

# **Saginaw Chippewa Tribal Law**

## **TITLE III**

*As amended January 15, 2020*

**Title III**  
**Judicial Procedure, Civil**

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**TITLE III**  
**Judicial Procedure, Civil**

**Cross Reference Table**

<b><u>Section in Title III:</u></b>	<b><u>Includes Reference to:</u></b>
Section 3.101	Constitution Article VI §1(t)
Section 3.102(a)	Title I Chapter 1.5
Section 3.405(a)	Section 3.402
Section 3.901(b)	Section 3.917
Section 3.923	Section Title III Chapter 3.9
Section 3.1201	Section 1.401(4)
Section 3.1502(c)	Section 3.1510
	Section 3.1511
Section 3.1503	Section 3.1507
Section 3.1507(c)	Section 3.1508
Section 3.1508(a)	Section 3.1507
Section 3.1510(b)	Section 3.154
Section 3.1510(d)	Section 3.1510(c)
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Section 3.1514(f)	Section 3.1604
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Section 3.1515(a)	Section 3.1514
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Section 3.1602(c)	Section 1.2313
Section 3.1620(a)	Section 1.2331
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Section 3.1702 1	Section 3.405
	Section 3.406
	Section 3.407
Section 3.1414 3(c)	15 USC 1673
Section 3.1714 3(d)	25 USC §2710(b)(3)(B)
Section 3.1715 3	Section 3.714
Section 3.1716 2	Section 3.1716 1
Section 3.1718 1	Section 3.1718



## TITLE III

### JUDICIAL PROCEDURE, CIVIL

#### CHAPTER 3.1

##### Creation And Jurisdiction

3.101 COMMUNITY COURT. The Saginaw Chippewa Community Court is created and exists by virtue of Article VI, Section 1(t) of the Constitution of the Saginaw Chippewa Indian Tribe of Michigan as amended on November 4, 1986.

3.102 JURISDICTION.

- (a) The Community Court shall have jurisdiction over all civil causes of action arising within the territorial jurisdiction of the Court as described in Chapter 1.5 of Title 1 of this Code;
- (b) The Community Court, except as it may be limited by the Tribal laws or laws of the United States, shall have all inherent powers of any court including, but not limited to:
  - (1) The power to make rules for the conduct of its business;
  - (2) The power to issue orders, decrees, subpoenas or writs necessary to implement its decisions;
  - (3) The power to punish for contempt;
  - (4) The power to administer oaths or affirmations;
  - (5) The power to issue separation agreements;
  - (6) The power to enforce its decision by either a personal command to the party or parties or by a declaration that relief is granted regardless of the nature of the matter before the Court.
- (c) The Court shall not have jurisdiction over any suit brought against the Tribe without the consent of the Tribe. Nothing in this Code shall be construed as consent by the Tribe to be sued.

#### Chapter 3.2

##### ACTIONS, DECISIONS, ENFORCEMENT

3.201 FORM OF COMPLAINT. One form of Complaint shall be used in all civil cases regardless of the relief sought or relief or remedy granted.

- 3.202 **ENFORCEMENT OF DECISIONS OR DECREES.** In enforcing its decisions or decrees, the Court may either command a party to perform that which the decision requires him to do or it may command an officer of the Court or a police officer to take such action as is necessary to enforce the decision. The method of enforcing the decision shall be within the discretion of the Court.
- 3.203 **ACTION DEFINED.** An action is a proceeding before the Court in which a party or parties bring suit against another party, or other parties, to enforce, determine or protect a right, or seek compensation for or prevention or a wrong.
- 3.204 **NO MERGER OF CIVIL AND CRIMINAL LIABILITIES.** Where the violation of a right gives rise to both a civil remedy and a criminal prosecution, a separate action may be brought for either.

### **Chapter 3.3**

#### **COMMENCEMENT OF ACTIONS**

- 3.301 **GENERAL LIMITATIONS.** An action may only be commenced within the time limits stated in this Title unless a different time is specified by law. The time within which an action may be commenced begins at the time the act complained of occurred unless otherwise provided by law.
- 3.302 **STATUTE OF LIMITATIONS.** All civil actions shall be commenced within four (4) years from the time the cause of action accrued in the case of contracts and within two (2) years in the case of torts, unless a different time is prescribed by law. An action shall be deemed to have been commenced for the purposes of this section when the defendant or defendants have been filed. The statute of limitations shall not run against a minor, incompetent, person serving in the Armed Forces of the United States, or person suffering other legal disability, nor shall the period run as to persons absent from the jurisdiction for the purpose of avoiding process.
- 3.303 **WAIVER OF LIMITATION.** The defense of the running of the statute of limitations may be waived by a party able to assert such a defense. Such a defense must be pleaded and proved to be effective.
- 3.304 **TERMS IDENTIFYING PARTIES.** The person commencing an action shall be known as the plaintiff.

The person against whom the action is brought shall be known as the defendant.

In a situation where the person bringing or defending an action is a guardian ad litem, he

shall also be known as the Plaintiff or Defendant, as the case may be, but shall further be identified as guardian or guardian ad litem of the true party in the title of the action.

### **Chapter 3.4**

#### **COMMENCING CIVIL ACTIONS**

3.401 **CIVIL ACTION.** A civil action shall be commenced by filing a written complaint with the Court.

3.402 **COMPLAINT.** The Complaint shall be filed with a Clerk of the Tribal Court, who shall mark thereon the date of the filing. The action shall be deemed to have been commenced as of the time the Complaint is so filed and marked. The case shall be deemed pending until judgment or dismissal.

Complaint shall be captioned:

- (a) Saginaw Chippewa Indian Tribe of Michigan  
Tribal Court  
Civil Division
- (b) It shall state the name of the plaintiff and defendant and be further identified as a "Complaint." If the Defendant's true name be unknown, he may be designated by any name until his true name be ascertained, at which time the Complaint shall be amended accordingly.
- (c) The Complaint shall state clearly and briefly by numbered paragraphs in plain language the grievance for which relief is sought, and shall further state the relief desired. When the filing of the Complaint is used to start the cause of action, it must be served with the summons.

