispose of to another, or to manufacture;

(B) To offer or agree to perform an act listed in subsection (a)(6); or

(C) To possess with intent to perform an act listed in subsection (a)(6).

(7) **“Subsequent controlled substance conviction”** means that before commission of the offense for which the person is convicted under Sections 6.11.13 through 6.11.25, the person was convicted of a Felony, or previously denominated “Class I Misdemeanor,” violation of Sections 6.11.13 through 6.11.25, or an attempt or conspiracy to violate Sections 6.11.13 through 6.11.25, or was convicted elsewhere for a felony controlled substance offense.

(8) **“Drug paraphernalia”** means all equipment, products, and materials of any kind, except those items used in conjunction with permitted uses of controlled substances under Sections 6.11.13 through 6.11.25 or the Uniform Controlled Substances Act, which are knowingly or intentionally used primarily in:

- (A) Manufacture a controlled substance;
- (B) Injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance;
- (C) Testing the strength, effectiveness, or purity of a controlled substance; or
- (D) Enhancing the effect of a controlled substance.

Notwithstanding the above, **“drug paraphernalia”** does not include the possession, manufacture, delivery, or sale of hypodermic needles or syringes in a manner consistent with Minnesota Statutes § 151.40, subd. 2.

- (9) **“Public housing zone”** means any public housing project or development administered by the Bois Forte Housing Division, plus the area within 3,000 feet of the property’s boundary.
- (10) **“Unlawfully”** means selling or possessing a controlled substance in a manner not authorized by law.
- (11) (A) **“Analog”** means a substance, the chemical structure of which is substantially similar to the chemical structure of a controlled substance in Schedule I or II:

- (i) that has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II; or
- (ii) With respect to a particular person, if the person represents or intends that the substance have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II.

(B) **“Analog”** does not include:

- (i) A controlled substance;
- (ii) Any substance for which there is an approved new drug application under the Federal Food, Drug, and Cosmetic Act; or
- (iii) With respect to a particular person, any substance, if an exemption is in effect for investigational use, for that person, as provided by 21 U.S.C. § 355, and the person is registered as a controlled substance researcher as required under federal law to the extent conduct with respect to the substance is pursuant to the exemption and registration.

- (iv) Any material, compound, mixture, or preparation that falls within the definition of hemp set forth in 7 U.S.C. § 1639o, as amended.

(Amended via Resolution 11-2024; August 2, 2023)

#### **6.11.14. Possession of a Controlled Substance.**

- (a) It is unlawful for a person to unlawfully possess or sell any controlled substance listed in 21 CFR Part 1308, as amended, or controlled substance analog unless:
  - (1) The Controlled Substances Act or Drug Enforcement Agency regulations specifically authorizes possession of sale of the substance; or
  - (2) The substance or preparation is excluded or exempted by 21 CFR § 1308.21 through 1308.35, as amended.
- (b) Violations of Subsection (a) of this section are punishable as a Class 1 Misdemeanor.
- (c) Any controlled substance involved in violation of this section is declared to be contraband. Upon proof of a violation of this section, the controlled substance must be forfeited to the Bois Forte Tribal Government by order of the court, after public notice and an opportunity for any person claiming an interest in the substance to be heard.
- (d) Any personal property used to transport, conceal, manufacture, cultivate, or distribute a controlled substance in violation of this section is subject to forfeiture to the Bois Forte Tribal Government by order of the court upon proof of this use, following public notice and opportunity for any person claiming an interest in the property to be heard.
- (e) Notwithstanding Section 6.11.14, the following provisions shall apply to the use, possession, and sale of marijuana and any analog thereof:
  - (1) **Definitions.** As used in this Section 6.11.14, subsection (e), the following terms have the meanings given:
    - (A) **“Artificially derived cannabinoid”** means a cannabinoid extracted from a cannabis plant, cannabis flower, hemp plant, or hemp plant parts with a chemical makeup that is changed after extraction to create a different cannabinoid or other chemical compound by applying a catalyst other than heat or light. Artificially derived cannabinoid includes but is not limited to any tetrahydrocannabinol created from cannabidiol but does not include cannabis concentrate, cannabis products, hemp concentrate, or hemp-derived consumer products.
    - (B) **“Cannabis concentrate”** means the extracts and resins of a cannabis plant or cannabis flower, the extracts or resins of a cannabis plant or cannabis flower

