

## Chapter 6

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## ARTICLE I. IN GENERAL

### Sec. 6-0. Authority to maintain law and order.

The Community has the inherent authority to maintain law and order within its territory and jurisdiction. This authority is a fundamental sovereign attribute intimately connected to the Community's ability to protect the integrity and order of its territory and welfare of its members. (Code 2012, § 6-0; Ord. No. SRO-402-2012, § 6-0, 5-30-2012)

### Sec. 6-1. Eligible age for court jurisdiction.

The Community court shall have no jurisdiction to try any person under the age of 18 years as an adult, unless the juvenile court finds that the interests of the Community or of the juvenile in question would be served better if a juvenile 16 years of age or older were tried as an adult. (Code 1976, § 6.1; Code 1981, § 6-1; Code 2012, § 6-1; Ord. No. SRO-37-76, 8-20-1975; Ord. No. SRO-402-2012, § 6-1, 5-30-2012; Ord. No. SRO-418-2013, § 6-1, 3-6-2013)

### Sec. 6-2. Aiding or abetting.

A person who counsels or aids another in the commission of an act in violation of this Community Code of Ordinances shall be deemed guilty of an offense of aiding or abetting and, upon conviction thereof, shall be sentenced to a fine or imprisonment not to exceed sentence of the person charged and convicted of a crime under this Community Code of Ordinances. (Code 1976, § 6.5; Code 1981, § 6-2; Code 2012, § 6-2; Ord. No. SRO-402-2012, § 6-2, 5-30-2012; Ord. No. SRO-418-2013, § 6-2, 3-6-2013)

### Sec. 6-3. Unlawful imprisonment; kidnapping.

(a) *Unlawful imprisonment.* Any person who knowingly restrains another person shall be deemed guilty of unlawful imprisonment, unless the restraint was accomplished by a police officer acting in good faith in the lawful performance of his or her duty. Unlawful imprisonment is a Class C offense.

(b) *Kidnapping.* Any person who knowingly restrains another person with the intent to hold for ransom, as a shield, or as a hostage; inflict death, physical injury, or a sexual offense; place a person in reasonable apprehension of imminent physical injury; or aid in the commission of any Class A or Class B offense shall be deemed guilty of kidnapping. Kidnapping is a Class A offense.

(c) *Definition.* For purposes of this section, the term "restrain" means to restrict a person's movements without consent, without legal authority, and in a manner that interferes substantially with such person's liberty, by either moving such person from one place to another or by confining such person.

(Code 1976, § 6.34; Code 1981, § 6-3; Code 2012, § 6-3; Ord. No. SRO-402-2012, § 6-3, 5-30-2012; Ord. No. SRO-418-2013, § 6-3, 3-6-2013)

### Sec. 6-4. Maintaining a public nuisance.

Any person who shall maintain a place which is injurious to health, indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property by a considerable number of persons, or which unlawfully obstructs the free passage or use in the customary manner, of any lake, river, canal or Community property shall be deemed guilty of an offense, and may be required to remove or cease such nuisance when so ordered by the court. Maintaining a public nuisance is a Class D offense.

(Code 1976, § 6.44; Code 1981, § 6-4; Code 2012, § 6-4; Ord. No. SRO-402-2012, § 6-4, 5-30-2012; Ord. No. SRO-418-2013, § 6-4, 3-6-2013)

### Sec. 6-5. Disorderly conduct.

(a) *Prohibited activities.* A person commits disorderly conduct if, in a public or private place, with the intent to disturb the peace or quiet of a neighborhood, family or person, or with knowledge of doing so, or recklessly creating a risk thereof, such person:

- (1) Engages in fighting, violence, or seriously disruptive behavior;
- (2) Uses or employs abusive, profane language or gestures;

(3) Makes unreasonable noise by engaging in any of the following:

- a. Operating a motor vehicle not equipped with a muffler in good working order, operating a motor vehicle equipped with a device that amplifies motor noise or exhaust noise, operating a motor vehicle while using a horn or noise device for any purposes other than those allowed by law, operating a vehicle in an erratic manner or operating a motor vehicle while unnecessarily causing excessive revving of the vehicle engine;
- b. Operating any radio, loudspeaker, sound producing equipment, sound reproducing equipment or sound amplification equipment which emits noise that can be heard from within closed residential structures; or
- c. Allowing to originate from any property in their possession, any noise that can be heard within closed residential structures.

(b) *Exceptions.* The following noises shall be exempt from the provisions of this section:

- (1) Emergency signals, emergency vehicles, and emergency situations;
- (2) Customary noise produced in the normal conduct of business; and
- (3) Non-amplified crowd noise resulting from planned and approved activities.

(c) *Penalties.*

- (1) Disorderly conduct under subsection (a)(1) is a class B offense.
- (2) Disorderly conduct under subsection (a)(2), (a)(3)a., (a)(3)b. and (a)(3)c. is a class E offense.

(d) *Effective date.* The amendments set forth above will govern cases filed on or after September 1, 2014.

(Code 1976, § 6.24; Code 1981, § 6-5; Code 2012, § 6-5; Ord. No. SRO-27-74, 5-3-1974; Ord. No. SRO-33-75, 8-7-1974; Ord. No. SRO-37-76, 8-20-

1975; Ord. No. SRO-114-88, § A, 8-10-1988; SRO-255-99, 9-1-1999; Ord. No. SRO-402-2012, § 6-5, 5-30-2012; Ord. No. SRO-418-2013, § 6-5, 3-6-2013; Ord. No. SRO-446-2014, § 6-5, 7-30-2014, eff. 9-1-2014)

## **Sec. 6-6. Gambling.**

Any person who participates in any game for a chance to win money or other valuable consideration or any person who operates a place or device where a risk is taken on a chance of winning money or other valuable consideration shall be deemed guilty of an offense and, upon conviction thereof, shall be sentenced to imprisonment for a period not to exceed 30 days or to a fine not to exceed \$60.00, or to both such imprisonment and fine, with costs; provided that:

- (1) Bingo games conducted for charitable fundraising purposes shall be exempt from the application of this section, provided that no item of expense shall be incurred or paid in connection with the holding, operating or conducting of any game of bingo pursuant to this section except for bona fide expenses of a reasonable amount. Expenses may be incurred only for the following purposes:
  - a. The purchase of goods, wares and merchandise furnished;
  - b. Payment for services rendered which are reasonably necessary for repairs of equipment, operating or conducting the game of bingo;
  - c. For rent if the premises are rented, or for janitorial services if not rented;
  - d. Accountant's fees;
  - e. License fees;
  - f. Utility expenses.

On or before July 1 of each year, each organization conducting bingo games for charitable fundraising purposes shall file with the Community police commission a duly verified statement covering the preceding calendar year showing the amount of the gross receipts derived during such periods from games of bingo, the expenses incurred or paid, and a brief description of

the classification of such expenses and the purposes of such expenditure and the net profits derived from each such game of bingo. Each organization conducting bingo games shall maintain and keep such books and records as may be necessary to substantiate the particulars of each such report.

- (2) Games of chance conducted in private residences shall be exempt from the application of this section, provided that no person shall receive any benefit or consideration from such games of chance because of the game of chance being held at his or her residence nor shall any other benefit be received by any player or other person except as pursuant to the generally accepted rules of the game in which the players are participating.

(Code 1976, § 6.37; Code 1981, § 6-6; Code 2012, § 6-6; Ord. No. SRO-402-2012, § 6-6, 5-30-2012; Ord. No. SRO-418-2013, § 6-6, 3-6-2013)

#### **Sec. 6-7. Criminal street gangs.**

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Criminal street gang* means any group of three or more persons which engages in or has its purpose to engage in offenses which are proscribed by this chapter.

*Gang clothing* means anything displaying gang insignias, monikers, color patterns, bandannas, hats, jewelry, clothing, belts, or any other clothing or personal property with any gang significance.

*Community building or facility* includes but is not limited to: the Community multipurpose building, the Lehi Multi-Purpose Building, Memorial Hall, the Lehi Pool, the Community library, the Community museum, Community schools and educational institutions, the Community cemeteries including the Lehi cemetery, the Community administration building, the Community court building, any Community building housing the various departments performing Community gov-

ernmental functions, and any other building owned and controlled by the Community, not being law-





fully used for private residence. Any driveways, parking lots or curtilage of any of these described buildings or facilities shall constitute a Community building or facility for purposes of this section.

*Community event* means any event that is open to the public, or any Community-sponsored event, or any event authorized by the Community to take place on the grounds of a Community building or facility, including, but not limited to: funerals, memorials, wakes, dances, parades, pow wows, Community sporting events, Fourth of July events, Thanksgiving events, Christmas or winter holiday events, New Year's Eve events, Indian Day events, Salt River Day events and other cultural events.

(b) *Participating in or assisting a criminal street gang.* Any person who commits any of the following shall be guilty of the offense of participating in or assisting a criminal street gang:

- (1) Intentionally organizes, manages, directs or supervises a criminal street gang with the intent to promote or further the criminal objectives of the criminal street gang;
- (2) Knowingly entices or induces, or attempts to entice or induce, others to engage in violence or intimidation to promote or further the criminal objectives of a criminal street gang;
- (3) Knowingly furnishes advice or direction in the conduct, financing or management of a criminal street gang's affairs with the intent to promote or further the criminal objectives of a criminal street gang;
- (4) Knowingly hires, engages or uses a minor for any conduct preparatory to or in completion of any offense in this section;
- (5) Committing any offense under this chapter with the intent to promote or further the objectives of a criminal street gang; or
- (6) Intentionally wears or displays criminal street gang clothing or attire at a Community event or Community building or facility.

(c) *Sentencing for convictions of subsection (b) of this section.* Any person who shall violate subsection (b) of this section shall be deemed guilty of participating in or assisting a criminal street gang.

- (1) Participating in or assisting a criminal street gang is a Class A offense, if committed in violation of subsection (b)(1), (2), (3), (4) or (5) of this section, and shall be punished by a minimum sentence of no less than one year imprisonment and a fine of \$5,000.00. The convicted person shall not be eligible for suspension of sentence, probation, parole or any other release from custody until the minimum sentence is served.
- (2) Participating in or assisting a criminal street gang is a Class B offense, if committed in violation of subsection (b)(6) of this section.

(d) *Evidence of gang membership.* Evidence concerning indicia of gang membership, including gang-related paraphernalia, tattoos, clothing or colors, may be submitted into evidence in any case brought under this section with proper foundation, which may include expert testimony from a person with training and experience related to gangs within the Community.

(e) *Failure to adequately supervise minor.* Any parent(s), legal guardian(s) or other adult person(s) authorized by said parent(s) or guardian(s) to have the care and custody of a minor, who knowingly permits or by insufficient control allows, a minor to violate subsection (b) of this section, is guilty of failure to adequately supervise a minor. Failure to adequately supervise a minor is a Class B offense.

(Code 1981, § 6-7; Code 2012, § 6-7; Ord. No. SRO-176-94, §§ 1—5, 6-22-1994; Ord. No. SRO-347-09, 3-4-2009; Ord. No. SRO-402-2012, § 6-7, 5-30-2012; Ord. No. SRO-418-2013, § 6-7, 3-6-2013)

#### **Sec. 6-8. Promoting jail or detention contraband.**

(a) Any person, not otherwise authorized by law, commits promoting jail or detention contraband:

- (1) By knowingly taking contraband into any Community jail or detention facility or the grounds of said jail or facility;

- (2) By knowingly conveying or assisting in the conveyance of contraband to any person confined in any Community jail or detention facility; or
- (3) By knowingly making, obtaining, or possessing contraband while being confined in any Community jail or detention facility or lawfully in transit to or from said jail or facility.

(b) For purposes of this section, the term "contraband" means those items defined under section 14-133 and such items, without limitation, as ammunition, explosive materials or devices, or any other article whose use or possession would endanger the safety, security, or reservation of order in a jail or detention facility or of any person therein. This subsection does not apply to a prisoner who possesses or carries any tool, instrument or implement used by him or her at the direction of or with the express permission of detention officials for a duration of time.

(c) Promoting jail or detention contraband is a Class B offense.  
(Code 1976, § 6.37; Code 1981, § 6-7; Code 2012, § 6-7; Ord. No. SRO-176-94, §§ 1—5, 6-22-1994; Ord. No. SRO-255-99, 9-1-1999; Ord. No. SRO-347-09, 3-4-2009; Ord. No. SRO-402-2012, § 6-7, 5-30-2012; Ord. No. SRO-418-2013, § 6-8, 3-6-2013)

### **Sec. 6-9. False reporting.**

(a) A person commits false reporting by initiating or circulating a report of the existence of a bomb, a bombing, fire or other similar emergency knowing that such report is false and intending:

- (1) That it will cause action of any sort by an official or volunteer agency organized to deal with emergencies;
- (2) That it will place a person in fear of imminent serious physical injury; or
- (3) That it will prevent or interrupt the occupation or use of any building, room, place of assembly, public place or means of transportation.

(b) False reporting is a Class B offense.  
(Code 1976, § 6.37; Code 1981, § 6-9; Code 2012, § 6-9; Ord. No. SRO-278-2001, 9-9-2001; Ord. No. SRO-402-2012, § 6-9, 5-30-2012; Ord. No. SRO-418-2013, § 6-9, 3-6-2013)

### **Sec. 6-10. Interference with the peaceful conduct of educational institutions.**

(a) A person commits interference with the peaceful conduct of educational institutions by knowingly:

- (1) Going upon or remaining upon the property of any educational institution in violation of any rule of such institution or for the purpose of interfering with the lawful use of such property by others or in such manner as to deny or interfere with the lawful use of such property by others; or
- (2) Refusing to obey a lawful order given pursuant to subsection (b) of this section.

(b) When the chief administrative officer of an educational institution or an officer or employee designated by him or her to maintain order has reasonable grounds to believe that any person or persons are committing any act which interferes with or disrupts the lawful use of such property by others at the educational institution or has reasonable grounds to believe any person has entered upon the property for the purpose of committing such an act, such officer or employee may order such person to leave the property of the educational institution.

(c) For purposes of this section, the term "education institution" means, except as otherwise provided, any Community college, high school, elementary school, kindergarten, or early preschool child care center or facility.

(d) For purposes of this section, the term "property" means all land, buildings and other facilities owned, operated or controlled by the governing board of an educational institution and devoted to educational purposes.