3.403 **GUARDIANS.**

- (a) When by reason of incompetency or legal disability it is necessary to have a guardian as party to the action, it shall be the duty of the Court to appoint a suitable adult to act as guardian. Such person must give written consent to act as guardian and may, at the Court's discretion, be required to give suitable security.
- (b) If no suitable person can be found to act as guardian, the Court may then appoint the Clerk to serve as guardian.

- (c) When a guardian is necessary to the action, it shall be the duty of the Court to appoint a guardian within a reasonable time after the filing of the Complaint, but in no instance shall trial commence without the appointment of a guardian.

3.404 SUMMONS. A Summons is issued by the Clerk of the Court to the Defendant. The Summons shall:

- (a) Be dated as of the day of its issue;
- (b) Be signed by the complaining party or his agent and the Clerk of the Court;
- (c) Name the place where the Complaint is filed;
- (d) Be directed to a police officer or disinterested third party with a command that it be served upon the defendant or defendants.

The Summons shall further state the name of the plaintiff and that of the defendant, if known. If the defendant's name be unknown, the Summons shall describe him in sufficient detail so as to make identification reasonably possible. It shall further state the date upon which the defendant is to appear and that, in case of his failure to answer or appear as commanded, the plaintiff shall prevail by default.

3.405 SERVICE OF SUMMONS AND COMPLAINT.

- (a) A copy of the Summons, together with a copy of the Complaint, as required under Section 3.402, may be served by certified mail, return receipt requested, or may be served personally upon an individual defendant. Service may be made by leaving a copy of the Summons and Complaint at the Defendant's usual abode with a resident of the household above the age of eighteen (18) years, if the defendant cannot be conveniently found.
- (b) If the defendant be a minor, service shall be made upon his guardian, if a guardian has been appointed. If no guardian has been appointed, then service may be made upon either the father or mother of such minor.
- (c) If the defendant be an unincorporated association, or corporation, service shall be made by delivering a true copy of the Summons and Complaint to any officer or chief clerk thereof.
- (d) In all cases, the defendant's signed acknowledgment of service on the Summons or his voluntary appearance in Court is equivalent to service as heretofore required.

3.406 SERVICE OF PROCESS UPON PERSONS OUTSIDE THE TERRITORIAL JURISDICTION OF THE SAGINAW CHIPPEWA INDIAN TRIBE OF MICHIGAN. Any person subject to the jurisdiction of the Saginaw Chippewa Community Court and doing any of the following acts:

- (a) The transaction of any business within Tribal jurisdiction;
- (b) The commission of any act or failure to act when required, which results in a cause of action for tort arising within Tribal jurisdiction;
- (c) The ownership, use, or possession of any property, or any interest therein, situated within Tribal jurisdiction;
- (d) Contracting to insure any person, property, or risk located within this reservation at the time of contracting; or
- (e) Entering into a contract for services to be rendered or for materials to be furnished in Tribal jurisdiction'

shall, in a civil action arising out of or as a result of any of the above enumerated acts, be subject to service of process outside the reservation with the same force and effect as though service had been made within the jurisdiction of the Saginaw Chippewa Indian Tribe of Michigan.

3.407 RETURN OF SUMMONS. The “return” of the Summons is the certification by an eligible person that he served a true copy of the Summons as directed, or that he was unable to serve it. The date of service, if any, and the date of return and method of service must be stated on the return by such person, and when returned, the Summons shall be dated and filed with the Complaint by the clerk. Should the Summons be served by certified mail, return receipt requested, the receipt shall constitute proof of service, and shall be filed with the Complaint by the clerk.

### **Chapter 3.5**

#### **APPEARANCE, DEFAULTS, POSTPONEMENTS**

3.501 GENERAL APPEARANCE. A general appearance is the method or act by which a defendant in an action submits himself to the jurisdiction of the Court.

3.502 SPECIAL APPEARANCE. A special appearance is the method of act by which a defendant may seek to test the sufficiency of service of process or the jurisdiction of the Court in a particular proceedings. A special appearance shall not confer jurisdiction upon

the Court except insofar as determining the sufficiency of service of process or jurisdiction. A special appearance shall not waive defects of service.

3.503 METHOD OF APPEARANCE. An appearance, general or special, may be made in person or by an agent, and includes either the physical presence in Court of the defendant or his attorney or the filing of a written answer, motion or other pleading in response to the Complaint.

3.504 APPEARANCE: TIME ALLOWED PARTIES; DEFAULT DECISIONS.

- (a) If a defendant shall fail to appear at the time specified by a proper pleading or at the time directed by Court, the Plaintiff may proceed and the Court may grant such relief as the evidence presented shall warrant.
- (b) The Court in its discretion may, on such terms as may be just, and upon payment of court costs by the Defendant, relieve a party from a decision by default which was taken against him by his mistake, inadvertence, surprise or excusable neglect. The Defendant's application for such relief must be made within twenty-one (21) days after the entry of his default decision and must be supported by an affidavit showing good cause therefore. If such default is vacated, a new date for hearing shall be set.
- (c) Postponements:
  - (1) At any time preceding trial of a case, hearings may be postponed on the written application of either party in the discretion of the Court and for good cause shown. Such written application shall be made to the judge and shall be noted on the record by the Clerk or the Judge.
  - (2) Upon written stipulation by all parties, filed with the Court, a proceeding may be postponed from time to time in the Court's discretion.

## **Chapter 3.6**

### **VENUE**

3.601 LOCATION OF ACTION. The venue of any action within the jurisdiction of the Saginaw Chippewa Tribal Court, there being only one division thereof, shall be in said Court.