that are refined to increase the presence of targeted cannabinoids, or a product that is produced by refining extracts or resins of a cannabis plant or cannabis flower and is intended to be consumed by combustion or vaporization of the product and inhalation of smoke, aerosol, or vapor from the product.

- (C) **“Cannabis flower”** means the harvested flower, bud, leaves, and stems of the cannabis plant. Cannabis flower does not include cannabis seed, hemp plant parts, or hemp-derived consumer products.
  - (D) **“Cannabis plant”** means all parts of the plant of the genus Cannabis that is growing or has not been harvested and has a delta-9 tetrahydrocannabinol concentration of more than 0.3 percent on a dry weight basis.
  - (E) **“Edible cannabis product”** means any product that is intended to be eaten or consumed as a beverage by humans which contains a cannabinoid other than an artificially derived cannabinoid in combination with food ingredients and is not a drug.
  - (F) **“Hemp concentrate”** means the extracts and resins of a hemp plant or hemp plant parts, the extracts or resins of a hemp plant or hemp plant parts that are refined to increase the presence of targeted cannabinoids, or a product that is produced by refining extracts or resins of a hemp plant or hemp plant parts and is intended to be consumed by combustion or vaporization of the product and inhalation of smoke, aerosol, or vapor from the product.
  - (G) **“Hemp-derived consumer product”** means a product intended for human or animal consumption which does not contain cannabis flower or cannabis concentrate, and which either contains or consists of hemp plant parts or contains hemp concentrate or artificially derived cannabinoids in combination with other ingredients.
  - (H) **“Hemp plant”** means all parts of the plant of the genus Cannabis that is growing or has not been harvested and has a delta-9 tetrahydrocannabinol concentration of no more than 0.3 percent on a dry weight basis.
  - (I) **“Hemp plant parts”** means any part of the harvested hemp plant, including the flower, bud, leaves, stems, and stalk, but does not include derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers that are separated from the plant.
  - (J) **“Marijuana”** means cannabis flower, cannabis concentrate, or edible cannabis product.
- (2) **Use or Sale by Persons Less than 21 Years Old Prohibited.** A person less than 21 years of age is guilty of a Petty Misdemeanor for possession or sale of any of the following:

- (A) Less than two ounces of cannabis flower;
  - (B) Less than eight grams of cannabis concentrate; or
  - (C) Edible cannabis products or hemp derived consumer products infused with less than 800 milligrams of tetrahydrocannabinol;
- (3) **Sale to Persons Less than 21 Years Old Prohibited.** A person is guilty of a Petty Misdemeanor for selling or giving for no remuneration any amount of marijuana, hemp-derived consumer products, and any analog thereof to a person 18 years of age but less than 21 years of age, and guilty of a Class 1 Misdemeanor for selling or giving for no remuneration any amount of marijuana, hemp-derived consumer products, and any analog thereof to a person less than 18 years of age;
- (4) **Petty Misdemeanor Possession or Sale of Marijuana or Hemp-Derived Consumer Products.** A person is guilty of a Petty Misdemeanor for possession, possession with intent to sell or sale, of any of the following:
- (A) More than two ounces but not more than four ounces of cannabis flower;
  - (B) More than eight grams but not more than 16 grams of cannabis concentrate; or
  - (C) Edible cannabis products or hemp derived consumer products infused with more than 800 milligrams but not more than 1,600 milligrams of tetrahydrocannabinol;
- (5) **Class 3 Misdemeanor Possession or Sale of Marijuana or Hemp-Derived Consumer Products.** A person is guilty of a Class 3 Misdemeanor for possession, possession with intent to sell, or sale of any of the following:
- (A) More than four ounces but not more than one pound of cannabis flower;
  - (B) More than 16 grams but not more than 80 grams of cannabis concentrate; or
  - (C) Edible cannabis products or hemp derived consumer products infused with more than 1,600 milligrams but not more than eight grams of tetrahydrocannabinol;
- (6) **Class 1 Misdemeanor Possession or Sale of Marijuana or Hemp-Derived Consumer Products.** A person is guilty of a Class 1 Misdemeanor for possession, possession with intent to sell, or sale of any of the following:
- (A) More than one pound of cannabis flower;
  - (B) More than 80 grams of cannabis concentrate; or

