

Chapter VI

CRIMINAL CODE

PART ONE – GENERAL PRINCIPLES

601. VIOLATION OF AN APPROVED TRIBAL ORDINANCE – Any person who violates an ordinance designed to preserve the peace and welfare of the Community, which has been duly executed by the Tribal Council, shall be deemed guilty of a crime and upon conviction thereof shall be sentenced as provided in the ordinance.
602. LIMITATION OF FILING A COMPLAINT – No complaint shall be filed pursuant to Chapter VI of the Bay Mills Law and Order Code unless the alleged offense shall have been committed within six years prior to the date of the complaint. If, however, the complaint involves a sex assault of a minor child, there is no limitation.
603. FOREIGN CONVICTION OR ACQUITTAL – If an act or omission constitutes an offense under both the ordinances of the Bay Mills Indian Community and the laws of another jurisdiction, the act or omission will not bar prosecution for the offense in Tribal Court.
604. AUTHORIZED USE OF FORCE – Reasonable force may be used upon or toward the person of another without his consent when any of the following circumstances exist or the actor reasonably believes them to exist:
- A. When used by a tribal police officer or one assisting him under his direction:
 - 1. In effecting a lawful arrest;
 - 2. In the execution of legal process;
 - 3. In enforcing an order of the Court;
 - 4. In executing any other duty imposed upon him by law; or
 - B. When used by any person in self-defense or the defense of others.
605. INTOXICATION AS A DEFENSE – An act committed while in a state of voluntary intoxication is not a defense, but when a particular intent or other state of mind is a necessary element to constitute a particular

offense, the fact of intoxication may be taken into consideration in determining such intent or state of mind.

606. INSANITY – The Court, upon its own motion or by either of the parties, may make a determination as to whether or not the Defendant was mentally capable to formulate the necessary criminal intent at the time the crime was committed. The Court shall require the evaluation of such Defendant by a licensed psychologist or psychiatrist prior to such a hearing to determine the Defendant’s mental ability to commit the crime. If after the hearing, the Court feels that the Defendant was unable to formulate the required mental ability to commit the crime by clear and convincing evidence because of mental defect, illness or retardation, the Court may dismiss the case, find the Defendant guilty, guilty but mentally ill or not guilty. If the Court dismisses the case, the Court may order the Defendant to be treated by health officials.

PART TWO - OFFENSES

607. ASSAULT OR DOMESTIC ASSAULT – Any person who shall attempt or threaten to do bodily harm to another person through unlawful force or violence shall be deemed guilty of assault, and upon conviction thereof, may be sentenced to imprisonment of not more than 180 days, payment of a fine not to exceed \$2,500, or both.

- A. Domestic Dispute – If the parties are married, have been married, have child(ren) in common, have been in a dating relationship or have lived together in the last six months, then the offense shall be considered a domestic assault.
- B. Arrest and Bond – Any person charged for Domestic Assault, shall be immediately placed in custody and transported to jail. No bond may be posted on such charges until the person so charged has been arraigned pursuant to Section 510 of this Code.

608. ASSAULT AND BATTERY OR DOMESTIC ASSAULT AND BATTERY – Any person who shall willfully strike another person or otherwise inflict bodily injury, or who shall offer violence with a dangerous weapon shall be deemed guilty of assault and battery, and upon conviction thereof may be sentenced to imprisonment of not more than one year, payment of a fine not to exceed \$5,000, or both.

- A. Domestic Assault – If the parties are married, have been married, have child(ren) in common, have been in a dating relationship or have lived together in the last six months, then the offense shall be considered a domestic assault.
- B. Arrest and Bond – Any person charged for Domestic Assault, shall be immediately placed in custody and transported to jail. No bond

may be posted on such charges until the person so charged has been arraigned pursuant to Section 510 of this Code.

609. CRIMINAL SEXUAL CONDUCT – Criminal sexual conduct (CSC) in the first, second or third degree will be considered a misdemeanor in Tribal Court and if necessary referred to Federal Court as a felony. Criminal sexual conduct in the fourth degree, which only involves forceful touching, is a misdemeanor.
- A. First Degree CSC – A person is guilty of criminal sexual conduct in the first degree if he or she engages in sexual penetration with another person and if any of the following circumstances exists:
1. That other person is under 13 years of age.
 2. That other person is at least 13 but less than 16 years of age and any of the following:
 - a. The actor is a member of the same household as the victim.
 - b. The actor is related to the victim by blood or affinity to the fourth degree.
 - c. The actor is in a position of authority over the victim and used this authority to coerce the victim to submit.
 3. Sexual penetration occurs under circumstances involving the commission of any other felony.
 4. The actor is aided or abetted by one or more other persons and either of the following circumstances exists:
 - a. The actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless.
 - b. The actor uses force or coercion to accomplish the sexual penetration. Force or coercion includes but is not limited to any of the circumstances listed in subdivision (6)(a) to (e).
 5. The actor is armed with a weapon or any article used or fashioned in a manner to lead the victim to reasonably believe it to be a weapon.
 6. The actor causes personal injury to the victim and force or coercion is used to accomplish sexual penetration. Force or

coercion includes but is not limited to any of the following circumstances:

- a. When the actor overcomes the victim through the actual application of physical force or physical violence.
 - b. When the actor coerces the victim to submit by threatening to use force or violence on the victim, and the victim believes that the actor has the present ability to execute these threats.
 - c. When the actor coerces the victim to submit by threatening to retaliate in the future against the victim, or any other person, and the victim believes that the actor has the ability to execute this threat. As used in this subdivision, “to retaliate” includes threats of physical punishment, kidnapping, or extortion.
 - d. When the actor engages in the medical treatment or examination of the victim in a manner or for purposes which are medically recognized as unethical or unacceptable.
 - e. When the actor, through concealment or by the element of surprise, is able to overcome the victim.
7. The actor causes personal injury to the victim, and the actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless.
 8. That other person is mentally incapable, mentally disabled, mentally incapacitated, or physically helpless, and any of the following:
 - a. The actor is related to the victim by blood or affinity to the fourth degree.
 - b. The actor is in a position of authority over the victim and used this authority to coerce the victim to submit.

Any person found guilty of criminal sexual conduct in the first degree may be sentenced to imprisonment of not more than one year, payment of a fine not to exceed \$5,000, or both.

- B. Second Degree CSC – A person is guilty of criminal sexual conduct in the second degree if the person engages in sexual

contact with another person and if any of the following circumstances exists:

1. That other person is under 13 years of age.
2. That other person is at least 13 but less than 16 years of age and any of the following:
 - a. The actor is a member of the same household as the victim.
 - b. The actor is related by blood or affinity to the fourth degree to the victim.
 - c. The actor is in a position of authority over the victim and the actor used this authority to coerce the victim to submit.
3. Sexual contact occurs under circumstances involving the commission of any other felony.
4. The actor is aided or abetted by one or more other persons and either of the following circumstances exists:
 - a. The actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless.
 - b. The actor uses force or coercion to accomplish the sexual contact. Force or coercion includes but is not limited to any of the circumstances listed in section A (6) (a) to (e) above.
5. The actor is armed with a weapon, or any article used or fashioned in a manner to lead the victim to reasonably believe it to be a weapon.
6. The actor causes personal injury to the victim and force or coercion is used to accomplish the sexual contact. Force or coercion includes but is not limited to any of the circumstances listed in section A (6) (a) to (e) above.
7. The actor causes personal injury to the victim and the actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless.
8. That other person is mentally incapable, mentally disabled, mentally incapacitated, or physically helpless, and if any of the following circumstances exist:

- a. The actor is related to the victim by blood or affinity to the fourth degree.
- b. The actor is in a position of authority over the victim and used this authority to coerce the victim to submit.

Any person found guilty of criminal sexual conduct in the second degree may be sentenced to imprisonment of not more than one year, payment of a fine not to exceed \$5,000, or both.

C. Third Degree CSC – A person is guilty of criminal sexual conduct in the third degree if the person engages in sexual penetration with another person and if any of the following circumstances exists:

1. That other person is at least 13 years of age but less than 16 years of age.
2. Force or coercion is used to accomplish the sexual penetration. Force or coercion includes but is not limited to any of the circumstances listed in section A (6) (a) to (e).
3. The actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless.

Any person found guilty of criminal sexual conduct in the third degree may be sentenced to imprisonment of not more than one year, payment of a fine not to exceed \$5,000, or both.

D. Fourth Degree CSC – A person is guilty of criminal sexual conduct in the fourth degree if he or she engages in sexual contact with another person and if any of the following circumstances exists:

1. That other person is at least 13 years of age but less than 16 years of age, and the actor is four or more years older than that other person.
2. Force or coercion is used to accomplish the sexual contact. Force or coercion includes but is not limited to any of the following circumstances:
 - a. When the actor overcomes the victim through the actual application of physical force or physical violence.

- b. When the actor coerces the victim to submit by threatening to use force or violence on the victim, and the victim believes that the actor has the present ability to execute these threats.
 - c. When the actor coerces the victim to submit by threatening to retaliate in the future against the victim, or any other person, and the victim believes that the actor has the ability to execute this threat. As used in this subdivision, “to retaliate” includes threats of physical punishment, kidnapping, or extortion.
 - d. When the actor engages in the medical treatment or examination of the victim in a manner or for purposes which are medically recognized as unethical or unacceptable.
 - e. When the actor achieves the sexual contact through concealment or by the element of surprise.
3. The actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless.

Any person found guilty of criminal sexual conduct in the fourth degree may be sentenced to imprisonment of not more than six months, payment of a fine not to exceed \$2,500, or both.

610. CARRYING CONCEALED WEAPON – Any person who shall go about in public places armed with a firearm, whether loaded or unloaded or any other dangerous weapon, excluding knives under three (3) inches or hunting knives carried openly, concealed upon his/her person or vehicle, unless s/he shall have a permit issued by the State of Michigan, or issued by the state in which the person resides, or by the Chief of Tribal Police, may be sentenced to imprisonment of not more than 90 days, payment of a fine not to exceed \$500, or both and the weapon is subject to confiscation, return of which is permitted upon the offender obtaining the requisite permit.
611. ABDUCTION – Any person who shall willfully take away or detain another person against his/her will, or if the person is under the age of eighteen years, without the consent of the custodial parent or legal guardian or in violation of a court order, may be sentenced to imprisonment of not more than one year, payment of a fine not to exceed \$5,000, or both.
612. LARCENY – Any person who takes, receives, conceals, retains or uses the property of another without his/her consent, and with the intent to deprive the owner permanently of the possession of the

property, may be sentenced to imprisonment of not more than one year, payment of a fine not to exceed \$5,000, or to pay restitution to the victim, or any and all of the above.