(e) Interference with the peaceful conduct of educational institutions is a Class B offense.  
(Code 1976, § 6.37; Code 1981, § 6-10; Code 2012, § 6-10; Ord. No. SRO-281-2001, 5-9-2001; Ord. No. SRO-402-2012, § 6-10, 5-30-2012; Ord. No. SRO-418-2013, § 6-10, 3-6-2013)

**Sec. 6-11. Rights of crime victims.**

(a) *Rights enumerated.* To preserve and protect crime victims and their rights to justice and due process, a victim of a crime enumerated in any chapter of this Community Code of Ordinances has the following rights:

- (1) The right to be informed of the rights pursuant to this section;
- (2) The right to be reasonably protected from the accused;
- (3) The right to be treated with fairness and respect for the crime victim's dignity and privacy, and to be free from intimidation, harassment, or abuse throughout the criminal justice process;
- (4) The right to be informed, upon request, when the accused or convicted person is released from custody or has escaped;
- (5) The right, upon request, to reasonable, accurate, and timely notice of any public court proceeding, or any parole proceeding, involving the crime, or of any release or escape of the accused;
- (6) The right to be heard at any proceeding involving a post-arrest release decision, a negotiated plea, and sentencing;
- (7) The right to refuse an interview, deposition, or other discovery request by the defendant, the defendant's attorney or advocate, or any other person acting on behalf of the defendant;
- (8) The reasonable right to confer with the attorney for the Community in the case;
- (9) The right to read pre-sentence reports relating to the crime against the crime victim, whenever such reports are available to the defendant;
- (10) The right to receive full and timely restitution;
- (11) The right to be heard at any proceeding when any post-conviction release from confinement is being considered;

(12) The right to a speedy trial or disposition and prompt and final conclusion of the case after the conviction and sentence; and

(13) The right to have all rules governing criminal procedure and admissibility of evidence in all criminal proceedings protect victim's rights and to have these rules be subject to amendment or repeal by the Tribal Council to ensure protection of these rights.

(b) *Exercise of rights.* A victim's exercise of any right granted by this section shall not be grounds for dismissing any criminal proceeding or setting aside any conviction or sentence.

(c) *Best efforts to afford rights.*

(1) *Government.* Officers and employees of the police department, the office of the prosecutor, and other departments and agencies of the Community engaged in the detection, investigation, or prosecution of crime shall make their best efforts to see that crime victims are notified of, and afforded, the rights described in subsection (a) of this section.

(2) *Advice of attorney.* The prosecutor shall advise the crime victim that the crime victim can seek the advice of an attorney with respect to the rights described in subsection (a) of this section.

(3) *Notice.* Notice of release otherwise required pursuant to this chapter shall not be given if such notice may endanger the safety of any person.

(d) *Enforcement and limitations.*

(1) *Rights.* The crime victim or the crime victim's lawful representative, and the attorney for the Government may assert the rights described in subsection (a) of this section. A person accused of the crime may not obtain any form of relief under this chapter.

(2) *Multiple crime victims.* In a case where the court finds that the number of crime victims makes it impracticable to afford all of the crime victims the rights de-

scribed in subsection (a) of this section, the court shall fashion a reasonable procedure to give effect to this chapter that does not unduly complicate or prolong the proceedings.

- (3) *Error.* In any appeal in a criminal case, the Community prosecutor may assert as error the tribal court's denial of any crime victim's right in the proceeding to which the appeal relates.
- (4) *Limitation on relief.* In no case shall a failure to afford a right under this chapter provide grounds for a new trial.
- (5) *No cause of action.* Nothing in this section shall be construed to authorize a cause of action for damages or to create, to enlarge, or to imply any duty or obligation to any victim or other person for the breach of which the Community or any of its officers or employees could be held liable in damages. Nothing in this section shall be construed to impair the prosecutorial discretion of the Community prosecutor or any officer under his or her direction.

(e) *Definition.* For the purposes of this chapter, the term "crime victim" means a person directly and proximately harmed as a result of the commission of a tribal offense. In the case of a crime victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardians of the crime victim or the representatives of the crime victim's estate, family members, or any other persons appointed as suitable by the court, may assume the crime victim's rights under this section, but in no event shall the defendant be named as such guardian or representative.

(f) *Future action.* The Tribal Council, or the people by initiative or referendum, have the authority to enact substantive and procedural laws to define, implement, preserve and protect the rights guaranteed to victims by this section.

(g) *Effective date.*

- (1) To the fullest extent possible as determined by the judge in each individual case, this section shall be applied to all court proceedings underway at the time this section is enacted.

- (2) This section shall be applied to all future court proceedings initiated after this section is enacted without exception.  
(Ord. No. SRO-429-2014, 11-13-2013)

#### **Sec. 6-12. Facilitation of a crime.**

(a) A person is guilty of facilitation of crime when, acting with knowledge that another person is committing or intends to commit a crime, such person, engages in conduct, which knowingly provides the other person with means or opportunity for the commission of the crime, and which in fact aids such person to commit the crime.

(b) Definitions. For purpose of this section:

*Crime* shall mean any act which constitutes an offense under federal or tribal law in which a person convicted of such offense is eligible for incarceration as a sentence.

*Knowingly provides* may include, but is not limited to, failing to take all reasonable efforts to exclude the person(s) from the private residence or property.

*Means or opportunity* may include, but is not limited to, permitting the use of a private residence or property for the purpose of committing a crime.

*Owner of controlling residence* means a person who has legal ownership, title, legal residency or dominion of a residence, building or property or a person who has been extended that right by the legal owner.

(c) Evidence. Evidence of previous criminal activity at a particular location if under the same control of owner or controlling resident, by named individuals or the affiliates known to the owner or controlling resident, may be admitted against the owner or controlling resident for the crime of facilitation.

(d) No defense. It is no defense to a prosecution for criminal facilitation that:

- (1) The person facilitated was not guilty of the underlying crime owing to criminal irresponsibility or other legal incapacity or exemption, or to unawareness of the criminal nature of the conduct in question



or to other factors precluding the mental state required for the commission of such crime; or

- (2) The person facilitated has not been prosecuted for or convicted of the underlying crime, or has previously been acquitted thereof; or
- (3) The defendant is not guilty of the facilitated crime because the defendant did not act with the intent or other culpable mental state required for the commission thereof.

(e) Corroboration. A person shall not be convicted of criminal facilitation solely upon the testimony of a person who has committed the crime charged to have been facilitated. Such testimony must be corroborated by such other evidence as tends to connect the defendant with such facilitation.

(f) Facilitation of crime is a Class B offense. When the conviction for facilitation of crime is based upon a crime of violence, the convicted person shall be sentenced to imprisonment for a period of not less than 15 days, which shall not to be deferred, deleted or suspended.  
(Ord. No. SRO-432-2014, § 6-12, 12-4-2013)

#### **Secs. 6-13—6-30. Reserved.**

## **ARTICLE II. OFFENSES AGAINST PUBLIC ADMINISTRATION**

### **DIVISION 1. GENERALLY**

#### **Sec. 6-31. Resisting lawful arrest.**

Any person who shall, willfully or knowingly, by force or violence resist or assist another person in resisting a lawful arrest shall be deemed guilty of resisting arrest. Resisting arrest is a Class B offense. If injuries are sustained by the officer as a result of making the arrest, the sentence shall not be suspended.  
(Code 1976, § 6.56; Ord. No. SRO-112-88, 12-16-1987; Ord. No. SRO-418-2013, § 6-31, 3-6-2013)

#### **Sec. 6-32. Duty to assist law enforcement officer.**

Any person who shall refuse to assist a duly appointed law enforcement officer in the arrest of any person or in conveying such person to the nearest place of confinement shall be deemed guilty of a Class D offense.  
(Ord. No. SRO-418-2013, § 6-32, 3-6-2013)

#### **Sec. 6-33. Escape.**

Any person who, having been arrested for, charged with, or found guilty of an offense, knowingly escapes or attempts to escape; or who knowingly permits or assists another person in escaping from lawful custody shall be deemed guilty of escape. Escape is a Class B offense.  
(Ord. No. SRO-418-2013, § 6-33, 3-6-2013)

#### **Sec. 6-34. Impersonation of peace officer or Community officer.**

A person who falsely impersonates a peace officer or any other appointed or elected officer of the Community in either his or her private or official capacity, and in such assumed character receives money or property, knowing that it is intended to be delivered to the individual so impersonated, with intent to convert the money or property to his or her own use or that of another person, or to deprive the true owner thereof, or who in such assumed character does any other act whereby any benefit might accrue to the party impersonating or to any other person, shall be guilty of impersonation of peace officer or Community officer. Impersonation of peace officer or Community officer is a Class C offense.  
(Ord. No. SRO-418-2013, § 6-34, 3-6-2013)

#### **Sec. 6-35. Failure to report suspicious death; failure to report missing child.**

(a) It shall be the duty of any person having direct knowledge of a death by foul play to report such death to the coroner or the police without delay. Any person who has direct knowledge of and fails to report such death shall be deemed guilty of failure to report suspicious death. Failure to report suspicious death is a Class B offense.

(b) It shall be the duty of any person having knowledge of a missing child to report such missing child to the police without delay. Any person who knowingly fails to report a missing child, or who gives false information to a law enforcement officer who is conducting a missing child investigation, with the intent to mislead the officer or impede the investigation, shall be deemed guilty of failure to report a missing child. Failure to report a missing child is a Class B offense.

(c) For purposes of this section, the term "child" means a person under the age of 18 years.  
(Ord. No. SRO-418-2013, § 6-35, 3-6-2013)

**Sec. 6-36. Violence or assault on a Community law enforcement officer or judge.**

(a) Any person who shall knowingly or intentionally, by force or violence, or expelled bodily fluids, render physical abuse or place a Community law enforcement officer or judge or other officer of the Community court in fear of imminent physical injury shall be deemed guilty of violence or assault on a Community law enforcement officer or judge, a Class B offense.

(b) If the assault involves biting, scratching, spitting, or transferring blood or other bodily fluids on or through the skin or membranes of the law enforcement officer or judge, then the defendant shall submit to testing for the human immunodeficiency virus, common blood borne diseases, or other diseases.

(c) For purposes of this section, the term "law enforcement officer, judge or other officer of the Community court" means police officer, judge, probation officer, corrections officer, court security officer, firefighter, emergency medical technician or prosecutor.  
(Ord. No. SRO-418-2013, § 6-36, 3-6-2013)

**Sec. 6-37. Tampering with a victim, witness, or informant.**

Any person who knowingly uses bribery, misrepresentation, intimidation, force or threats of force, or who attempts to do so, or who engages in misleading conduct toward another person, or who corruptly persuades another person with the

intent to influence, obstruct, delay, or prevent the communication of information to a peace officer, or the testimony of any person in an official proceeding shall be deemed guilty of a Class B offense.

(Ord. No. SRO-418-2013, § 6-37, 3-6-2013)

**Sec. 6-38. False reporting to law enforcement; interfering with police officer.**

(a) Any person who knowingly makes to a law enforcement agency having any criminal jurisdiction in the Community, a false, fraudulent or unfounded report or statement or who knowingly misrepresents a fact for the purpose of interfering with the orderly operation of a law enforcement agency or misleading a police or other duly authorized law enforcement officer shall be deemed guilty of a Class C offense.

(b) Any person who knowingly engages in conduct whose purpose is to impair, obstruct, hinder, or prevent a police or other duly authorized law enforcement officer from discharging his or her official duties, shall be deemed guilty of a Class C offense.

(Code 1981, § 6-9; Code 2012, § 6-9; Ord. No. SRO-255-99, 9-1-1999; Ord. No. SRO-278-2001, 9-9-2001; Ord. No. SRO-402-2012, § 6-9, 5-30-2012; Ord. No. SRO-418-2013, § 6-38, 3-6-2013)

**Sec. 6-39. Concealment of fugitives and escapees; accessory after the fact.**

(a) Any person who conceals a person for whom an arrest warrant or process has been issued under the provisions of any law of the Community so as to prevent his or her discovery and arrest, after notice or knowledge of the fact that a warrant or process has been issued for apprehension of such person, shall be deemed guilty of a Class C offense.

(b) Any person, knowing that a criminal offense against the Community has been committed who receives, relieves, comforts, or assists the offender in order to hinder or prevent his or her apprehension, trial, or punishment is an accessory after the fact and shall be deemed guilty of a Class C offense.

(c) Any person who willfully harbors or conceals a prisoner after escape from lawful custody, after notice or knowledge of the fact of said prisoner's escape, shall be deemed guilty of a Class B offense.

(Ord. No. SRO-418-2013, § 6-39, 3-6-2013)

**Sec. 6-40. Unlawful flight from a pursuing law enforcement vehicle.**

(a) A driver of a motor vehicle who willfully flees or attempts to elude a pursuing official law enforcement vehicle is guilty of unlawful flight from a pursuing law enforcement vehicle.

(b) Unlawful flight from a pursuing law enforcement vehicle is a Class B offense. Any person who commits unlawful flight from a pursuing law enforcement vehicle shall be sentenced to imprisonment for a period of not less than 15 days and a fine of not less than \$1,000.00, and shall not be eligible for suspension or deferment of sentence, probation, or parole or any other form of release from custody until the minimum 15-day sentence is served.

(c) For purposes of this section, the term "official law enforcement vehicle" means any law enforcement vehicle operated by a duly authorized agent of the Community law enforcement agency or any other law enforcement agency where the pursuit originated, and the law enforcement vehicle was appropriately marked to show that it is an official law enforcement vehicle, and the lights and sirens of that vehicle must have been activated while the vehicle was in motion. (Ord. No. SRO-418-2013, § 6-40, 3-6-2013)

**DIVISION 2. COURT-RELATED OFFENSES**

**Sec. 6-41. Contempt of court.**

Any person guilty of contempt of court of any of the following kinds is also guilty of a Class D offense:

- (1) Disorderly, contemptuous or insolent behavior committed during the sitting of a court of justice in immediate view and presence of the court, and directly tending to interrupt its proceedings or to impair respect due to authority.

- (2) Behavior of like character committed in the presence of a referee while actually engaged in a trial or hearing, pursuant to the order of a court, or in the presence of a jury, while actually sitting during a trial of a cause or upon an inquest or other proceeding authorized by law.

- (3) Any breach of the peace, noise or other disturbance directly tending to interrupt the proceedings of a court.

- (4) Willful disobedience of process or an order lawfully issued by a court.

- (5) Resistance willfully offered to the lawful order or process of a court.

- (6) The unlawful refusal to be sworn as a witness, or when so sworn, refusal to answer a material question.