- (C) Edible cannabis products or hemp derived consumer products infused with more than eight grams of tetrahydrocannabinol;
- (7) **Use in Public Places Prohibited.** A person is guilty of Petty Misdemeanor for use of marijuana, hemp-derived consumer products, and any analog thereof in a public place provided the definition of a public place does not include the following:
- (A) A private residence, including the person's curtilage or yard;
  - (B) Private property not generally accessible by the public, unless the person is explicitly prohibited from consuming marijuana, hemp-derived consumer products, and any analog thereof on the property by the owner of the property; or
  - (C) The premises of an establishment or event licensed to permit on-site consumption;
- (8) **Sale in Public Places Prohibited.** A person is guilty of a Class 1 Misdemeanor for the sale of marijuana, hemp-derived consumer products, and any analog thereof at any of the following public places:
- (A) In a school zone;
  - (B) In a school or on school grounds;
  - (C) At a playground, park, recreational center, sports complex, or sports field, court, or other facility;
  - (D) On the Bois Forte powwow grounds;
  - (E) At a drug treatment facility; or
  - (F) At any facility or building owned by the Bois Forte Tribal Government.
- (9) **Exception for Band-Licensed Businesses.** A business and its employees shall not be a violation Sections 6.11.14(e)(4)-(6), (8), if the business is licensed by the Band to possess, sell, distribute, cultivate, process, store, or destroy or dispose of marijuana or hemp-derived consumer products, and such business is operating in accordance with its license.

(Amended via Resolution 11-2024; August 2, 2023)

#### **6.11.15. Possession of Drug Paraphernalia Prohibited.**

It is unlawful for any person knowingly or intentionally to use or to possess drug

paraphernalia, provided it shall not be unlawful for any person 21 years of age or older to possess drug paraphernalia related to use and consumption of marijuana or hemp-derived consumer products as defined in Section 6.11.14(e)(1) Any violation of this section is a Class 1 Misdemeanor.

(Amended via Resolution 11-2024; August 2, 2023)

**6.11.16. Manufacture or Delivery of Drug Paraphernalia Prohibited.**

It is unlawful for any person knowingly or intentionally to deliver drug paraphernalia or knowingly or intentionally to possess or manufacture drug paraphernalia for delivery. Any violation of this section is a Class 1 Misdemeanor.

**6.11.17. Delivery of Drug Paraphernalia to a Minor Prohibited.**

Any person eighteen (18) years of age or older who violates Section 6.11.16 by knowingly or intentionally delivering drug paraphernalia to a person under eighteen (18) years of age is guilty of a Class 1 Misdemeanor.

**6.11.18. Conspiracies Prohibited.**

- (a) **Prohibited Acts; Penalties.** Any person who conspires to commit any act prohibited by Sections 6.11.13 through 6.11.25, is guilty of a Class 1 Misdemeanor and upon conviction may be imprisoned, fined, or both, up to the maximum amount authorized by law for the act the person conspired to commit.
- (b) **Conviction of Co-Conspirator Not Required.** A person liable under this section may be charged with and convicted of conspiracy although the person or persons with whom that person conspired have not been convicted or have been convicted of some other crime based on the same act.