613. EMBEZZLEMENT – Any person who shall, having lawful custody of property not his own, appropriate it to his own use with the intent to deprive the owner permanently of the possession of the property may be sentenced to imprisonment of not more than one year, payment of a fine not to exceed \$5,000, or to pay restitution to the victim, or any and all of the above.
614. FRAUD – Any person who shall by willful misrepresentation or deceit, or by the use of false weights or measures, or who issues any check or other order for the payment of money which at the time of issuance he intends shall not be paid, and thus obtains any money, property or services may be sentenced to imprisonment of not more than one year, payment of a fine not to exceed \$5,000, or to pay restitution to the victim, or any and all of the above.
615. FORGERY – Any person who shall, with the intent to defraud, falsely sign, execute, utter, or alter a writing or written instrument so that it purports to have been made by another, or by him/herself under an assumed or fictitious name, or at another time, or with different provisions, or by authority of one who did not give such authority, is guilty of forgery and may be sentenced to imprisonment of not more than one year, or to a payment of a fine not to exceed \$5,000, or to pay restitution to the victim, or any and all of the above.
616. BAD CHECKS – Any person who at the time, knowingly writes a check that has insufficient funds, may be sentenced to imprisonment of not more than 180 days, payment of a fine not to exceed \$2,500, or to pay restitution to the injured party, or any and all of the above.
617. RECEIVING STOLEN PROPERTY – Any person who intentionally receives or conceals stolen property may be sentenced to imprisonment of not more than one year, payment of a fine not to exceed \$5,000, or to pay restitution to the victim, or any and all of the above.
618. UNAUTHORIZED DRIVING AWAY OF ANY VEHICLE, SNOWMOBILE OR WATER CRAFT – Any person who intentionally takes or drives a motor vehicle, snowmobile, or water craft, without the consent of the owner or his/her authorized agent, may be sentenced to imprisonment of not more than one year, payment of a fine not to exceed \$5,000, or to pay restitution to the victim, or any and all of the above.

619. EXTORTION –

A. Any person who shall willfully, either orally or in writing, maliciously threaten or accuse another of any crime or offense, or threaten any injury to the person or property of the person threatened, or to another, or by any other means whatsoever, causes or attempts to cause another against his/her will to do any act or refrain from doing any unlawful act, may be sentenced to imprisonment of not more than one year, payment of a fine not to exceed \$5,000, or both.

B. Extortion is committed by any person who shall willfully, either orally or in writing, offer to give or promise anything of value to, or threaten or intimidate a person in attempt to:

1. Discourage any individual from attending a present or future legal proceeding as a witness, testifying at a present or future legal proceeding, or giving information at a present or future legal proceeding;

2. Influence any individual's testimony at a present or future legal proceeding; or

3. Encourage any individual to avoid legal process, to withhold testimony or testify falsely in present or future legal proceedings.

Upon conviction under this Subsection, a person may be sentenced to imprisonment of not more than one (1) year, payment of a fine not to exceed \$5,000, or both.

620. DISORDERLY CONDUCT – Any person who does any of the following in a private or public place, knowing or having reasonable grounds to know that it will, or will tend to, alarm, anger or disturb others or provoke an assault or breach of the peace, is guilty of disorderly conduct and may be sentenced to imprisonment of not more than three months, payment of a fine not to exceed \$1,500, or both:

A. Engages in brawling or fighting, or

B. Disturbs an assembly or meeting which is not unlawful in its character, or

C. Engages in offensive, obscene, or abrasive language or is boisterous (i.e. noisy conduct) tending to reasonably arouse alarm, anger or resentment in others, or

- D. Endangers him/herself or another person or endangers his/her property, or
- E. Engages in an illegal occupation or business, or
- F. Knowingly loiters in or about a public place and whose conduct tends to reasonably arouse alarm, anger or resentment in others, or
- G. Engages in window peeping, or
- H. Is drunk or intoxicated and causing a public disturbance, or
- I. Is found jostling or roughly crowding people unnecessarily in a public place, or
- J. By any means, contacts any other person or causes any other person to be contacted and uses any vulgar, indecent, obscene, threatening or offensive language or suggesting any lewd or lascivious act, or
- K. Commits the act of indecent exposure to another person, or
- L. Interferes with the lawful activities of emergency personnel, tribal government employees or tribal court personnel, or
- M. Possesses or uses a firearm while under the influence of a controlled substance and/or alcohol, or
- N. Uses a firearm(s) within 150 yards of a home, campground or public place.

621. MALICIOUS MISCHIEF; VANDALISM – Any person who shall maliciously disturb, injure or destroy any livestock, domestic animal or personal or real property of another may be sentenced to imprisonment of not more than one year, payment of a fine not to exceed \$5,000 or to pay restitution to the injured party, or any and all of the above.