## Chapter 3.7

### PLEADINGS

- 3.701 DEFINITION. A pleading is the form by which the parties shall present their respective claims or contentions to the Court and to one another.
- 3.702 COMPLAINT. A written Complaint must be filed with the Clerk by the Plaintiff or his attorney. A Complaint must set out in plain and direct language the facts on which the claim is based. The evidence at the trial must be confined to the allegations made in the Complaint and other pleadings allowed by these statutes.
- 3.703 MOTIONS. Motions shall be allowed in all actions before this Court, but except as to motions made at the trial, all such motions shall be filed with the Court and served upon all adverse parties or their representatives at least six (6) days before the date on which the motion is to be heard.
- 3.704 ANSWER. An answer is the Defendant's written statement made in reply to the Complaint made within 21 days if serviced personally or 28 days if served by mail and must set out the defense intended to be asserted by the defendant as follows:
- (a) If the defendant denies all the facts alleged by the plaintiff in the Complaint, he shall so state. This shall be termed a general denial and permits the Defendant to defend against any and all allegations made in the Complaint.
  - (b) If the defendant denies portions of the allegations made in the Complaint, he shall so state, specifying those allegations which he denies and those which are admitted. Upon trial, the defendant may contest only those allegations which he specifically denies in his answer.
  - (c) If the defendant admits the truth of the allegations in the Complaint but wishes to assert a defense thereto, he shall set out such defense in his written answer and a failure to so set out such defense shall prevent his raising the same at trial, unless, at the Court's discretion, the ends of justice require that he be permitted to raise such defense.

A failure to deny is an admission of the truth of the allegation.

3.705 COUNTERCLAIM.

- (a) Compulsory counterclaims. The defendant's written answer shall state as a counterclaim any claim which, at the time of the answer, the Defendant

shall possess against the opposing party if it arises out of the same act or omission that is the basis of the opposing party's claim and does not require for its adjudication the presence of third parties over whom the Court cannot acquire jurisdiction. Failure to state a compulsory counterclaim in writing at the time of the answer, or in the Court's discretion at a later date, shall bar a subsequent suit on such claim.

- (b) Permissive counterclaim. The defendant's written answer may state as a counterclaim any claim against the opposing party not arising out of the same act or omission that is the basis of the opposing party's claim.

### 3.706 PLEADINGS; AMENDMENT.

- (a) Any pleading may be amended with the Court's permission at any time before trial, or during the trial, for the purpose of supplying any omission or deficiency in the claim when by such amendment substantial justice will be promoted.
- (b) When amendment is requested at or during the trial and the Court is satisfied that a postponement is necessary and just to allow the opposing party to properly respond thereof, a postponement may be granted.
- (c) Such postponement and its length shall be discretionary with the Court, and the party seeking such postponement may, if justice so required, be ordered to pay the costs arising thereby.

## **Chapter 3.8**

### **SUBPOENA AND DISCOVERY PROCEDURE**

#### 3.801 SUBPOENAS AND ORDERS.

- (a) The Saginaw Chippewa Community Court shall have the power to subpoena parties and witnesses for trial and discovery purposes.
- (b) Upon motion of any party showing good cause, the Tribal Court shall have the power to subpoena the records of any other party which are not privileged.
- (c) The Tribal Court shall have the power to order any party to permit any other party to inspect any real or personal property in his possession, or under his control, that is material to the action.



Such subpoena or order shall state the name of the Court, the title of the action, and the name of the person to whom it is directed. The subpoena or order shall state the reason for which it was given and the date and time of the appearance or inspection. It shall state the name of the person or party on whose behalf the testimony of the witness is required.

3.802 SUBPOENAS AND ORDERS SERVED. The subpoena or order may be served by any officer or person qualified to make service of Summons. The subpoena must be served reasonably in advance of the date set for the appearance.

3.803 DISCOVERY. Discovery may be had by the use of depositions and interrogatories.

3.804 DEPOSITIONS. Depositions may be taken from any party or witness and may be oral or written.

(a) Oral depositions may be taken before any person qualified to take oaths in the jurisdiction in which the witness or party is located. Oral depositions must be recorded and signed by the witness or party, if desired. Notice must be given to all parties to the action of the time and place the deposition is to be taken so that such parties may cross-examine the deponent if they desire.

(b) A written deposition shall consist of written questions and answers. It shall be signed by the person qualified to take oaths in the jurisdiction in which the witness or party is located. Such persons shall attest to the deposition.

Answers to deposition questions to which objections are made shall be deferred until the objection is ruled upon by the Court.

3.805 INTERROGATORIES. Interrogatories may be served upon any party by any other party. The interrogatories shall be answered under oath. Answers to interrogatories to which objection is made shall be deferred until the objection is ruled upon by the Court.

3.806 ADMISSIBILITY. Depositions and interrogatories are admissible according to the rules of evidence set forth in this Title.

3.807 ADMISSIONS IN A CIVIL ACTION; EITHER PARTY MAY REQUEST; ADMISSIONS OF FACT; ADMISSIONS OF GENUINENESS OF DOCUMENTS; FAILURE TO ADMIT OR EXPLAIN DEEMED ADMITTANCE. At any time after a civil action or proceedings is commenced, a party may serve upon any other party a written request for the admission by the latter of the genuineness of any relevant documents described in and exhibited with the request, or of the truth of any relevant

matter of fact set forth therein. Copies of the documents shall be delivered with the request. Each of the matters of which an admission is requested shall be deemed admitted unless, within a period designated by the Community Court, the party to whom the request is directed shall serve upon the party requesting the admission a sworn statement either denying specifically the matters of which an admission is requested or setting forth specifically reasons why the matter can be neither admitted or denied. Any admission made by a party pursuant to such request is to be considered binding upon him for the purpose of the pending action only and neither constitutes an admission by him for any other purpose nor may it be used against him in any other proceeding.

- 3.808 REFUSAL TO ADMIT REQUESTED FACTS OR DOCUMENTS; EXPENSE OF PROOF CHARGED TO PARTY REFUSING. If a party shall serve a sworn denial to a request for admission of fact or genuineness of documents and the requesting party thereafter proves such fact or the genuineness of such document, the requesting party may apply to the Court for an order requiring the denying party to pay the reasonable expenses incurred in making such proof including reasonable agents or attorney's fees. The Court shall grant such order unless it finds that there were good reasons for the denial or that the admissions sought were of no substantial importance.
- 3.809 COSTS, COURT RULINGS UPON OBJECTIONS AT DEPOSITIONS OR TO INTERROGATORIES. When objection is made to any question during deposition or in interrogatories an answer thereto are deferred until Court ruling upon the objection, the party prevailing before the Court shall be entitled to reasonable costs and attorney fees in the discretion of the Court.