**6.11.19. Prohibited Acts; Fraud, Deceit.**

- (a) It is unlawful for any person to obtain or attempt to obtain any preparation excepted from the provisions of Controlled Substances Act or attempt to procure the administration of the controlled substance:
  - (1) By fraud, deceit, misrepresentation of a prescription or subterfuge;
  - (2) By the forgery or alteration of a prescription or of any written order;
  - (3) By the concealment of a material fact; or
  - (4) By the use of a false name or the giving of a false address.
- (b) Information communicated to a physician in an effort to unlawfully procure a

dangerous controlled substance, or unlawfully to procure the administration of such drug, shall not be deemed a privileged communication.

(c) Any person who violates this section is guilty of a Class 1 Misdemeanor.

#### **6.11.20. Methamphetamine-Related Crimes Involving Children and Vulnerable Adults.**

(a) **Definitions.** As used in this section, the following terms have the meanings given.

- (1) **“Chemical substance”** means a substance intended to be used as a precursor in the manufacture of methamphetamine or any other chemical intended to be used in the manufacture of methamphetamine.
- (2) **“Child”** means any person under the age of eighteen (18) years.
- (3) **“Methamphetamine paraphernalia”** means all equipment, products, and materials of any kind that are used, intended for use, or designed for use in manufacturing, injecting, ingesting, inhaling, or otherwise introducing methamphetamine into the human body.
- (4) **“Methamphetamine waste products”** means substances, chemicals, or items of any kind used in the manufacture of methamphetamine or any part of the manufacturing process, or the by-products or degradates of manufacturing methamphetamine.
- (5) **“Vulnerable adult”** has the meaning given in Section 6.2.16(a)(10), of the Bois Forte Tribal Code.

(b) **Prohibited Conduct.**

- (1) No person may knowingly engage in any of the following activities in the presence of a child or vulnerable adult; in the residence of a child or a vulnerable adult; in a building, structure, conveyance, or outdoor location where a child or vulnerable adult might reasonably be expected to be present; in a room offered to the public for overnight accommodation; or in any multiple unit residential building:
  - (A) Manufacturing or attempting to manufacture methamphetamine;
  - (B) Storing any chemical substance;
  - (C) Storing any methamphetamine waste products; or
  - (D) Storing any methamphetamine paraphernalia.
- (2) No person may knowingly cause or permit a child or vulnerable adult to inhale, be exposed to, have contact with, or ingest methamphetamine, a chemical substance,

or methamphetamine paraphernalia.

- (c) **Criminal Penalty.** A person who violates subsection (b) above is guilty of a Class 1 Misdemeanor.
- (d) **Multiple Sentences.** A prosecution for or conviction under this section or Section 6.11.21 is not a bar to conviction of or punishment for any other crime committed by the defendant as part of the same conduct.
- (e) **Protective Custody.** A peace officer may take any child present in an area where any of the activities described in subsection (b)(1) are taking place into protective custody. A child taken into protective custody under this subdivision shall be provided health screening to assess potential health concerns related to methamphetamine. A child not taken into protective custody under this subdivision but who is known to have been exposed to methamphetamine shall be offered health screening for potential health concerns related to methamphetamine.
- (f) **Reporting Maltreatment of Vulnerable Adult.** A peace officer shall make a report of suspected maltreatment of a vulnerable adult if the vulnerable adult is present in an area where any of the activities described in subsection (b)(1) are taking place, and the peace officer has reason to believe the vulnerable adult inhaled, was exposed to, had contact with, or ingested methamphetamine, a chemical substance, or methamphetamine paraphernalia.

#### **6.11.21. Heroin and Opium Use Involving Children and Vulnerable Adults.**

A person who does any act prohibited by Section 6.11.20(b), with regard to the manufacture, storage, use, exposure to, or contact with heroin or any opium or opium derivative that is a controlled substance shall be guilty of a Class 1 Misdemeanor.