622. TRESPASS – Any person who shall willfully enter upon the lands or premises of another or of the Bay Mills Indian Community, without lawful authority, after having been forbidden to do so by the owner or occupant, or after being asked to leave, refuses to do so, is guilty of trespass and may be sentenced to imprisonment of not more than 90 days, payment of a fine not to exceed \$1,000, or both.

623. INJURY TO PUBLIC PROPERTY – Any person who shall, without proper authority, use or injure any public property of the Bay Mills

Indian Community may be sentenced to imprisonment of not more than one year, payment of a fine not to exceed \$5,000, or payment of restitution to the Community, or any and all of the above.

624. MAINTAINING A PUBLIC NUISANCE – Any person who by his/her act or failure to perform a legal duty intentionally does any of the following is guilty of maintaining a public nuisance:

- A. Maintains or permits a condition which unreasonably annoys, injures or endangers the safety, health, comfort or repose of any member or members of the community, or
- B. Interferes with, obstructs, or renders dangerous for passage, any highway or street or waters used by the community.
- C. Fails to adequately control their pet which disturbs the peaceful enjoyment of another.

Any person convicted under this section may be sentenced to imprisonment of not more than 90 days, payment of a fine not to exceed \$500, or both; the Court may also order the removal of the adjudged nuisance.

625. DISPOSAL OF TRASH

- A. Littering - Any person who unlawfully deposits garbage, rubbish, the body of a dead animal, including destruction of a pet, or other litter in or upon any street, tribal waters or the ice thereon or tribal lands, is guilty of littering and may be sentenced to payment of a fine not to exceed \$500 and/or community service to the tribe.
- B. Unauthorized dumping - Any person who, without authorization, disposes of any litter, garbage, construction material, or other waste in a refuse container which is not maintained for public use by the Bay Mills Indian Community or any agency thereof, is guilty of unauthorized dumping and may be sentenced to a fine not to exceed \$100 for each occurrence.

626. CRUELTY TO ANIMALS – The following constitutes cruelty to animals:

- A. Knowingly, recklessly, or negligently failing to provide any animal within their control with necessary food, water, shelter, space, sanitation, rest, or medical attention and the animal suffers unnecessary or unjustifiable physical pain as a result of the failure;
- B. Intentionally causing harm to any animal to the extent that the animal suffers injury, including, but not limited to, infection, skin

conditions, burns, lacerations, broken bones, welts, hematomas, broken teeth, scratches, or damage to the animal's eyes;

- C. Neglectfully causing harm to an animal within their control to the extent that the animal suffers an injury, including, but not limited to, infection, skin conditions, burns, lacerations, broken bones, welts, hematomas, broken teeth, scratches, or damage to the animal's eyes;
- D. Abandoning an animal and:
 - 1. As a result of being abandoned, the animal suffers bodily harm; or
 - 2. Abandoning the animal creates imminent and substantial risk that the animal will suffer substantial bodily harm.
- E. Allowing an animal within their control to bite, attack, or injure another animal or failing to prevent the same;
- F. A person who commits animal cruelty may be required to surrender any animal under their control and may be sentenced to imprisonment of not more than 90 days, payment of a fine not to exceed \$2,500, or both.

627. GAMBLING WITHOUT A PERMIT – Any person who shall participate in the operation of a lottery, bingo game, race track gambling machines, or other gaming activity, without first securing a permit for that operation from the Executive Council of the Bay Mills Indian Community may be sentenced to payment of fine not to exceed \$500 for each wager placed in that operation. Each day's operation without the required permit shall constitute a separate offense.

628. PROSTITUTION –

- A. Any person who practices prostitution, or who shall knowingly keep or aid and abet the act of prostitution or maintain or rent a place for the purpose of prostitution, or who offers anything of value for the purpose of engaging a person to perform a sexual act, is guilty of prostitution and may be sentenced to imprisonment of not more than 10 days, payment of a fine not to exceed \$2,500, or both.
- B. Any person who shall willfully transport or cause to be transported, or aid or assist in obtaining transportation for, by any means of conveyance into, through or across the Bay Mills Indian

Community Reservation any person for the purpose of prostitution, or with the intent to induce or compel the person to become a prostitute, may be sentenced to imprisonment of not more than one (1) year, payment of a fine not to exceed \$5,000, or both.

629. FAILURE TO SUPPORT DEPENDENT PERSONS

- A. Non-support - Any person legally obligated to provide care and support to those dependent on him/her and who knowingly omits and fails without lawful excuse to do so is guilty of nonsupport and may be sentenced to imprisonment of not more than 90 days, payment of a fine not to exceed \$2,500, or both, and may be ordered to pay a reasonable amount for the support of dependent persons.
- B. Support orders - The Court shall also have the authority to order and compel the payment of all alimony and child support lawfully awarded in any divorce proceedings by any State Court having jurisdiction; and nonpayment of such awards shall be accepted as evidence of non-support under this Section. An appeal may be taken to the Bay Mills Tribal Court of Appeals whose decision shall be final.

630. FAILURE TO PROVIDE FOR CHILDREN – Any person who, without good cause, neglects or refuses to provide for his/her children or any children under his/her care, under the age of 18 years, with an education, or fails to assure their attendance in school, may be sentenced to imprisonment of not more than 30 days, payment of a fine not to exceed \$2,500, or both.