### **Chapter 3.9**

#### **JURY TRIALS**

- 3.901 JURY TRIAL; TIME TO REQUEST.
- (a) The right of trial by jury shall exist in all cases where the plaintiff's claim exceeds five thousand dollars (\$5,000.00). In all other cases the right to a jury shall be at the discretion of the Court.
  - (b) Time for request of jury trial. In cases in which a jury may be had by right, the request for a jury must be made in writing to the Clerk accompanied by a minimum jury fee of at least \$500.00 (said sum to be disposed of pursuant to Section 3.917, or returned at the close of the trial), and may be made by either party at any time after commencement of the action, but not later than fourteen (14) days prior to the date of the trial.

- (c) The failure of a party to demand a jury, as directed by subsection (2) of this Section, constitutes a waiver of the right to a trial by jury.

- 3.902 NUMBER OF JURORS. A civil jury shall consist of six (6) persons, chosen in the manner hereinafter provided.
- 3.903 QUALIFICATION OF JURORS. All members of the Tribe residing within the State of Michigan, having the qualifications of electors and being of sound mind, and who are able to read, write and understand the English language, and who are not judges or Clerks of any Court or practicing licensed attorneys, or police officers or jailers, or ministers, or members of the Saginaw Chippewa Tribal Council, who are not under any physical disability that would impair their ability to participate fully as a juror and who have not been convicted of a felony, shall be competent persons to serve on a jury panel. A juror more than 70 years of age shall be exempted from jury service upon written request.
- 3.904 ELECTRONIC MEMBERSHIP LIST. The Tribal Clerk's office shall provide the Tribal Court an updated electronic copy of the Tribal membership list on the first business day of October of each year.
- 3.905 JURY DATABASE. A Jury Database shall be developed and maintained by the Tribal Court. The Jury Database shall include all tribal Members who are 18 years of age or older living within the State of Michigan. Upon receipt of the Electronic Membership List, the Tribal Court shall update the Jury Database. The update shall include inputting the names of new members, checking and updating addresses and removing the names of deceased members.
- 3.906 SELECTION OF POTENTIAL JURORS. In October of each year the Tribal Court shall select at random 500 potential jurors from the Jury Database for the calender upcoming year.
- 3.907 JURY QUESTIONNAIRES. In October of each year the Tribal Court shall send out questionnaires to the 500 potential jurors including self addressed stamped envelopes for the questionnaires return. As questionnaires are received the Tribal Court shall enter the information into the Jury Database, disqualify any jurors that have approved medical excuses, note vacation dates, and identify members of Tribal Council, ministers and others not eligible for jury duty pursuant to Section 3.903 of this Code.
- 3.908 SERVICE PERIODS. Potential jurors shall be randomly slotted into Service Periods as the questionnaires are returned to the Tribal Court. The Service Periods shall coincide with the four (4) quarters of the year:

- (a) January, February, March.

- (b) April, May, June.
- (c) July, August, September.
- (d) October, November, December.

3.909 JURY PANELS. All returned questionnaires will be placed into the Service Period in which they will serve and shall constitute the Jury Panel for that Service Period. The questionnaires are then placed in separate three (3) ring binders.

3.910 POTENTIAL JURORS WHO DO NOT RETURN QUESTIONNAIRES. If potential jurors do not return their questionnaires the Tribal Court shall send a second notice and questionnaire. Potential jurors who do not return their questionnaires may be subject to a Contempt of Court ruling.

3.911 NOTIFICATION AND SUMMONS OF POTENTIAL JURORS. Potential jurors in the various Service Periods shall be notified by providing them with a jury selection letter and a summons via regular U.S. Mail service as follows:

- (a) Potential jurors for the service period of January-March shall be notified in the preceding December.
- (b) Potential jurors for the service period of April-June shall be notified in March.
- (c) Potential jurors for the service period of July-September shall be notified in June.
- (d) Potential jurors for the service period of October-December shall be notified in September.

3.912 REVIEW OF QUESTIONNAIRES.

- (a) Two weeks prior to each scheduled jury trial attorneys or pro-per defendants may review the juror's questionnaires at the Court Clerk's Office.

3.913 JURY HOTLINE. The Tribal Court shall maintain a Jury Hotline so that potential jurors may be continuously updated on changes to the jury schedule.

3.914 SELECTION OF JURY In selecting the members of the jury for trial from the list of prospective jurors on the panel, challenges may be made as provided herein:

- (a) A challenge is an objection made to the trial jurors, and may be:
  - (1) To the panel or
  - (2) To an individual juror.
- (b) A challenge to the panel is an objection in writing made to all the jurors summoned and may be made by either party. The panel may be challenged when:
  - (1) There is an error in the procedure used in summoning the jurors;
  - (2) Bias can be shown amongst the entire panel; or
  - (3) When there has been a failure to summon one (1) or more of the jurors drawn.
- (c) A challenge to an individual juror is an objection which may be made orally, and is either for cause or peremptory.
- (d) All challenges for cause must be taken first by the Defendant and then by the Plaintiff. Peremptory challenges may be taken by either party at any time during the seating of the jury and before the jury is sworn.
- (e) A challenge for cause may be made by the Plaintiff or by the Defendant, and must specify the facts constituting the causes thereof. Such challenge may be made for the following causes:
  - (1) A prior felony conviction;
  - (2) A lack of the qualifications set out in Section 3.903 of this Section;
  - (3) Physically or mentally disabled to the point that would render the juror incapable of performing the duties of a juror;
  - (4) Having served as a juror in a criminal action brought against a party involved in the case;
  - (5) Being a party adverse to either party in any other action, or having complained against or been accused by either party in a criminal action;
  - (6) Having formed or expressed such an opinion as to the disposition

of the case at bar as would prevent him from rendering a fair verdict upon the evidence submitted at trial;

(7) Having served in the Community Court as a juror during the month immediately prior to the date of trial;

(8) Standing in the relation of guardian and ward, attorney and client, master and servant, or landlord and tenant, or being a member of the immediate family within the third degree, of a party or in his employ.