- (7) The publication of a false or grossly inaccurate report of proceedings of a court. (Code 1976, § 6.17; Ord. No. SRO-112-88, 12-16-1987; Ord. No. SRO-418-2013, § 6-41, 3-6-2013)

**Sec. 6-42. Disobedience to lawful orders of court.**

Any person who shall willfully disobey an order, subpoena, warrant or command duly issued, made or given by the Community court or any officer thereof, or disobey any signs posted around the Community jail shall be deemed guilty of an offense and upon conviction thereof, shall be deemed guilty of a Class C offense.

(Code 1976, § 6.23; Code 1981, § 6-42; Code 2012, § 6-42; Ord. No. SRO-398-2012, 6-1-2012; Ord. No. SRO-402-2012, § 6-42, 5-30-2012; Ord. No. SRO-418-2013, § 6-42, 3-6-2013)

**Sec. 6-43. Destroying evidence.**

Any person who shall willfully or knowingly destroy any evidence that could be used in the trial of a case with the intent to prevent same from being used is guilty of an offense and, upon conviction thereof, shall be deemed guilty of a Class C offense.

(Code 1976, § 6.22; Code 1981, § 6-43; Code 2012, § 6-43; Ord. No. SRO-402-2012, § 6-43, 5-30-2012; Ord. No. SRO-418-2013, § 6-43, 3-6-2013)

**Sec. 6-44. Perjury.**

Any person who shall willfully or deliberately, in any judicial proceeding in any court of the Community, falsely swear or interpret, or shall make a sworn statement or affidavit knowing the same to be untrue, or shall induce or produce another person to do so, shall be deemed guilty of perjury, and upon conviction thereof, shall be deemed guilty of a Class C offense.

(Code 1976, § 6.51; Code 1981, § 6-44; Code 2012, § 6-44; Ord. No. SRO-402-2012, § 6-44, 5-30-2012; Ord. No. SRO-418-2013, § 6-44, 3-6-2013)

**Secs. 6-45—6-50. Reserved**

**ARTICLE III. OFFENSES AGAINST PERSONS**

**DIVISION 1. GENERALLY**

**Sec. 6-51. Assault; aggravated assault.**

- (a) Assault. A person commits an assault by:
  - (1) Intentionally, knowingly, or recklessly causing any physical injury to another person;
  - (2) Intentionally placing another person in reasonable apprehension of imminent physical injury; or
  - (3) Knowingly touching another person with the intent to injure, insult, or provoke such person.

(b) Aggravated assault. A person commits aggravated assault if the person commits assault as defined in subsection (a) of this section under any of the following circumstances:

- (1) If the person causes serious physical injury;
- (2) If the person uses a deadly weapon or dangerous instrument;
- (3) If the person commits the assault while the victim is bound or otherwise physically restrained; or
- (4) If the person commits the assault while the victim's capacity to resist is substantially impaired.

(c) Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Dangerous instrument* means anything that under the circumstances in which it is used, attempted to be used, or threatened to be used is readily capable of causing death or serious physical injury.

*Deadly weapon* means anything designed for lethal use, including a firearm.

*Firearm* means any loaded or unloaded handgun, pistol, revolver, rifle, shotgun or other weapon which will or is designed to or may readily be converted to expel a projectile by the action of expanding gases, but does not include a firearm in permanently inoperable condition.

*Physical injury* means the impairment of physical condition.

*Serious physical injury* means physical injury that creates a reasonable risk of death, or that causes serious and permanent disfigurement, serious impairment of health, or loss or protracted impairment of the function of any bodily organ or limb.

(d) Assault is a Class C offense if committed in violation of subsection (a)(2) or (a)(3) of this section.

(e) Assault is a Class B offense if committed in violation of subsection (a)(1) of this section.

(f) Aggravated assault is a Class A offense. (Code 1976, § 6.57; Code 1981, § 6-51; Code 2012, § 6-51; Ord. No. SRO-112-88, 12-16-1987; Ord. No. SRO-114-88, § C, 8-10-1988; Ord. No. SRO-402-2012, § 6-51, 5-30-2012; Ord. No. SRO-418-2013, § 6-51, 3-6-2013)

**Sec. 6-52. Homicide.**

(a) *Negligent homicide.*

- (1) A person commits negligent homicide if with criminal negligence the person causes the death of another person, including an unborn child.



- (2) Negligent homicide is a Class A offense and shall be punished by no less than a minimum sentence of one year imprisonment and a fine of \$5,000.00. If the victim was a child, then the convicted person shall not be eligible for suspension of sentence, probation, parole or any other release from custody until at least the minimum sentence of incarceration is served.

(b) *Manslaughter.* A person commits manslaughter by:

- (1) Recklessly causing the death of another person;
- (2) Committing murder as defined in subsection (c) of this section upon a sudden quarrel or heat of passion resulting from adequate provocation by the victim;
- (3) Intentionally aiding another to commit suicide;
- (4) Committing murder as defined in subsection(c) of this section, while being coerced to do so by the use or threatened immediate use of unlawful deadly physical force upon such person or a third person, which a reasonable person in his or her situation would have been unable to resist; or
- (5) Knowingly or recklessly causing the death of an unborn child by any physical injury to the mother.

Manslaughter is a Class A offense and shall be punished by no less than a minimum sentence of two years imprisonment and a fine of \$5,000.00. If the victim was a child, then the convicted person shall not be eligible for suspension of sentence, probation, parole or any other release from custody until at least the minimum sentence of incarceration is served.

(c) *Murder.* A person commits murder if:

- (1) The person intentionally causes the death of another person, including an unborn child, or as a result of intentionally causing the death of another person, causes the death of an unborn child; or knowing that the person's conduct will cause death

or serious physical injury, the person causes the death of another person, including an unborn child or, as a result of knowingly causing the death of another person, causes the death of an unborn child; or

- (2) Under circumstances manifesting extreme indifference to human life, the person recklessly engages in conduct that creates a grave risk of death and thereby causes the death of another person, including an unborn child or as a result of recklessly causing the death of another person, causes the death of an unborn child.

Murder is a Class A offense and shall be punished by no less than a minimum sentence of three years imprisonment and a fine of \$5,000.00. The convicted person shall not be eligible for suspension of sentence, probation, parole or any other release from custody until at least the minimum sentence of incarceration is served.

(Code 1981, § 6-52; Code 2012, § 6-52; Ord. No. SRO-367-2010, 8-18-2010; Ord. No. SRO-402-2012, § 6-52, 5-30-2012; Ord. No. SRO-418-2013, § 6-52, 3-6-2013)

### **Sec. 6-53. Threatening or intimidating.**

(a) A person commits the offense of threatening if such person threatens by word or conduct to cause physical injury to another person or serious damage to property of another.

(b) A person commits the offense of intimidating if such person threatens by word or conduct to cause physical injury to another person or damage to the property of another with the intent to induce another to do an act against his or her will or to refrain from doing a lawful act.

(c) Threatening or intimidating is a Class B offense.

(Code 1981, § 6-53; Code 2012, § 6-53; Ord. No. SRO-279-2001, 5-9-2001; Ord. No. SRO-402-2012, § 6-53, 5-30-2012; Ord. No. SRO-418-2013, § 6-53, 3-6-2013)

**Editor's note**—Ord. No. SRO-279-2001, adopted May 9, 2001, pertained to threatening or intimidating. Such ordinance did not specify manner of codification, but was designated by the editor as section 6-53.

**Sec. 6-54. Use of telephone or electronic device to commit offense.**

(a) It shall be unlawful for any person, with intent to terrify, intimidate, threaten, harass, annoy, offend, or to conduct or solicit sexual activity, to use a telephone or electronic device to convey in interstate or foreign communications and transmitting within or across Community boundaries:

- (1) Any obscene, lewd or profane language;
- (2) A suggestion of any lewd or lascivious act; or
- (3) A threat to inflict injury or physical harm to the person or property of any person.

(b) It shall be unlawful for any person to disturb by means of repeated telephone calls or electronic messages, anonymous or otherwise, the peace, quiet or right of privacy of any person.

(c) It shall be unlawful for any person knowingly to permit any telecommunications facility under his or her control to be used for any activity prohibited by this section with the intent that it be used for such activity.

(d) The use of obscene, lewd or profane language or the making of a threat or statement as set forth in subsection (a) of this section shall be prima facie evidence of intent to terrify, intimidate, threaten, harass, annoy or offend.

(e) Any offense committed by use of a telephone or electronic device as set forth in this section shall be deemed to have been committed at either the place where the telephone call(s) or electronic message(s) originated or at the place where the telephone call(s) or electronic message(s) were received. For purposes of this section, the term "electronic device" means any computerized equipment capable of receiving and or sending any written communication.

(f) Use of telephone or electronic device to commit an offense is a Class B offense. (Code 1981, § 6-54; Code 2012, § 6-54; Ord. No. SRO-280-2001, 5-9-2001; Ord. No. SRO-402-2012, § 6-54, 5-30-2012; Ord. No. SRO-418-2013, § 6-54, 3-6-2013)

**Editor's note**—Ord. No. SRO-280-2001, adopted May 9, 2001, pertained to use of telephone or electronic device to

commit offense. Such ordinance did not specify manner of codification, but was designated by the editor as section 6-54.

**Sec. 6-55. Stalking**

(a) A person commits stalking if that person intentionally or knowingly engages in a course of conduct that is directed toward another person and, if that conduct would either cause a reasonable person to fear:

- (1) For his or her safety or the safety of his or her family or household member and that person in fact fears for his or her safety or the safety of his or her family or household members; or
- (2) Death of that person or that person's family or household member, and that person in fact fears death for oneself or his or her family or household member.

(b) The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Course of conduct.*

- (1) The term "course of conduct" means any contact with another person, either directly or through a third party that is initiated or continued without the consent of the person, or in disregard of that person's expressed desire that the contact be avoided or discontinued. The term "course of conduct" includes, but is not limited to, any of the following:
  - a. Following or appearing within the sight of that person;
  - b. Approaching or confronting that person in a public place or on private property;
  - c. Appearing at the work place or residence of that person;
  - d. Entering onto or remaining on property that is owned, leased, or occupied by that person;
  - e. Contacting that person by telephone;
  - f. Sending mail or electronic communications to that person; or

- g. Placing an object on, or delivering an object to, property owned, leased, or occupied by that person.
- (2) The term "course of conduct" does not include constitutionally protected activity.
- (c) Attempts by the accused person to contact or follow the stalked person after the accused person has been given actual notice that the stalked person does not want to be contacted or followed constitutes prima facie evidence that the accused person intentionally or knowingly engaged in a prohibited course of conduct.
- (d) Stalking is a Class C offense if committed in violation of subsection (a)(1) of this section.
- (e) Stalking is a Class B offense if committed in violation of subsection (a)(2) of this section. (Ord. No. SRO-418-2013, § 6-55, 3-6-2013)

**Secs. 6-56—6-60. Reserved.**

**DIVISION 2. SEXUAL OFFENSES**

**Sec. 6-61. Definitions.**

The following words, terms and phrases, when used in this division within this Community Code of Ordinances, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Oral sexual contact* means oral contact with the penis, anus, or vulva.

*Prostitution* means the act or practice of engaging in sexual contact or intercourse for money or its equivalent.

*Sexual contact* means any touching or manipulating of any part of the genitals, anus, or female breast by any part of the body, or by an object, for the purpose of gratifying sexual desire of either party.

*Sexual intercourse* means penetration, however slight, into the penis, vulva, or anus by any part of the body or by any object, or masturbatory contact with the penis, vulva, or anus.

*Without consent* includes any of the following:

- (1) The victim was coerced by the use or threatened use of force against a person or property;
- (2) The victim was incapable of consent by reason of mental disorder or defect, drugs, alcohol, sleep, or other similar impairment, and such condition was known or should reasonably have been known by the defendant;
- (3) Mental disorder or defect rendering the victim incapable of comprehending the sexual nature of the conduct;
- (4) The victim is incapable of understanding or exercising the right to refuse to engage in the conduct; or
- (5) The defendant intentionally deceived the victim as to the nature of the act. (Ord. No. SRO-418-2013, § 6-61, 3-6-2013)

**Sec. 6-62. Prostitution.**

Any person who shall practice prostitution or procure a prostitute or prostitutes, or who shall knowingly keep, maintain, rent or lease any house, room, tent, vehicle, or other place for the purpose of prostitution shall be deemed guilty of a Class C offense.

(Code 1976, § 6.53; Code 1981, § 6-62; Code 2012, § 6-62; Ord. No. SRO-112-88, 12-16-1987; Ord. No. SRO-402-2012, § 6-62, 5-30-2012; Ord. No. SRO-418-2013, § 6-62, 3-6-2013)

**Sec. 6-63. Indecent exposure.**

(a) Any person who intentionally exposes his or her genitals, or her areola or nipple of her breast or breasts, and another person is present, and the defendant is reckless about whether the other person, as a reasonable person, would be offended or alarmed by the act shall be deemed guilty of indecent exposure. Indecent exposure does not include the act of breastfeeding by a mother.

(b) Indecent exposure to a person over the age of 14 years is a Class C offense.

(c) Indecent exposure to a person under the age of 14 years is a Class B offense.  
(Ord. No. SRO-418-2013, § 6-63, 3-6-2013)

**Sec. 6-64. Abusive sexual contact.**

Any person who intentionally or knowingly engages in sexual contact with any person over the age of 14 years without consent of that person, or with any person who is under the age of 14 years if the sexual contact involves only the female breast shall be deemed guilty of abusive sexual contact. Abusive sexual contact with a person over the age of 14 years is a Class B offense. Abusive sexual contact with a person under the age of 14 years is a Class A offense.  
(Ord. No. SRO-418-2013, § 6-64, 3-6-2013)

**Sec. 6-65. Sexual assault; aggravated sexual assault.**

(a) *Sexual assault.* Any person who intentionally or knowingly engages in sexual intercourse or oral sexual contact with a person without consent of such person, or who attempts to do so, shall be deemed guilty of sexual assault.

(b) *Aggravated sexual assault.* A person commits aggravated sexual assault if the person commits sexual assault as defined in subsection (a) of this section under any of the following circumstances:

- (1) If the person causes serious physical injury;
- (2) If the person uses a deadly weapon or dangerous instrument;
- (3) If the person commits the assault while the victim is bound or otherwise physically restrained; or
- (4) If the person commits the assault while the victim's capacity to resist is substantially impaired.

(c) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Dangerous instrument* means anything that under the circumstances in which it is used,

attempted to be used, or threatened to be used is readily capable of causing death or serious physical injury.

*Deadly weapon* means anything designed for lethal use, including a firearm.

*Firearm* means any loaded or unloaded handgun, pistol, revolver, rifle, shotgun or other weapon which will or is designed to or may readily be converted to expel a projectile by the action of expanding gases, but does not include a firearm in permanently inoperable condition.