#### **6.11.22. Abuse of Psychotoxic Chemical Solvents.**

- (a) It is unlawful for any person to:
  - (1) Intentionally smell or inhale the fumes of any psychotoxic chemical solvent or possess, purchase, or attempt to possess or purchase any psychotoxic chemical solvent, for the purpose of causing intoxication, inebriation, excitement, stupefaction, or the dulling of the brain or nervous system; or
  - (2) Sell, give away, dispense, or distribute, or offer to sell, give away, dispense, or distribute, any psychotoxic chemical solvent knowing or believing that the purchaser or another person intends to use the solvent in violation of this section.
- (b) This section does not apply to inhalation of anesthesia for medical or dental purposes.
- (c) As used in this section, “psychotoxic chemical solvent” means any glue, gasoline,

paint, hair spray, Lysol, or other substance containing one or more of the following chemical compounds:

- (1) Acetone and acetate;
  - (2) Benzene;
  - (3) Butyl-alcohol;
  - (4) Methyl ethyl;
  - (5) Peptone;
  - (6) Pentachlorophenol;
  - (7) Petroleum ether; or
  - (8) Any other chemical substance the inhalation of whose fumes or vapors can cause intoxication, inebriation, excitement, stupefaction, or the dulling of the brain or nervous system.
- (d) The statement listing the contents of a substance packaged in a container by the manufacturer or producer thereof is rebuttable proof of the contents of the substance without further expert testimony if it reasonably appears that the substance in the container is the same substance placed therein by the manufacturer or producer.
- (e) Abuse of psychotoxic chemical solvents, as defined in this section, is punishable as a Class 1 Misdemeanor, and the Court may order any person using psychotoxic chemical solvents as described in subsection (a) of this section to be committed to a facility for treatment for up to six (6) months.
- (f) Psychotoxic chemical solvents kept or used in violation of this section are declared contraband. Upon proof of a violation, these solvents must be forfeited to the Bois Forte Tribal Government by order of the court, following public notice and an opportunity for any person claiming an interest in the solvents to be heard.

#### **6.11.23. Mandatory Sentences.**

- (a) A defendant convicted and sentenced to a mandatory sentence under Sections 6.11.13 through 6.11.25 is not eligible for probation, parole, discharge, or supervised release until that person has served the full term of imprisonment as provided by law.
- (b) A defendant convicted of Sections 6.11.14, 6.11.15, 6.11.16, or 6.11.17 is subject to a mandatory minimum sentence of incarceration of ninety (90) days if the offense occurred in a school zone, park zone, or public housing zone.

- (c) A defendant convicted of a subsequent controlled substance offense shall be subject to a mandatory minimum sentence of incarceration of ninety (90) days.

#### **6.11.24. Stayed Adjudication and Stayed Sentence Limited.**

If a person is convicted under Sections 6.11.13 through 6.11.25, the Court may stay adjudication or stay imposition or execution of the sentence only as provided in this section. The sentence may be stayed based on amenability to probation only if the offender presents adequate evidence to the Court that the offender has been accepted by, and can respond to, a treatment program that has been approved by an authorized tribal, state, or federal agency.

#### **6.11.25. Permissive Inference of Knowing Possession.**

- (a) **Residences.** The presence of a controlled substance in open view in a room, other than a public place, under circumstances evincing an intent by one or more of the persons present to unlawfully mix, compound, package, or otherwise prepare for sale the controlled substance permits the fact finder to infer knowing possession of the controlled substance by each person in close proximity to the controlled substance when the controlled substance was found. This permissive inference does not apply to any person if:

- (1) One of them legally possesses the controlled substance; or
- (2) The controlled substance is on the person of one of the occupants.

- (b) **Passenger Automobiles.** The presence of a controlled substance in a passenger automobile permits the fact finder to infer knowing possession of the controlled substance by the driver or person in control of the automobile when the controlled substance was in the automobile. This inference may only be made if the defendant is charged with violating Section 6.11.14. This permissive inference does not apply:

- (1) To a duly licensed operator of an automobile who is at the time operating it for hire in the lawful and proper pursuit of the operator's trade;
- (2) To any person in the automobile if one of them legally possesses a controlled substance; or
- (3) When the controlled substance is concealed on the person of one of the occupants.