631. CHILD ABUSE OR NEGLECT – Any parent or guardian or person under whose protection any child may be, who cruelly or unlawfully punishes, or willfully or negligently deprives any child of necessary food, clothing or shelter, or who willfully abandons a child under 18 years, or who habitually permits or causes the health of such child to be injured, or his life endangered by exposure, want, or injury to his/her person, is guilty of child abuse and may be sentenced to imprisonment of not more than 1 year, payment of a fine not to exceed \$5,000, or both.

632. CONTRIBUTING TO DELIQUENCY OF A MINOR – Any person who shall by any act or work, encourage, contribute toward, or cause or tend to cause any minor to come within the jurisdiction of the Juvenile Court for any offense prohibited by this Chapter of the Bay Mills Law and Order Code or Juvenile Code may be sentenced to imprisonment of not more than 6 months, payment of a fine not to exceed \$2,500, or both.

633. POSSESSION OF INTOXICATING BEVERAGE BY A MINOR – It shall be unlawful for any one under 21 years of age to possess or consume alcohol beverages. Any person found guilty under this section shall be punished by imprisonment of not more than 90 days, payment of a fine not to exceed \$1,000 or other remedies determined by the Court, or any and all of the above.
- A. False representation of age - Any person under 21 years of age who falsely represents him/herself to be 21 years of age or older for the purpose of purchasing or attempting to purchase intoxicating beverage(s), or to enter into a gaming facility, is guilty of an offense punishable by imprisonment of not more than 90 days, payment of a fine not more than \$1,000 or other remedies determined by the Court, or any and all of the above.
 - B. Furnishing intoxicant to minor - Any person who knowingly gives or furnishes any intoxicating beverages to a person under the age of 21 years, may be sentenced to imprisonment of not more than one year, payment of a fine not to exceed \$5,000 or other remedies determined by the Court, or any and all of the above.
634. BRIBERY – Any person who offers, gives, or promises to give, directly or indirectly, anything of value to a tribal official or employee with the intent to influence such person in the discharge of his official duties or conduct, and any person who shall accept, solicit, or attempt to solicit any bribe, as above defined, may be sentenced to imprisonment for not more 1 year, payment of a fine not to exceed \$2,500, or both.
635. PERJURY – Any person who makes a false material statement which he does not believe to be true, whether orally or in writing, or procures or induces another person to do so in any judicial proceeding in Tribal Court is guilty of perjury and may be sentenced to imprisonment of not more than 1 year, payment of a fine not to exceed \$5,000, or both.
636. FALSE REPORTS
- A. Any person who shall willfully and knowingly make, or cause to be made, the unlawful arrest, detention or imprisonment of another person may be sentenced to imprisonment of not more than 120 days, payment of a fine not to exceed \$2,500, or both.
 - B. Any person who shall willfully and knowingly falsely inform a law enforcement officer or other officials, that a crime has been committed, or any emergency exists, and who shall intend that such official act in reliance on such information, may be sentenced to imprisonment of not more than 120 days, payment

of a fine not to exceed \$2,500, or both.

C. Any person who shall falsely impersonate tribal law enforcement officer(s), may be sentenced to imprisonment of not more than 120 days, payment of a fine not to exceed \$2,500, or both.

637. RESISTING LAWFUL ARREST – Any person who shall willfully and knowingly, obstruct, oppose, resist, assault, wound or assist another to obstruct, oppose, resist, assault, or wound any Peace Officer in the execution of his/her lawful acts, attempts and efforts to maintain, preserve and keep the peace may be sentenced to imprisonment of not more than 6 months, payment of a fine not to exceed \$2,500, or both.
638. ESCAPE FROM LAWFUL CUSTODY – Any person held in lawful custody on an arrest charge or conviction who escapes or attempts to escape, or who permits or assists another to escape from lawful custody, may be sentenced to imprisonment of not more than 1 year, payment of a fine not to exceed \$5,000, or both.
639. DISOBEDIENCE TO LAWFUL ORDERS OF THE COURT – Any person who willfully disobeys any order, subpoena, warrant or command duly issued, made, or given by the Tribal Court or any officer thereof, may be sentenced to imprisonment of not more than 120 days, payment of a fine not to exceed \$2,500, or both.
640. MANUFACTURE OR SALE OF A CONTROLLED SUBSTANCE – It shall be unlawful for any person to manufacture, deliver, or possess with intent to manufacture or deliver without a pharmacist's license any drug which is controlled under the Controlled Substance Act of 1970, as amended (21U.S.C. § 801 et. seq.) or any substance listed in schedule 1 of the Michigan Uniform Controlled Substances Act, as amended (MCL 333.7212), except as provided in Section 641(D) below, this prohibition does not apply to marijuana. Upon conviction, the offender may be sentenced to imprisonment for not more than 1 year, payment of a fine not to exceed \$5,000, or both.
641. POSSESSION, USE, OR MISUSE OF A CONTROLLED SUBSTANCE
- A. **Possession or Use without Prescription.** It shall be unlawful for any person to possess or use, without a valid prescription from a medical doctor, a controlled substance, as defined by the Controlled Substance Act of 1970, as amended from time to time (21 § 801 et. seq.) and any substance listed in schedule 1 (MCL 333.7212) or schedule 2 (MCL 333.7214) of the Michigan

Uniform Controlled Substance Act, as they may from time to time be amended. Possession or use of marijuana is not prohibited by this subsection.