*Physical injury* means the impairment of physical condition.

*Serious physical injury* means physical injury that creates a reasonable risk of death, or that causes serious and permanent disfigurement, serious impairment of health, or loss or protracted impairment of the function of any bodily organ or limb.

(d) *Sexual assault offense.* Sexual assault is a Class A offense.

(e) *Aggravated assault offense.* Aggravated sexual assault is a Class A offense, and shall be punished by no less than a minimum sentence of one year imprisonment and a fine of \$5,000.00. The convicted person shall not be eligible for suspension of sentence, probation, parole or any other release from custody until at least the minimum sentence of incarceration is served.  
(Ord. No. SRO-418-2013, § 6-65, 3-6-2013)

**Secs. 6-66, 6-67. Reserved.**

**Sec. 6-68. Incest.**

Any person who knowingly or intentionally commits the act of sexual intercourse with another person who is known to be related to said person within the degree wherein marriage is prohibited by law or custom shall be deemed guilty of a Class B offense. For purposes of this section, marriage shall be presumed prohibited by law or custom if the parties are within the third degree of sanguinity.

(Code 1976, § 6.41; Code 1981, § 6-68; Code 2012, § 6-68; Ord. No. SRO-112-88, 12-16-1987; Ord. No. SRO-402-2012, § 6-68, 5-30-2012; Ord. No. SRO-418-2013, § 6-68, 3-6-2013)



**Secs. 6-69—6-80. Reserved.**

## **ARTICLE IV. OFFENSES AGAINST MINORS AND DEPENDENTS**

### **DIVISION 1. GENERALLY**

#### **Sec. 6-81. Failure to provide care of dependent persons.**

Any person who shall intentionally, knowingly, or negligently refuse or neglect to furnish food, shelter or care to those dependent upon such person shall be deemed guilty of a Class D offense. (Code 1976, § 6.12; Code 1981, § 6-81; Code 2012, § 6-81; Ord. No. SRO-402-2012, § 6-81, 5-30-2012; Ord. No. SRO-418-2013, § 6-81, 3-6-2013)

#### **Sec. 6-82. Child abuse; aggravated child abuse.**

(a) Child abuse. Any person who intentionally, knowingly, recklessly, or with criminal negligence causes a child to suffer physical injury or unjustifiable physical pain; or having care or custody of a child, who causes or permits the person or health of the child to be injured; or who causes or permits a child to be placed in a situation where the person or health of the child is endangered; or who engages in emotional abuse of a child shall be deemed guilty of child abuse.

(b) Aggravated child abuse. A person commits aggravated child abuse if the person commits child abuse as defined in subsection (a) of this section under any of the following circumstances:

- (1) If the person causes serious physical injury;
- (2) If the person uses a deadly weapon or dangerous instrument;
- (3) If the person commits the abuse while the child is bound or otherwise physically restrained;
- (4) If the person commits the abuse while the child's capacity to resist is substantially impaired; or
- (5) If the person commits the abuse in violation of the definition as set forth in sub-

section (c) of this section of the term "unjustifiable physical pain" in subsection (3), (5) or (6) of that definition.

(c) Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Abuse* means the infliction or allowing of physical injury, impairment of bodily function, disfigurement, or the infliction or allowing another person to cause serious emotional damage as evidenced by severe anxiety, depression, withdrawal, or untoward aggressive behavior, which has been diagnosed by a medical doctor or psychiatrist. Abuse includes inflicting or allowing sexual abuse pursuant to section 6-87, 6-88, 6-89 or 6-90.

*Child* means a person under the age of 18 years.

*Dangerous instrument* means anything that under the circumstances in which it is used, attempted to be used or threatened to be used is readily capable of causing death or serious physical injury.

*Deadly weapon* means anything designed for lethal use, including a firearm.

*Emotional abuse* means a pattern of ridiculing or demeaning a child, making derogatory remarks to a child, or threatening to inflict physical or emotional harm to a child.

*Firearm* means any loaded or unloaded handgun, pistol, revolver, rifle, shotgun or other weapon which will or is designed to or may readily be converted to expel a projectile by the action of expanding gases, but does not include a firearm in permanently inoperable condition.

*Physical injury* means the impairment of physical condition.

*Serious physical injury* means physical injury that creates a reasonable risk of death, or that causes serious and permanent disfigurement, serious impairment of health, or loss or protracted impairment of the function of any bodily organ or limb.

*Unjustifiable physical pain* includes, but is not limited to, any pain associated with physical discipline under any of the following circumstances:

- (1) When the punishment inflicted is not reasonably proportionate to the behavior of the child, in consideration of the child's mental, physical and emotional abilities;
- (2) When the person inflicting the punishment is intoxicated and not acting reasonably;
- (3) When the punishment includes the application of heat, either by any heated instrument or water capable of scalding;
- (4) When the punishment includes unreasonable and intentional exposure to natural weather elements;
- (5) When the punishment includes any human bite; or
- (6) Any genital injury not inflicted for religious reasons or by a medical professional acting within his or her professional capacity.

(d) If committed recklessly or with criminal negligence, child abuse is a Class B offense.

(e) If committed intentionally or knowingly, child abuse is a Class A offense.

(f) Aggravated child abuse is a Class A offense, whether committed intentionally, knowingly, recklessly, or with criminal negligence. If committed intentionally or knowingly, aggravated child abuse shall be punished by no less than a minimum sentence of one year imprisonment and a fine of \$5,000.00. The convicted person shall not be eligible for suspension of sentence, probation, parole or any other release from custody until at least the minimum sentence of incarceration is served. (Ord. No. SRO-418-2013, § 6-82, 3-6-2013)

#### **Sec. 6-83. Contributing to the delinquency and dependency of a minor.**

(a) Any person who by any act causes, encourages or contributes to the dependency or delinquency of a child or who for any cause is responsible therefor shall be deemed guilty of a Class C offense.

(b) When the charge concerns the dependency of a child or children, the offense for convenience may be termed contributory dependency, and when the charge concerns the delinquency of a child or children, the offense for convenience may be termed contributory delinquency.

(c) In order to find a person guilty of violating the provisions of this section, it is not necessary to prove that the child has actually become dependent or delinquent if it appears from the evidence that through any act, neglect or omission of duty or by any improper act or conduct on the part of such person, the dependency or delinquency of a child may have been caused or merely encouraged.

(d) The term "delinquency" means an act or acts committed by a child which can be included in the term "juvenile offense" in section 11-2.

(e) The term "child" means a person under the age of 18 years.  
(Code 1976, § 6.18; Code 1981, § 6-83; Code 2012, § 6-83; Ord. No. SRO-255-99, 9-1-1999; Ord. No. SRO-402-2012, § 6-83, 5-30-2012; Ord. No. SRO-418-2013, § 6-83, 3-6-2013)

#### **Sec. 6-84. Selling tobacco, paper or wrappers to minors.**

Any person, who intentionally sells, exchanges, barter, disposes of or gives away to any person under the age of 18 years any tobacco or any cigarette paper or wrapper prepared or designed to be used for filling with tobacco shall be guilty of a Class E offense.

(Code 1976, § 6.46; Code 1981, § 6-84; Code 2012, § 6-84; Ord. No. SRO-255-99, 9-1-1999; Ord. No. SRO-402-2012, § 6-84, 5-30-2012; Ord. No. SRO-418-2013, § 6-84, 3-6-2013)

#### **Sec. 6-85. Custodial interference.**

A person commits custodial interference if, knowing or having reason to know that he or she has no legal right to do so, such person knowingly takes, entices, keeps from lawful custody, or harbors any child less than 18 years of age or incompetent entrusted by authority of law to the

custody of another person or institution, and, if convicted of committing such act or acts, shall be guilty of a Class C offense.

(Code 1981, § 6-85; Code 2012, § 6-85; Ord. No. SRO-114-88, § H, 8-10-1988; Ord. No. SRO-203-95, 6-14-1995; Ord. No. SRO-402-2012, § 6-85, 5-30-2012; Ord. No. SRO-418-2013, § 6-85, 3-6-2013)

## DIVISION 2. SEXUAL CONTACT WITH CHILDREN

### Sec. 6-86. Definitions.

For the purpose of this division within this Community Code of Ordinances, the following terms shall have the meanings given in this section:

*Child* means a person under the age of 18 years.

*Oral sexual contact* means oral contact with the penis, vulva or anus.

*Sexual contact* means any touching or manipulating of any part of the genitals, anus, or female breast by any part of the body, or by an object, for the purpose of gratifying sexual desire of either party.

*Sexual intercourse* means penetration, however slight, into the penis, vulva or anus by any part of the body or by any object, or masturbatory contact with the penis, vulva or anus.

*Spouse* means a person who is legally married. (Code 1981, § 6-86; Code 2012, § 6-86; Ord. No. SRO-108-87, § 1, 4-22-1987; Ord. No. SRO-255-99, 9-1-1999; Ord. No. SRO-402-2012, § 6-86, 5-30-2012; Ord. No. SRO-418-2013, § 6-86, 3-6-2013)

### Sec. 6-87. Sexual contact with a child.

A person who intentionally or knowingly engages in sexual contact with a child who is at least four years younger than the person so engaging shall be deemed guilty of sexual contact with a child. Sexual contact with a child is a Class A offense.

(Ord. No. SRO-418-2013, § 6-87, 3-6-2013)

### Sec. 6-88. Sexual abuse of a child.

A person commits sexual abuse of a child by knowingly engaging in sexual intercourse or oral sexual contact with a child who is under the age of 14 years; or knowingly engaging in sexual intercourse or oral sexual contact with a child who has attained the age of 14 years and is at least four years younger than the person so engaging, or by attempting to do so. Sexual abuse of a child is a Class A offense shall be punished by no less than a minimum sentence of one year imprisonment and a fine of \$5,000.00. The convicted person shall not be eligible for suspension of sentence, probation, parole or any other release from custody until at least the minimum sentence of incarceration is served.

(Ord. No. SRO-418-2013, § 6-88, 3-6-2013)

### Sec. 6-89. Continuous sexual abuse of a child.

A person who over a period of three months or more in duration engages in three or more acts of sexual contact, sexual intercourse, or oral sexual contact with a child under 14 years of age shall be deemed guilty of continuous sexual abuse of a child, a Class A offense, and shall be punished by no less than a minimum sentence of two years imprisonment and a fine of \$5,000.00. The convicted person shall not be eligible for suspension of sentence, probation, parole or any other release from custody until at least the minimum sentence of incarceration is served.

(Ord. No. SRO-418-2013, § 6-89, 3-6-2013)

### Sec. 6-90. Child prostitution.

A person who causes any child to engage in prostitution, uses any child for purposes of prostitution, or permits any child under his or her care, custody, or control to engage in prostitution shall be deemed guilty of child prostitution, a Class A offense.

(Code 1981, § 6-89; Code 2012, § 6-89; Ord. No. SRO-108-87, § 4, 4-22-1987; Ord. No. SRO-402-2012, § 6-89, 5-30-2012; Ord. No. SRO-418-2013, § 6-90, 3-6-2013)

### Sec. 6-91. Reserved.

## ARTICLE V. OFFENSES AGAINST PROPERTY\*

### DIVISION 1. GENERALLY

#### **Sec. 6-92. Receiving stolen property.**

Any person who shall receive or conceal, or aid in concealing or receiving, any property, knowing the same to be stolen, embezzled or obtained by fraud, false pretense, robbery or burglary, shall be deemed guilty of a Class B offense.

(Code 1976, § 6.54; Code 1981, § 6-92; Code 2012, § 6-92; Ord. No. SRO-255-99, 9-1-1999; Ord. No. SRO-402-2012, § 6-92, 5-30-2012; Ord. No. SRO-418-2013, § 6-92, 3-6-2013)

#### **Sec. 6-93. Bribery.**

(a) *Generally.* Any person who shall give or offer to give any money, property or service or anything else of value to another person with corrupt intent to influence another in the discharge of his or her public duties or conduct. Any person who shall accept, solicit or attempt to solicit any bribe, as above defined, shall be deemed guilty of a Class B offense.

(b) *Threats by public officers.* Any public officer of the Community who shall threaten any member of the judicial or law enforcement agency with dismissal or other loss of position shall be deemed guilty of a Class C offense.

(c) *Tribal officers.* Any person, who holds any tribal office who is convicted under this section, shall be removed under article IX, section 1 of the Constitution and bylaws of the Community. (Code 1976, § 6.11; Code 1981, § 6-93; Code 2012, § 6-93; Ord. No. SRO-255-99, 9-1-1999; Ord. No. SRO-402-2012, § 6-93, 5-30-2012; Ord. No. SRO-418-2013, § 6-93, 3-6-2013)

#### **Sec. 6-94. Fraudulent schemes and practices.**

Any person who, with intent to cheat and defraud, obtains or attempts to obtain from any

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\***Editor's note**—In order to accommodate new, expanded provisions on trespass, the contents of section 6-91 have been renumbered as section 6-111 and included as part of division 3 of this article.

other person, money, property or its equivalent, by means or by use of any false or bogus check or by any other printed, written or engraved instrument, or spurious coin or metal, or attempts to obtain money, property or valuable consideration by means or by use of any trick or deception, false or fraudulent representation, statement or pretense, or by any other means shall be deemed guilty of a Class B offense.

(Code 1976, § 6.16; Code 1981, § 6-94; Code 2012, § 6-94; Ord. No. SRO-255-99, 9-1-1999; Ord. No. SRO-402-2012, § 6-94, 5-30-2012; Ord. No. SRO-418-2013, § 6-94, 3-6-2013)

#### **Sec. 6-95. Extortion.**

Any person who shall knowingly by making false charges against another person or by any other means whatsoever extort any money, goods, property or anything else of any value shall be deemed guilty of a Class B offense.

(Code 1976, § 6.30; Code 1981, § 6-95; Code 2012, § 6-95; Ord. No. SRO-112-88, 12-16-1987; Ord. No. SRO-402-2012, § 6-95, 5-30-2012; Ord. No. SRO-418-2013, § 6-95, 3-6-2013)

#### **Sec. 6-96. Forgery.**

Any person who, with the intent to defraud falsely, makes, completes, or alters any written instrument shall be deemed guilty of a Class B offense.

(Code 1976, § 6.35; Code 1981, § 6-96; Code 2012, § 6-96; Ord. No. SRO-255-99, 9-1-1999; Ord. No. SRO-402-2012, § 6-96, 5-30-2012; Ord. No. SRO-418-2013, § 6-96, 3-6-2013)

#### **Sec. 6-97. Embezzlement.**

Any person who shall, having lawful custody of property not his or her own, appropriate the same to his or her use with intent to deprive the owner thereof shall be deemed guilty of a Class B offense.