(f) Failure to challenge for cause shall constitute a waiver of the basis for challenge.

(g) A peremptory challenge may be made by either party and may be made orally. It is an objection to a juror for which no reason need be given, but upon which the Court must exclude the proposed juror.

(h) After each challenge, sustained for cause or made peremptorily, another juror shall be called, may be challenged for cause, and shall be subject to peremptory challenge.

3.915 PEREMPTORY CHALLENGE: NUMBER; JOINT DEFENDANTS. Each party is entitled to three (3) peremptory challenges. Where a case involves two or more parties as Plaintiffs or Defendants, each shall be entitled to three (3) peremptory challenges, and these challenges on the part of the Defendants must be exercised jointly.

3.916 JURY OATH. When the jury has been selected, the Judge shall administer to the jurors the following oath: "I do solemnly swear or affirm that I will well and truly try the issues relative to the cause now on trial according to the law and evidence under the penalty of perjury."

3.917 CONTINUANCE. If a case is continued, the jury shall be notified of the new date for trial and no further notice to them of such date is required. The penalty for failure to appear at the time to which the trial is continued shall be contempt of Court.

3.918 CASE AND VERDICT. After the jury shall have been sworn, they shall sit together and hear the case. Upon the close of the evidence, the Judge shall give oral or written instructions to the jury to the law applicable on the case.

Upon receipt of such instructions, the jury shall be kept together in a convenient place and be in the charge of some officer designated by the Judge. They will so remain until a verdict has been reached or until discharged by the Judge. In any civil cause, at least four

(4) of the jurors must agree upon the verdict.

In all cases, the Tribal Judge shall have the power to direct a verdict before the matter is submitted to the jury, or to order a new trial if he deems the verdict inconsistent with the evidence.

3.919 INSTRUCTIONS AFTER JURY RETIRES. After the jury retires for deliberations, if there is any disagreement as to any part of the testimony or if the jury desires more information on any point of law arising in the case, it must communicate in writing with the Judge and the bailiff shall deliver the request to the Court who shall have the discretion as to whether or not to provide the requested information following an off the record discussion with the attorneys or party.

3.920 DELIVERY OF VERDICT. When the jury has agreed upon a verdict, they shall return to the jury box and the jury foreman shall give the verdict orally upon request from the Judge. The Judge shall then have the verdict entered into the record.

3.921 JURY'S FAILURE TO AGREE. Whenever the Judge shall be satisfied that the jury cannot agree on a verdict after due deliberation, the Judge may discharge the jury and continue the case; and if either party so demands, another jury must be selected as provided in this chapter.

The case shall be continued to such time as the Court thinks reasonable unless the parties or their attorneys agree on a longer or shorter time, or unless the parties agree that the Judge may render a decision on the evidence already before him.

3.922 JURY FEES. Upon the verdicts being delivered to the Judge, each juror shall be paid from the Tribal Court Fund the sum of fifteen (\$15.00) Dollars per day and twenty-six (\$.26) cents per mile while traveling to and from their place of residence to the place of trial, which shall be taxed against the losing party. If the jury is unable to reach a decision or is dismissed for any other cause, then the parties shall share the cost of the jury equally.

3.923 The jury selection process used in 2009 for the selection of juries in calendar year 2010, including but not limited to jury qualifications, the jury database, electronic membership list, questionnaires and notification procedures fully conform and are consistent with the requirements of this amendment to Chapter 3.9 of Title III and are hereby adopted and ratified for use by the Tribal Court for the entirety of the 2010 calendar year.

### **Chapter 3.10**

### **CONTEMPT TO COURT**

3.1001 BASIS FOR CONTEMPT. A Judge may punish for contempt persons guilty of the following acts:

- (a) Disorderly, contemptuous, or insolent behavior toward the Judge while holding Court which tends to interrupt the due course of a trial or other judicial proceedings;
- (b) A breach of the peace, boisterous conduct, or violent disturbance in the presence of the Judge, or in the immediate vicinity of the Court held by him, tending to interrupt the due course of a trial or other judicial proceedings;
- (c) Disobedience or resistance to the carrying out of a lawful order or process made or issued by the Judge;
- (d) Disobedience to a subpoena duly served, or refusing to be sworn or to answer as a witness;
- (e) Interference with any person or property in the custody of a police officer acting under an order or process of the Court; or
- (f) Failure to appear for jury duty when properly notified.

3.1002 CONTEMPT COMMITTED IN PRESENCE OF JUDGE. When a contempt is committed in the immediate view and presence of a Judge, it may be punished summarily. The Judge must make an order reciting the facts as they occurred, and that the person preceded against is guilty of contempt, and that he be punished as therein prescribed. No right to a trial by jury shall exist under this paragraph.

3.1003 CONTEMPT COMMITTED NOT IN PRESENCE OF JUDGE. When the contempt is not committed in the immediate view and presence of the Judge, a warrant for arrest may be issued by such Judge and the person so charged may be arrested and brought before the Judge immediately. The Judge must give the arrested person an opportunity to make his defense or excuse. The Judge may thereupon discharge him or may convict him of the offense. A right to trial by jury shall exist under this paragraph.

3.1004 PUNISHMENT. A Judge may punish for contempt by fine or imprisonment, or both. Such fine shall not exceed Five Hundred (\$500.00) Dollars, and such imprisonment shall not exceed ninety (90) days, plus Court costs.

3.1005 ENTER CONVICTION ON DOCKET. The Judge must enter on his docket the conviction specifying the offense and judgment thereon.