(Approved by Resolution No. 82-2015, May 27, 2015, and effective upon adoption)

#### **6.11.26. Unlawful Smoking.**

Whoever intentionally smokes in a public building, area, or common carrier in which "No Smoking" notices have been prominently posted, or when requested not to smoke by the person or persons in charge of such public building or area, or by the operator of such common carrier, is

guilty of a Petty Misdemeanor and, upon conviction, shall be sentenced accordingly.

(Resolution 1-2011; July 7, 2010; Resolution 39-2018; November 1, 2017)

**6.11.27. Unlawful Assembly.**

When three or more persons assemble, each participant is guilty of a Class 3 Misdemeanor and, upon conviction, shall be sentenced accordingly, if the assembly is:

- (a) With intent to commit any unlawful act by force;
- (b) With intent to carry out any purpose in such manner as will disturb or threaten the public peace; or
- (c) Without unlawful purpose, but the participants conduct themselves in a disorderly manner so as to disturb or threaten the public peace.

(Resolution 39-2018; November 1, 2017)

**6.11.28. Presence at Unlawful Assembly.**

Whoever, without lawful purpose, is present at the place of an unlawful assembly and refuses to leave when so directed by a law enforcement officer is guilty of a Class 3 Misdemeanor and, upon conviction, shall be sentenced accordingly.

(Resolution 39-2018; November 1, 2017)

**6.11.29. Riot.**

When three or more persons assembled disturb the public peace by an intentional act or by threat of unlawful force or violence to person or property, each participant therein is guilty of a Class 1 Misdemeanor and, upon conviction, shall be sentenced accordingly.

(Resolution 39-2018; November 1, 2017)

**6.11.30. Terroristic Threats.**

Whoever intentionally commits any of the following acts is guilty of a Class 1 Misdemeanor and, upon conviction, shall be sentenced accordingly:

- (a) Threatens to commit any crime of 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 inconvenience; or
- (b) 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.

(Resolution 39-2018; November 1, 2017)

#### **6.11.31. Disorderly Conduct.**

Whoever commits any of the following acts in a public or private place, knowing, or having reasonable grounds to know, that it will or will tend to alarm, anger, or disturb others or provoke an assault or breach of the peace is guilty of a Class 3 Misdemeanor and, upon conviction, shall be sentenced accordingly:

- (a) Engages in brawling or fighting;
- (b) Disturbs an assembly or meeting, not unlawful in its character; or
- (c) Engages in offensive, obscene, or abusive language or in boisterous and noisy conduct tending reasonably to arouse alarm, anger, or resentment in others.

(Resolution 39-2018; November 1, 2017)

#### **6.11.32. Public Nuisance.**

Whoever, by an act or failure to perform a legal duty, intentionally does any of the following is guilty of a Class 3 Misdemeanor and, upon conviction, shall be sentenced accordingly:

- (a) Maintains or permits a condition which unreasonably annoys, injures, or endangers the safety, health, morals, comfort, or repose of any considerable number of members of the public;
- (b) Interferes with, obstructs, or renders dangerous for passage any public highway or right-of-way, or waters used by the public; or
- (c) Being the owner or in possession of or control, permits an unused refrigerator or other container, sufficiently large to retain any child and with doors which fasten automatically when closed, to be exposed and accessible to children without removing the doors, lids, hinges, or latches.

(Resolution 39-2018; November 1, 2017)

#### **6.11.33. Environment, Criminal Acts.**

Whoever commits any of the following acts is guilty of a Petty Misdemeanor and, upon conviction, shall be sentenced accordingly:

- (a) Unlawfully deposits garbage, rubbish, offal or the body of a dead animal, or other litter

in or upon any public highway, public waters or the ice thereon, shore land areas adjacent to rivers or streams, public lands, or, without the consent of the owner or occupant, private lands or water or ice thereon; or

- (b) Violates any provision of any environmental protection, waste management code, or similar ordinance duly enacted by the Bois Forte Reservation Tribal Council which does not already contain a provision establishing a criminal offense and a sentence for violation thereof.