(Code 1976, § 6.27; Code 1981, § 6-97; Code 2012, § 6-97; Ord. No. SRO-255-99, 9-1-1999; Ord. No. SRO-402-2012, § 6-97, 5-30-2012; Ord. No. SRO-418-2013, § 6-97, 3-6-2013)



**Sec. 6-98. Disposing of property of an estate.**

Any person who, without proper authority, sells, trades or otherwise disposes of any property of an estate before determination of the heirs shall be deemed guilty of a Class B offense. The person convicted under this section shall also be required to reimburse the estate for the amount or value of the property disposed of.

(Code 1976, § 6.26; Code 1981, § 6-98; Code 2012, § 6-98; Ord. No. SRO-255-99, 9-1-1999; Ord. No. SRO-402-2012, § 6-98, 5-30-2012; Ord. No. SRO-418-2013, § 6-98, 3-6-2013)

**Sec. 6-99. Taking identity of another person.**

Any person who knowingly takes, purchases, manufactures, records, possesses, or uses any personal identifying information of another person, including a real or fictitious person, without the consent of that person, with the intent to obtain or use the other person's identity for any unlawful purpose or to cause loss to a person, whether or not the person actually suffers any economic loss, shall be deemed guilty of a Class B offense.

(Ord. No. SRO-418-2013, § 6-99, 3-6-2013)

**Sec. 6-100. Reserved.**

**DIVISION 2. REAL OR TANGIBLE PROPERTY**

**Sec. 6-101. Injury to public property.**

Any person who shall, without proper authority, use or injure any public, government or Community property shall be deemed guilty a Class C offense.

(Code 1976, § 6.42; Code 1981, § 6-101; Code 2012, § 6-101; Ord. No. SRO-402-2012, § 6-101, 5-30-2012; Ord. No. SRO-418-2013, § 6-101, 3-6-2013)

**Sec. 6-102. Criminal damage.**

Any person, who shall intentionally or recklessly disturb, injure or destroy the property of

another, shall be deemed guilty of a Class B offense. Restitution of damages may be ordered by the Community court.

(Code 1976, § 6.45; Code 1981, § 6-102; Code 2012, § 6-102; Ord. No. SRO-112-88, 12-16-1987; Ord. No. SRO-402-2012, § 6-02, 5-30-2012; Ord. No. SRO-418-2013, § 6-10, 3-6-2013)

**Sec. 6-103. Burglary.**

(a) A person commits burglary by:

- (1) Entering or remaining unlawfully in or on a nonresidential structure or in a fenced commercial or residential yard with the intent to commit any theft or offense therein;
- (2) Making entry into any part of a motor vehicle, with the intent to commit any theft or offense in the motor vehicle;
- (3) Entering or remaining unlawfully in or on a residential structure with the intent to commit any theft or offense therein; or
- (4) Entering or remaining unlawfully in or on a residential structure with the intent to commit any theft or offense therein, while knowingly possessing explosives or a deadly weapon or dangerous instrument.

(b) If committed in violation of subsection (a)(1) or (2) of this section, burglary is a Class C offense.

(c) If committed in violation of subsection (a)(3) of this section, burglary is a Class B offense.

(d) If committed in violation of subsection (a)(4) of this section, burglary is a Class A offense.

(Code 1976, § 6.10; Code 1981, § 6-103; Code 2012, § 6-103; Ord. No. SRO-112-88, 12-16-1987; Ord. No. SRO-402-2012, § 6-103, 5-30-2012; Ord. No. SRO-418-2013, § 6-103, 3-6-2013)

**Sec. 6-104. Theft and robbery.**

(a) *Theft.* Any person who shall control the property of another with the intent to deprive the other person of such property; or who converts for an unauthorized term or use; or who obtains property or services of another by means of any material misrepresentation with intent to deprive him or her of such property or services; or who obtains services known to such person to be

available only for compensation without paying or an agreement to pay such compensation, shall be deemed guilty of theft, a Class B offense.

(b) *Robbery*. Any person who shall, in the course of taking any property of another from his or her person or immediate presence and against his or her will, threaten or use force against any person with the intent either to coerce surrender of property or to prevent resistance to a person taking or retaining said property, shall be deemed guilty of robbery, a Class A offense.

(c) *Definitions*. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Force* means any physical act directed against a person as a means of gaining control of property.

*In the course of taking* means any of the defendant's acts beginning with the initiation and extending through the flight from a robbery.

*Threat* means a verbal or physical menace of imminent physical injury to a person.  
(Code 1976, § 6.58; Code 1981, § 6-104; Code 2012, § 6-104; Ord. No. SRO-114-88, § F, 8-10-1988; Ord. No. SRO-255-99, 9-1-1999; Ord. No. SRO-402-2012, § 6-104, 5-30-2012; Ord. No. SRO-255-99, 9-1-1999; Ord. No. SRO-418-2013, § 6-104, 3-6-2013)

#### **Sec. 6-105. Cutting fence.**

Any person who shall willfully cut a fence of another person or Community fence line shall be deemed guilty of an offense and, upon conviction thereof, shall be deemed guilty of a Class D offense.

(Code 1976, § 6.20; Code 1981, § 6-105; Code 2012, § 6-105; Ord. No. SRO-402-2012, § 6-105, 5-30-2012; Ord. No. SRO-418-2013, § 6-105, 3-6-2013)

#### **Sec. 6-106. Cutting timber without permit.**

Any person who is not a Community member, who cuts, digs up or removes any timber or

vegetation for any purpose without a proper permit, or who defaces vegetation, shall be deemed guilty of a Class D offense

(Code 1976, § 6.21; Code 1981, § 6-106; Code 2012, § 6-106; Ord. No. SRO-402-2012, § 6-106, 5-30-2012; Ord. No. SRO-418-2013, § 6-106, 3-6-2013)

#### **Sec. 6-107. Misbranding.**

Any person who shall knowingly or willfully misbrand or alter any brand or mark on any livestock of another person shall be deemed guilty of a Class C offense.

(Code 1976, § 6.47; Code 1981, § 6-107; Code 2012, § 6-107; Ord. No. SRO-402-2012, § 6-107, 5-30-2012; Ord. No. SRO-418-2013, § 6-107, 3-6-2013)

#### **Sec. 6-108. Negligent handling of campfire and/or negligent starting of a fire.**

Any person who builds a campfire upon the lands of the Community without clearing the ground immediately around it free from material which may carry fire, or who leaves thereon a campfire burning and unattended, or who permits a campfire to spread thereon, or who by throwing away a lighted cigar, cigarette or match or by use of firearms, or in any other manner starts a fire in a forest, or in any other area on the Community and leaves the fire unquenched shall be deemed guilty of a Class D offense, with costs and restitution of damages.

(Code 1976, § 6.49; Code 1981, § 6-108; Code 2012, § 6-108; Ord. No. SRO-402-2012, § 6-108, 5-30-2012; Ord. No. SRO-418-2013, § 6-108, 3-6-2013)

#### **Sec. 6-109. Short-handled hoes.**

(a) The use of a hoe with a handle less than four feet in length for weeding or thinning crops on farms within the Community is prohibited. This prohibition does not apply to the use of hoes in nursery or greenhouse operations.

(b) Any employer who requires the use of a hoe prohibited by this section shall be in violation of the terms of this section.

(c) The business license of any person who is in violation of the terms of this section may be suspended pursuant to section 15-36.

(Code 1981, § 6-109; Code 2012, § 6-109; Ord. No. SRO-92-85, §§ 1—3, 1-16-1985; Ord. No. SRO-402-2012, § 6-109, 5-30-2012; Ord. No. SRO-418-2013, § 6-109, 3-6-2013)

**Editor's note**—Inclusion of section 1 through 3 of SRO-92-85 as section 6-109 has been at the discretion of the editor.

### **Sec. 6-110. Arson.**

A person commits arson of a structure or property, whether occupied or unoccupied, by knowingly and unlawfully damaging such structure or property by knowingly causing a fire or explosion. Arson is a Class B offense if the structure or property is commercial or an unoccupied residence. Arson is a Class A offense if the structure is an occupied dwelling.

(Code 1981, § 6-110; Code 2012, § 6-110; Ord. No. SRO-156-93, § 1, 10-28-1992; Ord. No. SRO-402-2012, § 6-110, 5-30-2012; Ord. No. SRO-418-2013, § 6-110, 3-6-2013)

## **DIVISION 3. TRESPASS\***

### **Sec. 6-111. Criminal trespass.**

(a) Any person who shall knowingly enter or remain unlawfully on any real property after reasonable notice of prohibited entry or a reasonable request to leave by the owner or controlling resident shall be deemed guilty of criminal trespass, a Class C offense.

(b) For purposes of this section, the term "real property" includes a residential structure, nonresidential structure, Community-owned structure, commercial structure, fenced residential yard, and fenced commercial yard.

(Code 1976, § 6.59; Code 1981, § 6-111; Code 2012, § 6-111; Ord. No. SRO-402-2012, § 6-111, 5-30-2012; Ord. No. SRO-418-2013, § 6-111, 3-6-2013)

### **Sec. 6-112. Policy of the Community.**

(a) It is the policy of the Community that owners of the land be compensated for damage caused to their land by individuals riding vehicles

**\*Editor's note**—Transfer of § 6-91 to § 6-111 and inclusion of SRO-91-85 as §§ 6-112—6-119 has been at the editor's discretion.

over their land without permission, and that such vehicles so used be held as security for the payment of such compensation.

(b) It is the policy of the Community that owners of the land be compensated for damage caused by illegal dumping on their land.

(c) Any trespass onto land within the Community causes damage to such land or the owner's interest in it and is compensable. The amount of damages shall be the only issue after liability shall have been determined.

(Code 1981, § 6-112; Code 2012, § 6-112; Ord. No. SRO-91-85, § 3, 1-16-1985; Ord. No. SRO-402-2012, § 6-112, 5-30-2012; Ord. No. SRO-418-2013, § 6-112, 3-6-2013)

### **Sec. 6-113. Use of land for illegal dumping.**

(a) It shall be unlawful for any person to dump any material within the Community outside of the tri-city landfill area at any time, or to dispose of any material within the Tri-City Landfill other than during its regular business hours and pursuant to its rules and regulations.

(b) Any person who shall enter within the fenced and posted area of the Community's tri-city landfill other than during its regular business hours and pursuant to its rules and regulations shall be deemed guilty of criminal trespass, a Class C offense.

(c) Any person who shall enter within the fenced and posted area of the Community's tri-city landfill other than during its regular business hours and pursuant to its rules and regulations shall be deemed guilty of civil trespass and, upon conviction thereof, shall be sentenced to a fine not to exceed \$500.00, with costs.

(Code 1981, § 6-113; Code 2012, § 6-113; Ord. No. SRO-91-85, § 2, 1-16-1985; Ord. No. SRO-154-92, § 1, 6-3-1992; Ord. No. SRO-402-2012, § 6-113, 5-30-2012; Ord. No. SRO-418-2013, § 6-113, 3-6-2013)

### **Sec. 6-114. Use of off-the-road vehicles prohibited without license and landowner's permission.**

It shall be unlawful for any person to drive any motor vehicle off of public or private road or road

shoulders within the Community without first obtaining a license for use off the road for said vehicle from the chief of the department of public safety and without obtaining the written permission of the landowners to ride over and on their land.

(Code 1981, § 6-114; Code 2012, § 6-114; Ord. No. SRO-91-85, § 1, 1-16-1985; Ord. No. SRO-402-2012, § 6-114, 5-30-2012; Ord. No. SRO-418-2013, § 6-114, 3-6-2013)

**Sec. 6-115. Police officer to seize vehicle.**

Any police officer who has observed a vehicle unlawfully riding upon the lands of the Community or who has observed a vehicle used in illegal dumping within the Community or has observed a vehicle used in the excavation of sites in violation of the antiquities ordinance set forth in chapter 19 within the Community or has observed a vehicle collecting and/or hauling solid waste from any commercial enterprise within the Community in violation of section 13-6(b) is authorized to seize the vehicle as security for payment of damages and civil penalties.

(Code 1981, § 6-115; Code 2012, § 6-115; Ord. No. SRO-91-85, § 4, 1-16-1985; Ord. No. SRO-102-86, § 9, 7-23-1986; Ord. No. SRO-188-95, § 4, 11-2-1994; Ord. No. SRO-402-2012, § 6-115, 5-30-2012; Ord. No. SRO-418-2013, § 6-115, 3-6-2013)

**Sec. 6-116. Police officer to file notice of seizure.**

A police officer who seizes a vehicle under the provisions of this section shall file a notice of seizure and a complaint to determine damages on behalf of the landowners of any land alleged to be damaged by the use of the seized vehicle with the clerk of the Community court and the clerk shall serve notice thereon on all owners of the vehicle, by one of the following methods:

- (a) Upon an owner or claimant whose right, title or interest is of record in the division of motor vehicles of the state in which the automobile is licensed, by mailing a copy of the notice by registered mail to the address on the records of the division of motor vehicles of said state.

- (b) Upon an owner or claimant whose name and address are known, by mailing a copy of the notice by registered mail to his or her last known address.

- (c) Upon an owner or claimant, whose address is unknown but who is believed to have an interest in the vehicle, by publication in one issue of a newspaper of general circulation in the county.

(Ord. No. SRO-91-85, § 5, 1-16-1985; Ord. No. SRO-418-2013, § 6-116, 3-6-2013)

**Sec. 6-117. Owner's answer to notice.**

Within 20 days after the mailing or publication of a notice, as provided by section 6-116, the owner of the seized vehicle may file a verified answer to the allegation of the use of the vehicle contained in the notice and of the complaint. No extension of time shall be granted for the purpose of filing the answer.

(Code 1981, § 6-116; Code 2012, § 6-116; Ord. No. SRO-91-85, § 5, 1-16-1985; Ord. No. SRO-402-2012, § 6-116, 5-30-2012; Ord. No. SRO-418-2013, § 6-117, 3-6-2013)

**Sec. 6-118. Procedure for hearing.**

(a) If a verified answer to the notice and complaint given as prescribed by this section is not filed within the 20 days after the mailing or publication thereof, the court shall hear evidence upon the charge of unlawful use of the vehicle, the amount of damages to the land or the owner's interest in it and upon motion shall order the vehicle sold to pay such damages, subject to the provisions of subsection (d) of this section.