1. *Misuse of Prescription Medication.* It shall be unlawful for any person to misuse a prescription medication by using it in a way not intended or not consistent with the directions of the prescribing doctor. Misuse includes but is not limited to: use in higher dose than prescribed; crushing pills to inject, inhale or drink; use of a medication prescribed to another individual; or taking a medication to feel euphoria or achieve a “high”.
2. *Prescription Fraud.* It shall be unlawful for any person to obtain, or attempt to obtain, a prescription for medication on behalf of another person, or to induce another person to attempt to obtain a prescribed medication on his or her behalf.
3. *Prescription Inhalation.* Any person who shall, for the purpose of causing a condition of intoxication, euphoria, excitement, exhilaration, stupefaction, or dulling of the senses or nervous system, intentionally smell or inhale fumes of any chemical agent, is guilty of a violation of this section.
4. *Penalties for Violation.* Upon conviction of violating any of the above subsections, the offender may be sentenced to imprisonment of not more than 6 months, payment of a fine not to exceed \$2,500, or both.

B. Permitted Manufacture, Process and Sale of Marijuana Limited to Tribal Enterprises. Wholly owned enterprises of Bay Mills Indian Community are the only authorized entities which may engage in the manufacture, process, packaging, delivery, distribution, or sale of marijuana, but solely to the extent provided under the laws of the Bay Mills Indian Community.

C. Permitted Possession and Use of Marijuana. The following acts by a person at least 21 years of age shall not constitute criminal or civil offenses under Tribal law. Further, these acts are not: (i) grounds for seizure or forfeiture of property, (ii) grounds for arrest, prosecution, or penalty in any manner, (iii) grounds for search or inspection, and (iv) grounds to deny any other right or privilege:

1. Possessing, using or consuming, internally possessing, purchasing, transporting, or processing 2.5 ounces or less of marijuana, except that not more than 15 grams of marijuana may be in the form of marijuana concentrate;

2. Within the person's residence, possessing, storing, and processing not more than 10 ounces of marijuana and any marijuana produced by marijuana plants cultivated on the premises and cultivating not more than 12 marijuana plants for personal use, provided that no more than 12 marijuana plants are possessed, cultivated, or processed on the premises at once;
3. Giving away or otherwise transferring without remuneration to a person at least 21 years of age or older up to 2.5 ounces of marijuana, except that not more than 15 grams of marijuana may be in the form of marijuana concentrate, provided that the transfer is not advertised or promoted to the public.

D. Possession and Use of Marijuana in Excess of Authorized Amounts. Any person 21 years of age or older, who possess, uses, consumes, internally possess, purchases, transports, gives away, transfers without remuneration, or processes marijuana over the established limits outlined above in subsection D shall be guilty of violating this Code, and may be sentenced to one or more of the following penalties listed below.

1. Imprisonment of not more than three (3) months;
2. Payment of a fine not to exceed \$1,000;
3. Perform one (1) to one hundred fifty (150) hours of community service;
4. Serve one (1) to twelve (12) months of probation;
5. Participate in a drug treatment alternative approved by Bay Mills Tribal Court.

E. Distribution to a Person under 21 Years of Age. Any person at least 21 years of age who sells, gives, distributes, or helps any person under 21 years of age possess, consume, purchase or otherwise obtain marijuana or marijuana accessories shall be guilty of violating this Code, and may be sentenced to one or more of the following penalties listed below.

1. Imprisonment of not more than one (1) year;
2. Payment of a fine not to exceed \$5,000;
3. Perform one (1) to one hundred fifty (150) hours of community service;
4. Serve one (1) to twelve (12) months of probation.

F. Possession or Use by a Person between 18 and 21 Years of Age.

Any person under 21 years of age, but at least 18 years old, who possesses, purchases, consumes, obtains, or sells marijuana or marijuana accessories shall be guilty of violating this Code, and may be sentenced to one or more of the following penalties listed below. At sentencing, the Judge shall order the Defendant to complete a mandatory substance abuse assessment.

1. Imprisonment of not more than three (3) months;
2. Payment of a fine not to exceed \$500;
3. Perform One (1) to one hundred fifty (150) hours of community service;
4. Serve one (1) to twelve (12) months of probation;
5. Participate in a drug treatment alternative approved by Bay Mills Tribal Court.

G. Possession or Use by a Minor. Any person under 18 years of age who possess, purchases, consumes, obtains, or sells marijuana or marijuana accessories shall be guilty of violating this Code, and may be sentenced to one or more of the following penalties listed below. At sentencing, the Judge shall order the Defendant to complete a mandatory substance abuse assessment.

1. Payment of a fine not to exceed \$500;
2. Perform one (1) to one hundred fifty (150) hours of community service;
3. Serve one (1) to twelve (12) months of probation;
4. Participate in a drug treatment alternative approved by Bay Mills Tribal Court.

If the minor completes all sentencing requirements, the Judge retains the discretion to dismiss all charges against the minor.