(Resolution 39-2018; November 1, 2017)

## **CHAPTER 12 – MISCELLANEOUS CRIMES**

### **6.12.1. Obscene or Harassing Communications.**

Whoever, by means of a telephone does, or having control of a telephone knowingly permits it be used for, any of the following is guilty of a Class 3 Misdemeanor and, upon conviction, shall be sentenced accordingly:

- (a) Makes any comment, request, suggestion or proposal which is obscene, lewd, or lascivious;
- (b) Repeatedly makes telephone calls, whether or not conversation ensues, with intent to abuse, threaten, or harass; or
- (c) Makes or causes the telephone of another repeatedly or continuously to ring, with intent to harass any person at the called number.

(Resolution 39-2018; November 1, 2017)

### **6.12.2. Coercion.**

Whoever orally or in writing makes any of the following threats and thereby causes another to act against the other's will to do any act or forebear doing a lawful act is guilty of a Class 1 Misdemeanor and, upon conviction, shall be sentenced accordingly:

- (a) A threat to unlawfully inflict bodily harm upon, or hold in confinement, the person threatened or another, when robbery or attempt to rob is not committed thereby;
- (b) A threat to unlawfully inflict damage to the property of the person threatened or another;
- (c) A threat to unlawfully injure a trade, business, profession, or calling;
- (d) A threat to expose a secret or deformity, publish a defamatory statement, or otherwise to expose any person to disgrace or ridicule; or

- (e) A threat to make or cause to be made a criminal charge, whether true or false; provided that a warning of the consequences of a future violation of law given in good faith by a peace officer, judge, or prosecuting attorney to any person shall not be deemed a threat for the purposes of this section.

(Resolution 39-2018; November 1, 2017)

### **6.12.3. Public Indecency.**

Whoever, in a public place, or in a private dwelling but in a manner so as to be viewed from outside of the dwelling, intentionally exposes his or her intimate parts, or engages in any form of sexual intercourse, is guilty of a Class 3 Misdemeanor and, upon conviction, may be sentenced accordingly. On a second or subsequent conviction under this section, the offender shall be guilty of a Class 2 Misdemeanor and, upon conviction, shall be sentenced accordingly.

(Resolution 39-2018; November 1, 2017)

### **6.12.4. Animal Cruelty.**

- (a) **Prohibited Acts; Generally.** Whoever shall overdrive, overload, torture, cruelly beat, or unjustifiably injure, maim, mutilate, or kill any animal, or cruelly work any animal when it is unfit for labor, or deprive any animal over which the person has charge or control of necessary food, water, or shelter, is guilty of a Class 3 Misdemeanor and, upon conviction, may be sentenced accordingly.
- (b) **Prohibited Acts; Service Animals.** Whoever shall intentionally and without justification cause substantial bodily harm to a service animal, or otherwise render a service animal unable to perform its duties, when the service animal is performing its duties or in the custody of the person it serves, is guilty of a Class 2 Misdemeanor and, upon conviction, may be sentenced accordingly.
- (c) **Prohibited Acts; Public Safety Dogs.** Whoever shall intentionally and without justification cause the death of or great bodily harm to a police dog, a search and rescue dog, or an arson dog when the dog is in service or in the custody or control of a peace officer or trained handler, is guilty of a Class 1 Misdemeanor and, upon conviction, may be sentenced accordingly. Whoever shall intentionally and without justification cause substantial bodily harm to a police dog, a search and rescue dog, or an arson dog when the dog is in service or in the custody or control of a peace officer or trained handler, is guilty of a Class 2 Misdemeanor and, upon conviction, may be sentenced accordingly.

### **6.12.5-6.99.99. Reserved for future use.**