(b) If a verified answer is filed, the proceedings shall be set for a hearing on a day not less than 30 days after the answer is filed, and the proceedings shall have priority over other civil cases. Notice of the hearing shall be given to the respondent by ordinary mail at respondent's address as set out in respondent's answer.

(c) At the hearing, any owner or claimant who has a verified answer on file may show by competent evidence that the vehicle was not used unlawfully by an occupant of the vehicle, and may present competent evidence to mitigate the claim of damages.



(d) A claimant of any right, title or interest in the vehicle may provide his or her lien, mortgage or conditional sales contract to be bona fide, and that his or her right, title or interest was created after a reasonable investigation of the moral responsibility, character and reputation of the purchaser, and without knowledge that the vehicle was being, or was to be used for the purpose charged; but no person who has the lien dependent upon possession for the compensation to which he or she is legally entitled for making repairs or performing labor upon and furnishing supplies and materials for, and for the storage, repairs, safekeeping of any vehicle, and no person doing business under any law of any state or the United States relating to banks, trust companies, building and loan associations, and loan companies, credit unions or licensed pawnbrokers or money lenders or regularly engaged in the business of selling vehicles or purchasing conditional sales contracts on vehicles shall be required to prove that his or her right, title or interest was created after a reasonable investigation of the moral responsibility, character and reputation of the owner, purchaser, or person in possession of the vehicle when it was brought to the claimant.

(Code 1981, § 6-118; Code 2012, § 6-118; Ord. No. SRO-91-85, § 7, 1-16-1985; Ord. No. SRO-402-2012, § 6-118, 5-30-2012; Ord. No. SRO-418-2013, § 6-118, 3-6-2013)

#### **Sec. 6-119. Judgment.**

(a) The judgment shall determine whether the vehicle was used unlawfully and if it was so used, what damages, if any, were sustained by the use of the vehicle on lands within the Community. The court shall also determine whether the interest in the vehicle belonging to any lien holder, mortgagee or vendor is equal to or in excess of the value of the vehicle as of the date of seizure. If the value is equal or in excess of the value of the vehicle at the date of seizure, the vehicle shall be released to said lien holder, mortgagee or vendor, it being the purpose of this section to use as security only the right, title or interest of the owner of the vehicle.

(b) If the court determines that the vehicle was used illegally and that there are damages and that there is value in excess of that belong-

ing to a lien holder, mortgagee or vendor, then the court shall order the chief of the department of public safety to cause the vehicle to be sold at public auction and to pay out of the proceeds of said sale first the cost of said sale, second the interest of any lien holder, mortgagee or vendor in said vehicle, third compensation for the damages done, and fourth any balance to the titled owner of the vehicle.

(Code 1981, § 6-119; Code 2012, § 6-119; Ord. No. SRO-91-85, § 8, 1-16-1985; Ord. No. SRO-402-2012, § 6-119, 5-30-2012; Ord. No. SRO-418-2013, § 6-110, 3-6-2013)

#### **Sec. 6-120. Reserved.**

### **ARTICLE VI. DRUG-RELATED OFFENSES**

#### **Sec. 6-121. Definitions for drug related offenses.**

(a) *Definitions.* As used in this article, the following words have the following meanings:

- (1) *Administer* means to apply, inject, inhale, or facilitate the inhalation or ingestion of a substance to the body of a person.
- (2) *Community building or facility* includes but is not limited to; the Community multipurpose building, the Lehi multipurpose building, council chambers, Memorial Hall, Xalychidom Piipassh Nyvaash, the Lehi Pool, the Community library, the Community museum, Community schools and educational institutions, the Community cemeteries, the Two Waters Complex, the Way of Life Facility, the Roundhouse café, the Community court building, any Community building housing the various departments performing Community governmental functions, and any other building owned and controlled by the Community, not being lawfully used for a private residence. Any driveways, parking lots or curtilage of any of these described buildings or facilities shall constitute a Community building or facility for purposes of this section.

- (3) *Community event* means any event that is open to the public, or any Community sponsored event, or any event authorized by the Community to take place on the grounds of a Community building or facility, including, but not limited to: elections, council meetings, district meetings, Community member only meetings, funerals, memorials, wakes, dances, parades, pow wows, Community sporting events, Fourth of July events, Thanksgiving events, Christmas or winter holiday events, New Year's Eve events, Salt River Day or Native American Recognition Day events or other cultural events.
- (4) *Controlled substance* means any drug or other substance, or immediate precursor, or controlled substance analogue included in schedules I, II, III, IV, or V, of 21 USC § 812, including any future amendments to schedules I through V as may be enacted by Congress, or is listed in current or future schedules issued pursuant to authority vested in the attorney general of the United States pursuant to 21 USC § 8111. Controlled substance does not include distilled spirits, wine, malt beverages or tobacco. The term does not include marijuana or any vapor-releasing substance that contains a toxic substance.
- (5) *Controlled substance analogue* means, except as provided in subparagraph (c), a substance:
- The chemical structure of which is substantially similar to the chemical structure of a controlled substance in Schedule I or II;
  - Which 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;
  - With respect to a particular person, which such person represents or intends to 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.
- d. Controlled substance analogue does not include:
- A controlled substance;
  - Any substance for which there is an approved new drug application; or
  - Any substance to the extent not intended for human consumption before such an exemption takes effect with respect to that substance.
- (6) *Dangerous drugs* regulated by this article include but are not limited to the drugs methamphetamine, methylenedioxymethamphetamine (MDMA, also known as ecstasy), 3,4-Methylenedioxyamphetamine (MDA), phenylcyclohexyl piperidine (PCP), and those drugs and/or amounts of drugs not included in subsection (a) and (b) of this section, which are included in schedules I, II, III, IV, or V, of 21 USC § 812, including any future amendments to schedules I through V, as may be enacted by Congress, or is listed in current or future schedules issued pursuant to authority vested in the attorney general of the United States pursuant to 21 USC § 8111.
- (7) *Hallucinogens* regulated by this article include but are not limited to mescal buttons, peyote buttons, marijuana, dimethyltryptamine (DMT) lysergic acid diethylamide (LSD), 4-methyl-2, 5-dimethoxyamphetamine (STP), and those hallucinogens included in schedules I, II, III, IV, or V, of 21 USC § 812, including any future amendments to schedules I through V, as may be enacted by Congress, or is listed in current or future schedules

issued pursuant to authority vested in the attorney general of the United States pursuant to 21 USC § 8111.

- (8) *Manufacture* means the production, preparation, propagation, compounding, or processing of a drug or other substance, either directly or indirectly or by extraction from substances of natural origin, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of such substance or labeling or relabeling of its container; except that such term does not include the preparation, compounding packaging, or labeling of a drug or other substance in conformity with applicable Community, federal or state law by a physician, dentist, veterinarian, scientific investigator, pharmacy, hospital, or other person licensed, registered, or otherwise permitted by the United States or the Community in which he practices or does research, to distribute, dispense, conduct research with respect to, administer, or use in teaching or chemical analysis, a controlled substance in the course of professional practice or research.
- (9) *Narcotic drugs* regulated by this article include but are not limited to opium and opiates, including but not limited to heroin, methadone, morphine and codeine; coca leaves and their derivatives, including but not limited to cocaine; and those narcotics included in schedules I, II, III, IV, or V, of 21 USC § 812, including any future amendments to schedules I through V, as may be enacted by Congress, or is listed in current or future schedules issued pursuant to authority vested in the attorney general of the United States pursuant to 21 USC § 8111.
- (10) *Public place* means any location within the Community to which the public or a portion of the public has access to and is not a place exclusively used for a private residence or private gathering, including but not limited to; Community roadways, schools, parks, playgrounds, medical facilities,

businesses, the river area, preserve areas, neighborhood club houses and meeting spaces, trails and walkways.

(b) *Sentencing.* Notwithstanding specific sentencing language contained within the sections of this article, a violation of this article shall result in sentencing consistent with the following:

- (1) *Class A offenses.* The following offenses are class A offenses:
  - a. 6-125. Possession or use of narcotic drugs.
  - b. 6-126. Possession or use of dangerous drugs.
  - c. 6-127. Maintaining a drug-involved premises.
  - d. 6-128. Sale or manufacture of controlled substances and marijuana.
  - e. 6-129. Endangering human life while illegally manufacturing controlled substances.
- (2) *Class B offenses.* The following are class B offenses:
  - a. 6-122. Unlawful possession, use, sale of a vapor-releasing substance.
- (3) *Class C offenses.* The following are class C offenses.
  - a. 6-123. Possession of drug paraphernalia.
  - b. 6-124. Possession or use of a hallucinogen or marijuana.

(c) *Prescription drugs exempt.* This article shall not apply to persons who possess, have under their control, use, transport or carry narcotics pursuant to a prescription by a licensed physician, osteopath, dentist or veterinarian.

(d) *Certain professionals exempt.* This section shall not apply to manufacturers, wholesalers, apothecaries, physicians, osteopaths, dentists or veterinarians who have under their control, dispense, use, transport, sell, prepare for sale, furnish, administer, or offer to do the same any

drug regulated by this section, so long as such acts are done without violation of any law of the United States.

(Ord. No. SRO-557-2023, 3-29-2023, eff. 5-1-2023)

**Editor's note**—Ord. No. SRO-557-2023, adopted March 29, 2023 and effective May 1, 2023, repealed the former § 6-121, and enacted a new section as set out herein. The former § 6-121 pertained to possession or use of narcotics and drugs and derived from the 1976 Code, § 6.64; the 1981 Code, § 6-121; the 2012 Code, § 6-121; Ord. No. SRO-18-73 adopted April 11, 1973; Ord. No. SRO-112-88, adopted Dec. 16, 1987; Ord. No. SRO-402-2012, adopted May 30, 2012; Ord. No. SRO-418-2013, adopted March 6, 2013; Ord. No. SRO-433-2014, adopted Dec. 4, 2013; and Ord. No. SRO-550-2023, adopted Oct. 19, 2022.

### **Sec. 6-122. Unlawful possession, use, sale of a vapor-releasing substance.**

It shall be unlawful for any person to inhale or sniff any substance for the purpose of becoming intoxicated.

- (a) A person commits the offense of unlawful possession, use, sale of vapor-releasing substances if the person knowingly:
  - (1) Inhales, administers, breathes, or drinks paint, gas, glue, or any other vapor-releasing substance or product containing a toxic substance for the purpose of becoming intoxicated;
  - (2) Possesses any container or material with paint, gas, glue, or any other vapor-releasing substance, for the purpose of becoming intoxicated; or
  - (3) Sells, transfers, or offers to sell or transfer a vapor-releasing substance containing toxic substance to a person under 18 years of age, for the purpose of becoming intoxicated.
- (b) For purposes of this subsection, vapor-releasing substance containing a toxic substance means paint or varnish dispensed by the use of aerosol spray, or any glue, that releases vapors or fumes containing acetone, volatile acetates, benzene, butyl alcohol, ethyl alcohol, ethylene dichloride, isopropyl alcohol, methyl alcohol, methyl ethyl ketone, pentachlorophenol, petroleum ether, toluene,

volatile ketones, isophorone, chloroform, methylene chloride, mesityl oxide, xylene, cumene, ethylbenzene, trichloroethylene, mibk, miak, mek or diacetone alcohol or isobutyl nitrite.

(Ord. No. SRO-557-2023, 3-29-2023, eff. 5-1-2023)

### **Sec. 6-123. Possession of drug paraphernalia.**

It shall be unlawful for a person to possess, manufacture, deliver, or advertise drug paraphernalia for a purpose prohibited under sections 6-124, 6-125, and 6-126. It shall not be illegal to possess implements used to administer marijuana if done so legally pursuant to subsections 6-124(a)(1)—(3).

- (a) A person commits the offense of possession of drug paraphernalia when a person:
  - (1) Uses or possesses with intent to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the body a drug in violation of this chapter; or
  - (2) Delivers, possesses with intent to deliver or manufactures with intent to deliver drug paraphernalia knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, ingest, inhale or otherwise introduce into the human body a drug in violation of this chapter; or
  - (3) Places in a newspaper, magazine, handbill, other publication, or via any electronic means, any advertisement knowing, or under circumstances where one should reasonably know, that the purpose of the advertisement, in whole or in



part, is to promote the sale of objects designed or intended for use as drug paraphernalia.

- (b) For purposes of this subsection, deliver or delivery means the actual, constructive, or attempted transfer of a controlled substance or a listed chemical, whether or not there exists an agency relationship.
  - (c) Factors to determine if an object is drug paraphernalia. The court, a jury, a law enforcement officer, or probation officer may consider, in addition to all other logically relevant factors, the following:
    - (1) Statements by an owner or anyone in control of the object concerning its use;
    - (2) The proximity of the object, in time and space, to a direct violation of the Community Code of Ordinances involving controlled substances;
    - (3) The proximity of the object to a controlled substance or a vapor-releasing substance containing a toxic substance;
    - (4) The presence of any residue of a controlled substance or a vapor-releasing substance containing a toxic substance on the object;
    - (5) Instructions, oral or written, provided with the object concerning its use;
    - (6) Expert testimony concerning its use.
- (Ord. No. SRO-557-2023, 3-29-2023, eff. 5-1-2023)

**Sec. 6-124. Possession or use of a hallucinogen or marijuana.**

(a) It shall be unlawful for a person to knowingly possess, have under his or her control, dispense, use, transport, carry, give away, furnish, administer, or offer to furnish, administer, or give away any hallucinogen or marijuana except as provided in subsections (1), (2), and (3):

- (1) Recreational use of marijuana is permitted if:
  - a. Person is at least 21 years of age; and

- b. Amount is not more than one ounce of marijuana, of which not more than five grams is in the form of marijuana concentrate; and
  - c. Use does not occur in any public place, any Community building or facility, or at any Community event; and
  - d. Person is not driving or in actual physical control of any motorized vehicle while under the influence of marijuana in violation of section 16-231(a)(3); and
  - e. Marijuana is purchased only from a marijuana establishment licensed by the State of Arizona.
- (2) Medical use of marijuana is permitted if:
- a. Person is at least 18 years of age; and
  - b. Amount is not more than two and one-half ounces of marijuana, of which not more than 12½ grams is in the form of marijuana concentrate; and
  - c. Person has a valid, unexpired medical marijuana card, also known as a registry identification card, issued by the State of Arizona; and
  - d. Use does not occur in any public place, any Community building or facility, or at any Community event; and
  - e. Person is not driving or in actual physical control of any motorized vehicle while under the influence of marijuana in violation of section 16-231(a)(3); and
  - f. Marijuana is purchased only from a marijuana establishment licensed by the State of Arizona, in an amount no more than two and one-half ounces, of which not more than 12½ grams is in the form of marijuana concentrate, every two weeks.