## Chapter 3.11

### DOCKETS

3.1101 MATERIAL ENTERED ON DOCKET. Every Judge or Clerk of the Court must keep a book, denominated a docket, in which must be entered by him:

- (a) The title of every action in which a summons and complaint are filed, or in which the parties voluntarily appear.
- (b) The date of the complaint and summons and time and date of their service and return, and if an order to attach property was made such fact must be stated together with the affidavit upon which such order was made.
- (c) The names and addresses of the parties who appeared at trial.
- (d) Every continuance, stating on whose application, whether on motion or consent, and to what time and date.
- (e) When trial by jury is demanded, the demand must be stated, and by whom made, the names of the jurors selected, and the time and date appointed for trial.
- (f) The names of the jurors who appear and are sworn, and the names and addresses of all witnesses sworn and at whose request.
- (g) In the absence of a complete transcript of the trial or hearing, any exceptions to the rulings of the Judge.
- (h) The verdict of the jury and when received; or alternatively, the fact that the jury discharged and was discharged.
- (i) The judgment or decree of the judge, specifying the items of cost included, and the time when rendered.
- (j) A statement of any bond or money deposited with the Court and by whom
- (k) A record of when a transcript of the proceedings is filed with the Tribal Clerk of the Court.
- (l) If appeal is taken, the time of entering the appeal and by whom appeal is made.

- (m) Any application for stay of completion of the judgment and the time for giving same.
- (n) The satisfaction of the judgment and the time of the satisfaction of the same.

3.1102 ARRANGEMENT OF DOCKET. A Judge or the Clerk of the Court shall keep an alphabetical cross-index file of his docket in which must be entered alphabetically the names of the parties to each judgment or decision, with reference to the page of entry. The names of the plaintiffs and defendants must be entered in the alphabetical order of the first letter of the family name. The cases shall be numbered progressively upon the docket and shall correspond to the number of the papers in each case. All pleadings in each action shall be kept together, and in packages of a convenient size, and in the order in which the cases are numbered on the docket.

It is the duty of every Judge, upon expiration of his term of office, to deposit with his successor the docket, as well as those of his predecessors, together with all files and papers, there to be kept as public records and property. If no successor is appointed he shall turn the records over to the Clerk of the Tribal Court on the Reservation to be kept for the successor when he is appointed. A receipt shall be given by the Clerk receiving the docket and records.

3.1103 RESPONSIBILITY FOR MAINTAINING DOCKET AND OTHER COURT RECORDS. It shall be the responsibility of the Tribal Court Judge to insure the accurate and legible dockets and other court records are maintained by the Clerk of the Court. Failure to fulfill these responsibilities shall be grounds for removal of said Judge and the Clerk of the Court.

## **Chapter 3.12**

### **COMPETENCY**

3.1201 PLEA OF INCOMPETENCY. When incompetency, as defined in Section 1401 (4) is an issue, such competency or incompetency shall be determined by a Competency Board. Actions shall be commenced as in other civil suits. Upon the filing of a Complaint, the Tribal Judge shall order a hearing by the board.

3.1202 BOARD OF COMPETENCY. The Board shall consist of the Tribal Judge, the Prosecuting Attorney of the Tribe and a reputable practicing physician appointed by the Tribal Council. In the event a prosecuting attorney has not been appointed by the Tribe, the Chief shall serve as a member of the Board.

The function of this Board shall be to determine the competency or incompetency of any

person when properly placed at issue. In no case shall the Board act without all three members present. The Tribal Judge shall be the Chairman of such Board and the prosecuting attorney shall be the Clerk. In the case of the temporary absence or inability of either of such members of act, the Chairman or prosecuting attorney shall call to his aid a reputable practicing physician or licensed attorney who may act in the same capacity. The record in such cases must show the fact of and reason for the absence.

Before entering upon the duties of his office, each of the persons constituting such Board shall take and subscribe an oath or affirmation to support the Constitution of the United States and of the Reservation, and to discharge faithfully his official duties according to law, which oath shall be filed in the office of the Clerk of Court of the Saginaw Chippewa Community Court.

The Board shall hold its hearings in the Community courtroom unless for good reason it shall select some other place. If it deems it to be necessary or advisable, it may hold hearings at such times as it may fix or upon notice of the Chairman of the Board. The hearing shall not be open to the public.

- 3.1203 JURISDICTION AND POWERS. The Board shall have jurisdiction over all actions to determine competency or incompetency of persons on the Reservation for the purpose of guardianship. The Board shall have the power to issue subpoenas and compel obedience thereto and do any act of a Court necessary and proper for the purpose of discharging the duties required of it.
- 3.1204 POWERS AND DUTIES OF THE CHAIRMAN. The Chairman of the Board shall sign and issue all notices, subpoenas, or other process required to be given or issued by the Board. The notices, reports, and communications, required to be given, may be sent by certified mail unless another method is necessary to insure the appearance of any party, and the fact and date of such sending or reception must be noted in the records of the Board. The Chairman shall file all papers, notices, reports, and other communications connected with any action of the Board in the office of the Clerk of Court of the Saginaw Chippewa Community Court. The Clerk of Court shall file the record of the proceedings of the Board therewith. This record shall show the papers filed and shall contain a complete record of the findings, orders, and transactions of the Board.
- 3.1205 NOTICE OF HEARING. Notice of any hearing shall be posted on the Tribal bulletin board at least one day prior to the hearing.

### **Chapter 3.13**

#### **ATTORNEYS**

- 3.1301 QUALIFICATIONS TO ADMISSION. Any person may practice as an attorney before

the Community Court if admitted to practice and enrolled as an attorney of the Community Court upon written application. Any attorney at law, who is a an active member in good standing of the bar of any state or federal Court, shall be eligible for admission to practice before the Tribal Court upon demonstrating a familiarity with the Tribal Code. Any member of the Saginaw Chippewa Indian Tribe of Michigan shall be admitted to practice before the Court upon application accompanied by proof satisfactory to the Court:

- (a) is at least 18 years of age;
- (b) is a person of good moral character and integrity;
- (c) has successfully completed high school or its equivalent;
- (d) has never been convicted of a felony for which he has not received a pardon or restoration of civil rights;
- (e) is not a member of the Tribal Council, an employee of the Tribe or of the United States;
- (f) has demonstrated a familiarity with the Tribal Code.