H. Marijuana Accessories. Notwithstanding any other law or provision of this Code, except as otherwise provided in Section 641(C), the use, manufacture, possession, and purchase of marijuana accessories by a person 21 years of age or older and the distribution or sale of marijuana accessories to a person 21 years of age or older is (i) authorized, (ii) not unlawful, (iii) not an offense, (iv) not grounds for seizing or forfeiting property, (v) not

grounds for arrest, prosecution, or penalty in any manner, and (vi) s not grounds to deny any other right or privilege.

- I. **Custody and Visitation.** A person shall not be denied custody of or visitation with a minor for conduct that is permitted by this act, unless the person's behavior is such that it creates an unreasonable danger to the minor that can be clearly articulated and substantiated.

- J. **Marijuana Possession or Use Near School, Play, and Public Housing Grounds Prohibited.** Marijuana products may not be consumed, possessed, or used within, in or on, or within five hundred (500) feet of, the real property comprising a public or private elementary, vocational, or secondary school, or a public or private college, junior college, or university, or a playground, or housing facility owned by a public housing authority, or within one hundred (100) feet of a public or private park, or other community recreational area.

- K. **Marijuana Possession or Use in Public Areas or Public View Prohibited.** Marijuana products may not be consumed, possessed, or used within, in or on, or within any public place, or possess marijuana within the public view of the Bay Mills Indian Community. Public view includes, but is not limited to, carrying marijuana on the body of a person where it is visible to the public. Public places include, but are not limited to: tribal government offices, tribal medical and wellness facilities, tribal businesses and enterprises (except for those authorized to sell marijuana), tribal schools, tribal gymnasiums, tribal parking lots, tribal government vehicles, tribally-owned open spaces. Any violation of this subsection shall constitute a civil infraction punishable by a fine not to exceed seventy-five dollars (\$75).

This Section does not authorize operating, navigating, or being in physical control of any motor vehicle, aircraft, snowmobile, off-road recreational vehicle, or motorboat while under the influence of marijuana; nor does this Section amend or repeal Section 819 of the Bay Mills Motor Vehicle and Parking Code (Chapter VIII of the Tribal Code).

All marijuana related offenses now authorized by these Sections may be vacated by the Bay Mills Tribal Court and shall be governed by Chapter XXII of the Bay Mills Law and Order Code.

- 642. HUNTING OR FISHING WITHOUT A LICENSE – Any person who is required by the Conservation Code and its implementing regulations to secure a hunting or fishing permit and fails to do so shall be deemed guilty of a misdemeanor and may be sentenced to payment of a fine not to exceed \$5,000, and/or restitution and possible forfeiture of gear.

- 643. BREAKING OR ENTERING – Any person who shall break and

enter, or shall enter without breaking, with the intent to commit any crime therein, any dwelling house, office, store, warehouse, barn, factory, garage, or other building or structure, or any private apartment therein, or any boat, ship, or enclosed motor vehicle, whether occupied or unoccupied, may be sentenced to imprisonment of not more than 1 year, payment of a fine not to exceed \$5,000, or both.

644. ENTRY WITHOUT PERMISSION – Any person who shall break and enter, or shall enter without breaking any dwelling house, office, store, warehouse, barn, factory, garage, or other building or structure, or any private apartment therein, or any boat, ship, or enclosed motor vehicle, whether occupied or unoccupied, without first obtaining permission to enter from the owner, occupant, or their agent, may be sentenced to imprisonment of not more than 6 months, payment of a fine not to exceed \$2,500, or both.
645. FORFEITURE – Any property used to facilitate a crime, any instrument used to facilitate a crime, or the process of criminal activity, or unclaimed property may be subject to forfeiture to the Bay Mills Indian Community in a civil action in Tribal Court.
646. ATTEMPT TO COMMIT A CRIME OR CONSPIRE TO COMMIT A CRIME – Any person who shall attempt to commit an offense prohibited by the Tribal Code, with one or more persons or by themselves, and in such attempt shall do any act towards the commission of such offense, but shall fail in the perpetration, or shall be intercepted or prevented in the execution of the same, when no express provision is made by law for the punishment of such attempt shall be punishable up to half (½) of the intended crime.
647. CRIMINAL HOMICIDE – Anyone who unlawfully kills another person shall be punished by imprisonment of not more than one year, payment of a fine not to exceed \$5,000, or both.
648. POSSESSION OR USE OF TOBACCO PRODUCTS BY A MINOR
– A person under the age of 18 shall not possess or smoke cigarettes or cigars, or a vaping device; or possess or chew, such, or inhale chewing tobacco or tobacco snuff, or possess or use tobacco in any other form, on any lands comprising the Reservation of the Bay Mills Indian Community. A person who violates this section is subject to a civil remedial forfeiture of \$50.00 for each violation.
- A. False representation of age - Any minor who falsely represents him/herself to be 18 years of age or older for the purpose of

purchasing or attempting to purchase tobacco products shall be subject to a civil remedial forfeiture of \$75.00 for each violation.