## (3) Cultivation of marijuana is permitted if:

- a. Person over the age of 21 is possessing, transporting, cultivating or processing marijuana plants for personal use at the individual's primary residence; and
- b. No more than six plants are possessed by a single individual; and not more than 12 plants are possessed at a single residence where two or more individuals who are at least 21 years of age reside at one time; and
- c. Person is possessing, processing or manufacturing the marijuana by manual or mechanical means, including sieving or ice water separation but excluding chemical extraction or chemical synthesis; and
- d. The marijuana is produced by the plants on the premises where the marijuana plants were grown; and
- e. Cultivation takes place within a closet, room, greenhouse or other enclosed area on the grounds of the residence equipped with a lock or other security device that prevents access by minors; and
- f. Cultivation takes place in an area where the marijuana plants are not visible from public view without using binoculars, aircraft or other optical aids.

## (4) The Salt River Pima-Maricopa Indian Community, its enterprises and businesses and other businesses within the Salt River Pima-Maricopa Indian Community, retain the right to maintain a drug-and-alcohol free workplace.

## (5) The Community has the inherent sovereign authority to regulate the conduct of persons and activities within its territory and jurisdiction, and nothing in this section is intended to be or shall be construed to confer any jurisdiction upon the State of Arizona.

(Ord. No. SRO-557-2023, 3-29-2023, eff. 5-1-2023)

**Sec. 6-125. Possession or use of narcotic drugs.**

It shall be unlawful for a person to knowingly possess, have under his or her control, dispense, use, transport, carry, give away, furnish, administer, or offer to furnish, administer, or give away any narcotic drug.

**Sec. 6-126. Possession or use of dangerous drugs.**

It shall be unlawful for a person to knowingly possess, have under his or her control, dispense, use, transport, carry, give away, furnish, administer, or offer to furnish, administer, or give away any dangerous drug.

(Ord. No. SRO-557-2023, 3-29-2023, eff. 5-1-2023)

**Sec. 6-127. Maintaining a drug-involved premises.**

It shall be unlawful for a person to knowingly:

- (a) Lease, rent, use, or maintain any place, whether permanently or temporarily, for the purpose of manufacturing, distributing, possessing or using any controlled substance, or possessing or using marijuana if the activity is illegal under section 6-124; or
- (b) Control or manage any place, whether permanently or temporarily, either as owner or lessee, agent, employee, or occupant, while knowingly renting, leasing, profiting from, or making available for use, with or without compensation, the place for the purpose of unlawfully manufacturing, cultivating, storing, distributing, or using a controlled substance or controlled substance analogue; or for the purpose of manufacturing, cultivating, storing, distributing, or using marijuana if the activity is illegal under section 6-124; or
- (c) Control or manage any place, whether permanently or temporarily, either as owner or lessee, agent, employee, or occupant, while knowingly renting, leasing, profiting from, or making available

for use, with or without compensation, the place with knowledge that illegal manufacturing, cultivating, storing, distributing, or using a controlled substance, or controlled substance analogue is regularly occurring in the place; or with knowledge that manufacturing, cultivating, storing, distributing, or using marijuana is regularly occurring in the place, if the activity is illegal under section 6-124.

(Ord. No. SRO-557-2023, 3-29-2023, eff. 5-1-2023)

**Sec. 6-128. Sale or manufacture of controlled substances and marijuana.**

It shall be unlawful for a person to knowingly:

- (a) Plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, or prepare a controlled substance, a controlled substance analogue, or marijuana, except as provided in section 6-124(a)(3);
- (b) Sell, transfer, transport for sale, import into the Community; or offer to sell, transfer, transport for sale, import into the Community; or possess with the intent to sell, transfer, transport for sale, import into the Community a controlled substance, or a controlled substance analogue;
- (c) Sell, transfer, transport for sale, import into the Community; or offer to sell, transfer, transport for sale, import into the Community marijuana in an amount greater than one ounce, of which not more than five grams is in the form of marijuana concentrate.

(Ord. No. SRO-557-2023, 3-29-2023, eff. 5-1-2023)

**Sec. 6-129. Endangering human life while illegally manufacturing controlled substances.**

It shall be unlawful for a person to knowingly and illegally manufacture a controlled substance

or a controlled substance analogue in violation of this chapter, or attempt to do so, such that the person possesses or transports or causes to be possessed or transported materials, including chemicals, in a manner that creates a substantial risk of harm to human life.

(Ord. No. SRO-557-2023, 3-29-2023, eff. 5-1-2023)

**ARTICLE VII. WEAPONS AND EXPLOSIVES**

**Sec. 6-130. Reserved.**

**Editor's note**—Ord. No. SRO-447-2014, adopted July 30, 2014, effective Sept. 1, 2014, repealed § 6-130, which pertained to possession of firearms or explosive weapons and derived from Code 1976, § 6.15; Code 1981, § 6-130; Code 2012, § 6-130; Ord. No. SRO-27-74, adopted May 3, 1974; Ord. No. SRO-37-76, adopted Aug. 20, 1975; Ord. No. SRO-103-86, §§ 2—8, adopted Oct. 15, 1986; Ord. No. SRO-151-92, §§ 2, 4, adopted May 13, 1992; Ord. No. SRO-402-2012, § 6-130, adopted May 30, 2012; Ord. No. SRO-418-2013, § 6-130, adopted March 6, 2013.

**Sec. 6-131. Unlawful discharge of firearm.**

(a) A person who knowingly or with criminal negligence discharges a firearm within the Community boundaries commits unlawful discharge of firearm.

(b) A person who knowingly or with criminal negligence discharges a firearm within the Community boundaries, and who does so with reckless disregard for the risk to human life, commits unlawful discharge of firearm.

(c) This section shall not apply to police officers acting in the performance of their official duties.

(d) Unlawful discharge of a firearm is a Class B offense if committed in violation of subsection (a) of this section.

(e) Unlawful discharge of a firearm is a Class A offense if committed in violation of subsection (b) of this section.

(Code 1976, § 6.25; Code 1981, § 6-131; Code 2012, § 6-131; Ord. No. SRO-402-2012, § 6-131, 5-30-2012; Ord. No. SRO-418-2013, § 6-131, 3-6-2013)

**Sec. 6-132. Reserved.**

**Editor's note**—Ord. No. SRO-447-2014, adopted July 30, 2014, effective Sept. 1, 2014, repealed § 6-132, which pertained to misuse of firearms and derived from Code 1976,

§ 6-48; Code 1981, § 6-132; Code 2012, § 6-132; Ord. No. SRO-402-2012, § 6-132, adopted May 30, 2012; Ord. No. SRO-418-2013, § 6-132, adopted March 6, 2013.

### **Sec. 6-133. Reserved.**

**Editor's note**—Ord. No. SRO-447-2014, adopted July 30, 2014, effective Sept. 1, 2014, repealed § 6-133, which pertained to carrying concealed weapons and derived from Code 1976, § 6-14; Code 1981, § 6-133; Code 2012, § 6-133; Ord. No. SRO-37-76, adopted Aug. 20, 1975; Ord. No. SRO-151-92, § 3, adopted May 13, 1992; Ord. No. SRO-402-2012, § 6-133, adopted May 30, 2012; Ord. No. SRO-418-2013, § 6-133, adopted March 6, 2013.

### **Sec. 6-134. Endangerment.**

Any person who recklessly endangers another person with a substantial risk of imminent death or serious physical injury shall be deemed guilty of endangerment, a Class A offense.

(Code 1976, § 6-3; Code 1981, § 6-134; Code 2012, § 6-134; Ord. No. SRO-37-76, 8-20-1975; Ord. No. SRO-112-88, 12-16-1987; Ord. No. SRO-114-88, § D, 8-10-1988; Ord. No. SRO-184-95, 10-12-1994; Ord. No. SRO-345-09, 11-12-2008; Ord. No. SRO-402-2012, § 6-134, 5-30-2012; Ord. No. SRO-418-2013, § 6-134, 3-6-2013)

### **Sec. 6-135. Reserved.**

**Editor's note**—Ord. No. SRO-447-2014, adopted July 30, 2014, effective Sept. 1, 2014, repealed § 6-135, which pertained to violating restrictions on carrying firearms and derived from Code 1981, § 6-135; Code 2012, § 6-135; Ord. No. SRO-184-95, adopted Oct. 12, 1994; Ord. No. SRO-402-2012, § 6-135, adopted May 30, 2012; Ord. No. SRO-418-2013, § 6-135, adopted March 6, 2013.

### **Sec. 6-136. Reserved.**

**Editor's note**—Ord. No. SRO-447-2014, adopted July 30, 2014, effective Sept. 1, 2014, repealed § 6-136, which pertained to public uses of firearms and derived from Code 1981, § 6-136; Code 2012, § 6-136; Ord. No. SRO-184-95, adopted Oct. 12, 1994; Ord. No. SRO-402-2012, § 6-136, adopted May 30, 2012; Ord. No. SRO-418-2013, § 6-136, adopted March 6, 2013.

### **Sec. 6-137. Reserved.**

**Editor's note**—Ord. No. SRO-447-2014, adopted July 30, 2014, effective Sept. 1, 2014, repealed § 6-137, which pertained to prohibited possession of a firearm and derived from Code 1981, § 6-137; Code 2012, § 6-137; Ord. No. SRO-184-95, adopted Oct. 12, 1994; Ord. No. SRO-402-2012, § 6-137, adopted May 30, 2012; Ord. No. SRO-418-2013, § 6-137, adopted March 6, 2013.

### **Sec. 6-138. Reserved.**

**Editor's note**—Ord. No. SRO-447-2014, adopted July 30, 2014, effective Sept. 1, 2014, repealed § 6-138, which pertained to explosives and derived from Code 1976, § 6-29; Code 1981, § 6-138; Code 2012, § 6-138; Ord. No. SRO-112-88, adopted Dec. 16, 1987; Ord. No. SRO-184-95, adopted Oct. 12, 1994; Ord. No. SRO-402-2012, § 6-138, adopted May 30, 2012; Ord. No. SRO-418-2013, § 6-138, adopted March 6, 2013.

### **Sec. 6-139. Discharge of a firearm at an occupied structure; definitions; sentencing.**

#### *(a) Definitions.*

- (1) Discharge of a firearm at an occupied structure means propulsion of any explosive or explosive device in the direction of an occupied structure, when there is a reasonable belief that one or more persons are inside the structure.
- (2) Firearm means any, pistol, revolver, rifle, shotgun or other weapon which will or is designed to or may readily be converted to expel a projectile by the action of expanding gases, but does not include a firearm in permanently inoperable condition.
- (3) Participant. If a vehicle is used in the commission of a violation of this section, any person inside the vehicle on his or her own will at the time of the offense shall be considered a participant.

(b) *Mandatory sentencing.* Discharge of a firearm at an occupied structure is a Class A offense. Any person convicted of an offense defined in this section shall be sentenced to imprisonment and shall not be eligible for suspension of sentence, probation, parole or any other release from custody until the sentence imposed by the court is served.

(c) *Sentencing.* Any person who is a participant in discharge of a firearm at an occupied structure shall be deemed guilty of an offense and, upon conviction thereof, shall be sentenced to imprisonment for a period not less than one year, and a fine of not less than \$5,000.00.

(Code 1981, § 6-139; Code 2012, § 6-139; Ord. No. SRO-175-94, §§ 1—3, 6-22-1994; Ord. No. SRO-402-2012, § 6-139, 5-30-2012; Ord. No. SRO-418-2013, § 6-139, 3-6-2013)

**Editor's note**—Ord. No. SRO-175-94, §§ 1—3, adopted June 27, 1994, did not specifically amend the Code; hence, inclusion herein as section 6-139 was at the discretion of the editor.



**Sec. 6-140. Discharge of a firearm at an occupied structure; seizure of vehicle used.**

(a) *Seizure by officer.* Any vehicle used in discharge of a firearm at an occupied structure shall be seized by any peace officer of the Community police department.

(b) *Notice of seizure.* A peace officer who seizes a vehicle under the provisions of this section shall file within ten days after seizure a notice of seizure and a complaint with the clerk of the Community court and the clerk shall, within three days of filing, serve notice thereof on all owners of the vehicle, by one of the following methods:

- (1) Upon an owner or a claimant whose right, title or interest is of record in the division of motor vehicles of the state in which the automobile is licensed, by mailing a copy of the notice by registered mail to the address on the records of the division of motor vehicles of such state.
- (2) Upon an owner or claimant whose name and address are known, by mailing a copy of the notice by registered mail to his or her last known address.
- (3) Upon an owner or claimant whose address is unknown but who is believed to have an interest in the vehicle, by publication in one issue of a newspaper of general circulation in the county.

(c) *Owner's answer to notice.* Within 20 days after the mailing or publication of a notice, as provided by section 6-116, the owner of the seized vehicle may file a verified answer to the allegation of the use of the vehicle contained in the notice and of the complaint and raise such other defenses as are provided for in subsection (e)(3) of this section. No extension of time shall be granted for the purpose of filing the answer.

(d) *Claimant's answer to notice.* Within 20 days after the mailing or publication of a notice, as provided in section 6-116, a claimant of any right, title or interest in the vehicle may file a verified answer to the notice and complaint showing his or her lien, mortgage or conditional sales contract to be bona fide, and that his or her right,

title or interest was created after a reasonable investigation of the purchaser, and without knowledge that the vehicle was being, or was to be, used for the purpose charged; but no person who has the lien dependent upon possession for the compensation to which he or she is legally entitled for making repairs or performing labor upon and furnishing supplies and materials for, and for the storage, repairs, safekeeping of any vehicle, and no person doing business under any law of any state or the United States relating to banks, trust companies, credit unions or licensed pawnbrokers or money lenders or regularly engaged in the business of selling vehicles or purchasing conditional sales contracts on vehicles shall be required to prove that his or her right, title or interest was created after a reasonable investigation of the moral responsibility, character and reputation of the owner, purchaser, or person in possession of the vehicle when it was brought to the claimant, and such claimants need only allege the lien, mortgage or conditional sales contract in the vehicle is bona fide.