3.1302 FILING FEE. A filing fee shall accompany each application for admission to the bar of the Saginaw Chippewa jurisdiction. Such filing fee shall be in a reasonable amount set from time to time by the Tribal Council and may be in a grater amount for practicing attorney than for Tribal members.

3.1303 OATH UPON ADMISSION. As a condition to admission, each attorney shall take the following oath:

"I, \_\_\_\_\_, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States of America and the Saginaw Chippewa Indian Tribe of Michigan, that I will faithfully discharge all duties incumbent on me as an attorney to the best of my abilities and understanding, so help me God."

3.1304 ATTORNEY'S ROLL. A roll of attorneys admitted to practice before the Court shall be maintained by the Clerk of the Court.

3.1305 DISBARMENT. The Community Court or the Tribal Court of Appeals may disbar an attorney from practice before the Court, or impose suspension from practice for such time as the Court deems appropriate on any of the following grounds:

- (a) Perjury.
- (b) Conviction of a felony.
- (c) Disbarment by a federal or state court.
- (d) Conduct unbecoming an officer of the court.

### **Chapter 3.14**

#### **DEFINITIONS**

##### **3.1401 DEFINITIONS:**

- (a) Statute of limitations -a specified length of time after which no cause of action or right to sue exists.
- (b) Guardian ad litem-a guardian appointed by a Court to prosecute or defend for a minor or incompetent in any suit to which the minor or incompetent in any way be a party.
- (c) Minor-a person who is under the age of eighteen (18) years.
- (d) Incompetent-a person who is insane, an imbecile, or feebleminded, or is not mentally able to manage his own affairs.
- (e) Pleadings-written allegations of what is affirmed on one side or denied on the other, disclosing to the Court and the contending parties the substance of the matter in dispute between the parties.
- (f) Judgment-the official and final decision of a Court upon the respective rights and claims of the parties to an action or suit therein litigated and submitted to its determination. It shall be synonymous with "decree".
- (g) Parties-the persons who take part in the performance of any act, or who are directly interested in any affair, contract, or conveyance, or who are actively concerned in the prosecution and defense of any legal proceeding.
- (h) Person-natural persons, partnerships, associations, and corporations.
- (i) Police officer-shall include all Tribal Police, Bureau of Indian Affairs Police, duly appointed deputy policemen, and police officers qualified in other jurisdictions who have been deputized as Tribal or Federal officers.

- (j) Gender-words used in the masculine gender include the feminine and neuter.
- (k) Number-words used in the singular include the plural, and the plural the singular, except where a contrary intention plainly appears.
- (l) Tense-words used in the present tense include the future as well as the present unless the contrary intention plainly appears.
- (m) Records-any designated documents, papers, books, accounts, letters, photographs, objects or tangible things which constitute, point to or contain evidence on any matter involved in an action.

## **Chapter 3.15**

### **CIVIL INFRACTIONS, PROCEDURES**

3.1501 CIVIL INFRACTION DEFINITION. "Civil infraction" means an act or omission prohibited by this Code which is not a crime, criminal action or offense as defined in Title I of this Code and for which civil sanctions may be ordered.

3.1502 CIVIL INFRACTION DETERMINATION. "Civil infraction determination" means a determination that a person is responsible for a civil infraction by 1 of the following:

- (a) An admission of responsibility for the civil infraction.
- (b) An admission of responsibility for the civil infraction, "with explanation".
- (c) A preponderance of the evidence at an informal hearing or formal hearing on the question under Sections 3.1510 and/or 3.1511.
- (d) A default judgment, for failing to appear (as directed by a citation or other notice,) at a scheduled (appearance, at a scheduled) informal hearing or at a scheduled formal hearing.

3.1503 CIVIL INFRACTION ACTION, DEFINITION; COMMENCEMENT; PLAINTIFF. A civil infraction action is a civil action in which the defendant is alleged to be responsible for a civil infraction. A civil infraction action is commenced upon the issuance and service of a citation as provided in Section 3.1507. The plaintiff in a civil infraction action shall be the Saginaw Chippewa Indian Tribe of Michigan.

3.1504 TRIBAL COURT JURISDICTION. The Court shall have civil jurisdiction over all civil infractions enumerated in this Code when committed by a person within the jurisdiction

of the Saginaw Chippewa Indian Tribe of Michigan.

3.1505 TIME FOR APPEARANCE. The time specified in a citation for appearance shall be within a reasonable time after the citation is issued pursuant to section 3.1507.

3.1506 MINOR, APPEARANCE, ADMISSION; PROCEDURE. If the person cited is a minor, that individual shall be permitted to appear in Court or to admit responsibility for a civil infraction without the necessity of appointment of a guardian ad litem. The Court shall have jurisdiction over the minor and may proceed in the same manner and in all respects as if that individual were an adult.

3.1507 PROCEDURE.

- (a) Police officer witnessing civil infraction; stop and detention, citation, purpose; pursuit outside jurisdiction. A police officer who witnesses a person violating this Code, which violation is a civil infraction, may stop the person, detain the person temporarily for purposes of making a record of vehicle check, and prepare and subscribe, as soon as possible and as completely as possible, an original and 3 copies of a written citation, which shall be a notice to appear in court for 1 or more civil infractions. If a police officer witnesses a person violating this Section and that violation is a civil infraction, that police officer may pursue, stop, and detain the person outside the violation occurred for the purpose of exercising the authority and performing the duties prescribed in this section.
- (b) Citation to driver involved in accident. A police officer may issue a citation to a person who is a driver of a motor vehicle involved in an accident when, based upon personal investigation, the officer has reasonable cause to believe that the person is responsible for a civil infraction in connection with the accident.
- (c) Form of citation. The form of a citation issued under subsection (1) or (2) shall be as prescribed in section 3.1508.
- (d) Copy of citation to offender. The officer shall inform the person of the alleged civil infraction or infractions and shall deliver the third copy of the citation to the alleged offender.
- (e) Parked/standing motor vehicle; service of citation. In a civil infraction action involving the parking or standing of a motor vehicle, a copy of the citation need not be served personally upon the defendant but may be served upon the registered owner by attaching the copy to the vehicle.