- B. Application of Chapter VII—Juvenile Code - Any minor who is alleged to have violated this section shall be tried as an adult and shall be subject to the procedures of Chapter VI of the Tribal Code.
- C. Sale of tobacco products to minors - Any person who sells, gives, or furnished any cigarette, cigar, chewing tobacco, tobacco snuff, vaping device, or tobacco in any other form to a minor is guilty of a misdemeanor, punishable by incarceration of not more than thirty (30) days, a fine of \$500.00, or both.

649. VESSEL ABANDONMENT

- A. No boat, pontoon, or other vessel, nor any trailer utilized to transport a vessel, shall be abandoned on property maintained by the Tribe as an access site to, or harbor on, a water body. A vessel shall be deemed abandoned under any of the following circumstances:
 - 1. The vessel's condition causes it to be inoperable on the water;
 - 2. The vessel has been in the same location for 60 days, and has not been operated during said time; or
 - 3. The vessel or trailer is on the access after December 15th of any calendar year.
- B. Any person who abandons such property may be sentenced to imprisonment of not more than 60 days, payment of a fine not to exceed \$1,500, or both.
- C. The Law Enforcement Department shall follow the procedures contained in section 834 of the Tribal Code for removal of such property from access sites and harbors and for recovery of any costs to the Tribe of such removal.

650. DISOBEDIENCE TO LAWFUL EXECUTIVE ORDERS – Any person who willfully disobeys or interferes with the implementation of an executive order issued pursuant to the State of Emergency for COVID-19 Response may be sentenced to imprisonment for not more than 30 days, payment of a fine not to exceed \$1,000, or both.

651. ARSON –

- A. A person shall not willfully or maliciously burn, damage, or destroy by fire or explosive a residence or occupied building or its contents. Upon conviction under this Section, a person may be subject to imprisonment not to exceed one (1) year, a fine not to exceed \$5,000, or both.
- B. A person shall not willfully or maliciously burn, damage, or destroy by fire or explosive a vehicle, unoccupied structure, or any other private property or its contents. Upon conviction under this Section, a person may be subject to imprisonment of not more than 180 days, a fine of not more than \$2,500, or both.

652. CHILD SEXUALLY ABUSIVE MATERIALS -- Any person who willfully obtains or possesses child sexually abusive material for any purpose shall be subject to imprisonment not to exceed one (1) year, a fine of not more than \$5,000, or both.

Child sexually abusive material is defined as including any photograph, film, video, picture or computer-generated image or picture, whether made or produced by electronic, mechanical or other means, where such visual depiction is, or appears to be, of a minor engaging in sexually explicit conduct.

653. STALKING –

- A. Any person who shall engage in a repeated course of unconsented contact with another which is intended to threaten, harass, stalk, terrorize, or otherwise cause emotional distress to another, and which causes that party to feel threatened, harassed, stalked, terrorized, or otherwise causes emotional distress is guilty of a violation of this Section. Upon conviction, a person shall be subject to imprisonment of not more than 180 days, a fine of not more than \$2,500, or both.
- B. Any person who violates Subsection A, above, and has either a prior conviction under said Subsection, or is the subject of a lawfully issued personal protection order (PPO) barring contact with the alleged victim, is guilty of an aggravated offense. Upon conviction, a person shall be subject to imprisonment of not more than one (1) year, a fine of not more than \$5,000, or both.

654. ARMED ROBBERY -- Any person who uses force or violence against another in the course of committing a larceny, as defined in Section 612 of this Code, while possessing a weapon or article that could be used or perceived to be used as a weapon, or who represents orally or otherwise that they are in possession of a dangerous weapon is guilty of violating this Section. Upon

conviction, a person shall be subject to imprisonment or not more than one (1) year, a fine of not more than \$5,000, or both.

655. USING A COMPUTER TO COMMIT A CRIME – Any person who uses a computer or other electronic device in direct furtherance of the commission of a crime, as defined in this Code, is guilty of a violation of this Section. Upon conviction, a person shall be subject to imprisonment of not more than 90 days, a fine of not more than \$500, or both.
656. INTERFERING WITH 9-1-1 COMMUNICATIONS – A person shall not willfully and maliciously prevent, obstruct, or delay by any means the sending, conveyance, or delivery of any authorized communication by or through any telephone line, cable, wire, or any electronic medium of communication, including the internet or a computer, computer program, computer system, or computer network of another party. Upon conviction, a person shall be subject to imprisonment of not more than 180 days, a fine of not more than \$500, or both.
657. INHALENTS/ HUFFING – Any person who shall, for the purpose of causing a condition of intoxication, euphoria,, exhilaration, stupefaction, or dulling of the senses or nervous system, intentionally smells or inhales fumes of any chemical agent, is guilty of a violation of this Section. Upon conviction, a person shall be subject to imprisonment of not more than 180 days, a fine of not more than \$2,500, or both.
658. ARCHEOLOGICAL RESOURCES – Any person who shall excavate, remove, damage, alter, or deface any archeological resources located on the lands or waters under the jurisdiction of the Bay Mills Indian Community without first having obtained a permit for such activity from the Tribe is guilty of a violation of this Section. Upon conviction, a person shall be subject to imprisonment of not more than 180 days, a fine of not more than \$2,500, or both.

For purposes of this Section, archeological resources includes any material remains of human life or activities which are at least 100 years of age and which are of archeological interest.