(e) *Procedure for hearing.*

- (1) If a verified answer to the notice and complaint given as prescribed by this section is not filed within the 20 days after the mailing or publication thereof, the court shall hear evidence upon the charge of unlawful use of the vehicle, and if the court determines the vehicle was used in violation of subsection (a) of this section, the court shall order the vehicle sold, subject to the provisions of subsection (e)(4) of this section.
- (2) If a verified answer is filed, the proceedings shall be set for a hearing on a day not less than 30 days after the answer is filed, and the proceedings shall have the priority over other civil cases. Notice of the hearing shall be given to the respondent by ordinary mail at the respondent's address as set out in the respondent's answer.
- (3) At the hearing, any owner who has a verified answer on file may show by competent evidence that the vehicle was not used in violation of subsection (a) of this

section by an occupant of the vehicle, and that the owner did not consent or act negligently in regard to the vehicle as defined in subsection (e)(1) of this section.

- (4) At the hearing, any claimant may show by competent evidence that his or her lien, mortgage or conditional sales contract in the vehicle is bona fide.

(f) *Judgment.*

- (1) The court shall determine whether the vehicle was used in violation of subsection (a) of this section, and whether the owner consented to the use of the vehicle by a person in the vehicle at the time of the discharge of a firearm or by a person who supplied the vehicle to the person or persons in the vehicle at the time of the discharge of a firearm, knowing or having reason to know that the vehicle would be used in violation of the law, or negligently allowed such a person to take possession of the vehicle knowing or having reason to know that such a person would use the vehicle to violate the law. If the court determines that the vehicle was used in violation of subsection (a) of this section, and the owner of the vehicle acted in a manner described in this subsection, the court shall enter its order as provided in subsection (e)(2) of this section. If the court determines that the vehicle was not used in violation of subsection (a) of this section, and/or the owner neither consented nor acted negligently as described in this subsection, the court will dismiss the seizure notice and complaint and order the return of the vehicle to the owner. If the court finds there was a violation of subsection (a) of this section, and consent and negligence by the owner as described in this subsection, then the court shall also determine whether the interest in the vehicle belonging to any lienholder, mortgagee, or vendor is equal to or in excess of the value of the vehicle as of the date of seizure. If the value is equal to or in excess of the value of the vehicle at the date of seizure, the vehicle shall be released to such lienholder, mortgagee or

vendor, it being the purpose of this section to secure damages only from the right, title or interest of a consorting or negligent owner of the vehicle.

- (2) If the court determines that the vehicle was used in violation of subsection (a) of this section, and that the owner consented to the use of the vehicle or was negligent, and that there is a value in excess of that belonging to a lienholder, mortgagee or vendor, then the court shall order the chief of the department of police to cause the vehicle to be sold at public auction and to pay out of the proceeds of such sale: first, the cost of such sale; second, the interest of any lienholder, mortgagee or vendor in such vehicle; third, compensation for the damages done; and fourth, any balance to the titled owner of the vehicle.

- (3) No amount will be paid for compensation or to the titled owner of the vehicle until a final judgment on a claim for damages resulting from a violation of subsection (a) of this section has been entered and submitted to the court with a petition for payment out of the proceeds of the sale or until the statute of limitations in regard to such claim has expired. The court shall make orders that are appropriate to the circumstance.

(Code 1981, § 6-140; Code 2012, § 6-140; Ord. No. SRO-206-95, 7-5-1995; Ord. No. SRO-402-2012, § 6-140, 5-30-2012; Ord. No. SRO-418-2013, § 6-13, 3-6-2013; Ord. No. SRO-418-2013, § 6-140, 3-6-2013)

**Editor's note**—Ord. No. SRO-206-95, adopted July 5, 1995, amended chapter 6 by adding new provisions, but did not provide for specific designation; hence, codification of such provisions as section 6-140 was at the discretion of the editor.

**Secs. 6-141—6-149. Reserved.**

**Sec. 6-150. Misconduct involving weapons; definitions.**

*Definitions.* The following words, terms, and phrases, when used in sections 6-151 and 6-152

shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Ammunition* means cartridge cases, primers, bullets, or propellant powder designed for use in any firearm.

*Armor piercing ammunition* means:

- (1) A projectile or projectile core which may be used in a handgun and which is constructed entirely (excluding the presence of traces of other substances) from one or a combination of tungsten alloys, steel, iron, brass, bronze, beryllium copper, or depleted uranium; or
- (2) A full jacketed projectile larger than .22 caliber designed and intended for use in a handgun and whose jacket has a weight of more than 25 percent of the total weight of the projectile.

*Community building or facility* includes but is not limited to: the Salt River Pima-Maricopa Indian Community Multi-Purpose building, the Lehi Multi-Purpose building, Memorial Hall, the Lehi Pool, the Salt River Pima-Maricopa Indian Community Library, the Salt River Pima-Maricopa Indian Community Museum, Salt River Pima-Maricopa Indian Community schools and educational institutions, the Salt River Pima-Maricopa Indian Community cemeteries, including the Lehi cemetery, the Salt River Pima-Maricopa Indian Community Administration building, the Salt River Pima-Maricopa Indian Community Court building, any Community parks, any Salt River Pima-Maricopa Indian Community building housing the various departments performing Community governmental functions, and any other building owned and controlled by the Salt River Pima-Maricopa Indian Community, not being lawfully used for a private residence. Any driveways, parking lots, or curtilage of any of these described buildings or facilities shall constitute a "Community building or facility" for purposes of this section.

*Community event* means any event that is open to the public, or any Community-sponsored event, or any event authorized by the Community to take place on the grounds of a Community build-

ing or facility, including, but not limited to, the following: funerals, memorials, wakes, dances, parades, pow wows, Community sporting events, Fourth of July events, Thanksgiving events, Christmas or winter holiday events, New Year's Eve and New Year's Day events, Indian Day events, Salt River Day events, and other cultural celebrations or events.

*Deadly weapon* means anything that is designed for lethal use. The term includes a firearm.

*Deface* means to remove, alter, or destroy the manufacturer's serial number.

*Destructive device* means:

- (1) Any explosive, incendiary, or poison gas;
- (2) Bomb;
- (3) Grenade;
- (4) Rocket having a propellant charge of more than four ounces;
- (5) Missile having an explosive or incendiary charge of more than one-quarter ounce;
- (6) Mine;
- (7) Any device similar to any of the devices described in the preceding clauses;
- (8) Any type of weapon by whatever name known that will, or that may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which as any barrel with a bore of more than one-half inch in diameter; or
- (9) Any combination of parts either designed or intended for use in converting any device into any destructive device described in subsection (1) or (2) of this definition and from which a destructive device may be readily assembled.

The term "destructive device" shall not include any device which is neither designed nor redesigned for use as a weapon; any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device; or any other device that is not likely to be used as a



weapon, is an antique, or is a rifle which the owner intends to use solely for sporting, recreational or cultural purposes.

*Explosive* means any dynamite, nitroglycerine, black powder, or other similar explosive material, including plastic explosives. "Explosive" does not include ammunition or ammunition components such as primers, percussion caps, smokeless powder, black powder and black powder substitutes used for hand loading purposes.

*Firearm* means:

- (1) Any weapon (including a starter gun) which will, or is designed to, or may readily be converted to expel a projectile by the action of an explosive but does not include an antique firearm or any device that expels a projectile by means of compressed air;
- (2) The frame or receiver of any such weapon;
- (3) Any firearm muffler or firearm silencer; or
- (4) Any destructive device. Such term does not include an antique firearm.

*Improvised explosive device* means a device that incorporates explosives or destructive, lethal, noxious, pyrotechnic or incendiary chemicals, and that is designed to destroy, disfigure, terrify or harass.

*Prohibited possessor* means any person:

- (1) Who has been found to constitute a danger to self or to others or to be persistently or acutely disabled or gravely disabled, or who has been adjudicated as a mental defective, or who has been committed to a mental institution, and whose right to possess a firearm has not been restored pursuant to applicable tribal, state, or federal law;
- (2) Who has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year;
- (3) Who is a fugitive from justice;
- (4) Who is at the time of possession serving a term of imprisonment in any correctional or detention facility;

- (5) Who is at the time of possession serving a term of parole or probation resulting from a conviction in any jurisdiction;
- (6) Who has been discharged from the armed forces under dishonorable conditions;
- (7) Who has been convicted in any tribal, state, or federal court of any crime of domestic violence;
- (8) Who is subject to a court order that:
  - a. Was issued after a hearing of which such person received actual notice, and at which such person had an opportunity to participate;
  - b. Restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and
  - c. Includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or
  - d. By its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury.

*Prohibited weapon* includes the following:

- (1) A firearm that is defaced;
- (2) Armor-piercing ammunition;
- (3) An item that is a bomb, grenade, rocket having a propellant charge of more than four ounces or mine and that is explosive, incendiary or poison gas;
- (4) A firearm muffler, firearm silencer, or any device that is designed, made, or adapted to muffle the report of a firearm;
- (5) A firearm that is capable of shooting more than one shot automatically, without manual reloading, by a single function of the trigger;

- (6) A short-barreled shotgun, a short-barreled rifle, or rifle with a barrel length of less than 16 inches, or shotgun with a barrel length of less than 18 inches, or any firearm that is made from a rifle or shotgun and that, as modified, has an overall length of less than 26 inches;
- (7) An instrument, including a nunchaku, that consists of two or more sticks, clubs, bars or rods to be used as handles, connected by a rope, cord, wire or chain, in the design of a weapon used in connection with the practice of a system of self-defense;
- (8) A breakable container that contains a flammable liquid with a flash point of 150 degrees Fahrenheit or less and that has a wick or similar device capable of being ignited;
- (9) A chemical or combination of chemicals, compounds or materials, including dry ice, that is possessed or manufactured for the purpose of generating a gas to cause a mechanical failure, rupture or bursting or an explosion or detonation of the chemical or combination of chemicals, compounds or materials;
- (10) An improvised explosive device; or
- (11) Any combination of parts or materials that is designed and intended for use in making or converting a device into an item set forth in subsection (1), (6) or (8) of this definition.
- (12) The term "prohibited weapon" does not include the following:
  - a. Any fireworks that are imported, distributed or used in compliance with tribal, state, or local ordinances;
  - b. Any propellant, propellant-actuated devices or propellant-actuated industrial tools that are manufactured, imported or distributed for their intended purposes; or
  - c. A device that is commercially manufactured primarily for the purpose of illumination.

*Rifle* means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of an explosive to fire only a single projectile through a rifled bore for each single pull of the trigger.

*Short-barreled rifle* means a rifle having one or more barrels less than 16 inches in length and any weapon made from a rifle (whether by alteration, modification, or otherwise) if such weapon, as modified, has an overall length of less than 26 inches.

*Short-barreled shotgun* means a shotgun having one or more barrels less than 18 inches in length and any weapon made from a shotgun (whether by alteration, modification or otherwise) if such a weapon as modified has an overall length of less than 26 inches.

*Shotgun* means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of an explosive to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.

*Trafficking* means to sell, transfer, distribute, dispense or otherwise dispose of a weapon or explosive to another person, or to buy, receive, possess or obtain control of a weapon or explosive, with the intent to sell, transfer, distribute, dispense or otherwise dispose of the weapon or explosive to another person.  
(Ord. No. SRO-447-2014, § 6-150, 7-30-2014, eff. 9-1-2014)

#### **Sec. 6-151. Misconduct involving weapons; permits.**

A permit issued by the Salt River Police Department is required to possess a firearm or ammunition in the Community. The Salt River Police Department may issue a permit authorizing possession by persons within the Salt River Pima-Maricopa Indian Community of non-prohibited weapons, and weapons for which a certificate of inoperability has been issued.

- (1) *Conditions on permit.* Application for a permit shall be conditioned on the appli-

cant's acceptance of the jurisdiction of the Salt River Pima-Maricopa Indian Community in any civil action for damages resulting from the possession or operation of the weapon by the applicant.

- (2) *Limitations on permit.* Without exception, prohibited possessors are not eligible to apply for or be issued permits to possess firearms or ammunition within the Salt River Pima-Maricopa Indian Community.
- (3) *Regulation of permits.* The Salt River Police Department shall regulate the application and approval process for firearms and weapons permits using policies and procedures approved by the Salt River Pima-Maricopa Indian Community Tribal Council. Such regulation shall incorporate the prohibitions included in this section.

(Ord. No. SRO-447-2014, § 6-151, 7-30-2014, eff. 9-1-2014)

**Sec. 6-152. Misconduct involving weapons; offenses.**

(a) *Possession without a permit.* It shall be unlawful for any person to operate, possess, receive, transport, or ship any firearm or ammunition within the Salt River Pima-Maricopa Indian Community unless such person has obtained a permit from the Salt River Police Department. Possession without a permit is a class B offense.

(b) *Possession by minors.* It shall be unlawful for any person under the age of 18 years to operate, possess, receive, transport, or ship any firearm, or ammunition within the Salt River Pima-Maricopa Indian Community, unless such minor is under direct supervision of a parent or legal guardian, and such legal guardian has a lawful permit. Possession by minors is a class B offense.

(c) *Possession at a Community building or facility.* It shall be unlawful for any person to carry, operate, possess, receive, transport, or ship any firearm, or ammunition at a Community event or Community building or facility within the Salt River Pima-Maricopa Indian Community. Possession at a Community building or facility is a class B offense.

(d) *Possession of prohibited weapon.* It shall be unlawful for any person to operate, possess, receive, transport, or ship any prohibited weapon unless such weapon has been rendered permanently inoperable and such inoperability has been certified by the Salt River Police Department. Possession of prohibited weapon is a class A offense.

(e) *Possession by a prohibited possessor.* It shall be unlawful for any prohibited possessor to operate, possess, receive, transport, or ship any firearm or ammunition within the Salt River Pima-Maricopa Indian Community. Possession by a prohibited possessor is a class A offense.

(f) *Prohibited trafficking of a firearm.*

- (1) It shall be unlawful for any person to engage in trafficking of any prohibited weapon.
- (2) It shall be unlawful for any person to engage in trafficking of any firearm with any person who has not been lawfully issued a permit by the Salt River Police Department.
- (3) Prohibited trafficking of a firearm as described in subsections (1) and (2) above is a class B offense.

(g) *Forfeiture of weapon.* Any person convicted of a violation of this section shall forfeit all firearms, ammunition, and weapons seized pursuant to the investigation. Such forfeiture shall not be limited only to the specific firearm, ammunition, or weapon in the count specific to any conviction, but shall include all firearms, ammunition, and weapons lawfully seized.

(h) *Law enforcement exception.* This section shall not apply to police officers acting in the lawful performance of their official duties.

(Ord. No. SRO-447-2014, § 6-152, 7-30-2014, eff. 9-1-2014)

**Sec. 6-153. Effective date.**

The amendments set forth in sections 6-150 through 6-152 will govern cases filed on or after September 1, 2014.

(Ord. No. SRO-447-2014, § 6-153, 7-30-2014, eff. 9-1-2014)