### 3.1508 CIVIL CITATIONS.

- (a) Contents of citation. A citation issued pursuant to section 3.1507 shall contain the name of the Saginaw Chippewa Indian Tribe acting as plaintiff, the name and address of the person to whom the citation is issued, the civil infraction alleged, the place where the person shall appear in court, the telephone number of the court, the time at or by which the appearance shall be made, and the additional information required by this section.
- (b) Notice of response alternatives to citation. The citation shall inform the defendant to the effect that he or she, at or by the time specified for appearance, may:
- (1) Admit responsibility for the civil infraction in person, by representation, or by mail.
  - (2) Admit responsibility for the civil infraction "with explanation" in person, by representation, or by mail.
  - (3) Deny responsibility for the civil infraction by doing either of the following:
    - (aa) Appearing in person for an informal hearing before a magistrate or a judge, without the opportunity of being represented by an attorney.
    - (ab) Appearing in court for a formal hearing before a judge, with the opportunity of being represented by an attorney.
- (c) Admitting responsibility with explanation; notice of method to schedule hearing. The citation shall inform the defendant that if the person desires to admit responsibility "with explanation" other than by mail or to have an informal hearing or a formal hearing, the person must apply to the court in person, by mail, or by telephone; within the time specified for appearance and obtain a scheduled date and time to appear for a hearing. A hearing date may be specified on the citation.
- (d) Notice of effect of failure to appear; timely appearance. The citation shall contain a notice in boldface type that the failure to a person to appear within the time specified in the citation or at the time scheduled for a hearing or appearance will result in entry of a default judgment against the



person. Timely application to the court for a hearing or return of the citation with an admission of responsibility and with full payment of applicable civil fines and costs constitute a timely appearance.

3.1509 NECESSITY FOR SWORN COMPLAINT. If an officer issues a citation for a civil infraction or if a citation is issued for parking or standing violation, the Court may accept an admission with explanation or an admission or denial of responsibility upon the citation without the necessity of a sworn complaint.

3.1510 APPEARANCE, ADMISSION, ACCEPTANCE, AND DENIAL OF RESPONSIBILITY.

- (a) Appearance. A person to whom a citation is issued under section 3.1507 shall appear by or at the time specified in the citation and may respond to the allegations in the citation as provided in this Section.
- (b) Admission of responsibility, manner of appearance. If the person wishes to admit responsibility for the civil infraction, the person may do so by appearing in person, by representation, or by mail. If appearance is made by representation or mail, the court may accept the admission with the same effect as though the person personally appeared in court. Upon acceptance of the admission, the court may order any of the sanctions permitted under Section 3.1514.
- (c) Admission of Responsibility with Explanation, Procedure. If the person wishes to admit responsibility for the civil infraction “with explanation”, the person may do so in either of the following ways:
  - (1) By appearing by mail.
  - (2) By contacting the court in person, by mail, by telephone, or by representation to obtain from the court a scheduled date and time to appear, at which time the person shall appear in person or by representation.
- (d) Acceptance of Admission of Responsibility with Explanation, Effect. If a person admits responsibility for a civil infraction “with explanation” under subsection (c), the Court shall accept the admission as though the person has admitted responsibility under subsection (b) and may consider the person's explanation by way of mitigating any sanction which the court may order under Section 3.1514. If appearance is made by representation or mail, the court may accept the admission with the same effect as though the person personally appeared in court, but the court may require the

person to provide a further explanation or to appear in court.

- (e) Denial of Responsibility, Procedure, Hearing. If the person wishes to deny responsibility for a civil infraction, the person shall do so by appearing for an informal or formal hearing. Unless the hearing date is specified on the citation, the person shall contact the court in person, by representation, by mail, or by telephone, and obtain a scheduled date and time to appear for an informal or formal hearing. The Court shall schedule an informal hearing, unless the person expressly requests a formal hearing. If the hearing date is specified on the citation, the person shall appear on that date for an informal hearing unless the person contacts the court a least 10 days before that date in person, by representation, by mail, or by telephone to request a formal hearing. If the person expressly requests a formal hearing, the court shall schedule a formal hearing. If a hearing is scheduled by telephone, the Court shall mail the defendant a confirming notice of that hearing by regular mail to the address appearing on the citation or to an address which may be furnished by the defendant.

### 3.1511 INFORMAL HEARINGS.

- (a) Informal hearing; power magistrate procedure. An informal hearing shall be conducted by a magistrate when authorized by the Chief Judge or by a Judge of the Court. A magistrate may administer oaths, examine witnesses, and made findings of fact and conclusions of law at an informal hearing. The Judge or magistrate shall conduct the informal hearing in an informal manner so as to do substantial justice according to the rules of substantive law but shall not be bound by the statutory provisions or rules of practice, procedure, pleading, or evidence, except provisions relating to privileged communications. There shall not be a jury at an informal hearing. A verbatim record of an informal hearing shall not be required.
- (b) Representation, restrictions. At an informal hearing the person cited may not be represented by an attorney nor may the plaintiff be represented by the prosecuting attorney or attorney for the Tribe.
- (c) Notice; production of witnesses; witness fees. Notice of a scheduled informal hearing shall be given to the citing police agency, which agency may subpoena witnesses for the plaintiff. The defendant may also subpoena witnesses. Witness fees need not be paid in advance to a witness. Witness fees for a witness on behalf of the plaintiff are payable by the district control unit of the district court for the place where the hearing occurs, by the city or village when the hearing involves an ordinance violation in a district where the district court is not functioning, or by the

county when the hearing involves a violation of this act in a district where the district court is not functioning.

- (d) Order. IF the judge or magistrate determines by a preponderance of the evidence that the person cited is responsible for a civil infraction, the judge or magistrate shall enter an order against the person as provided in section 3.1514. Otherwise, a judgment shall be entered for the defendant, but the defendant shall not be entitled to costs of the action.
- (e) Appeal, manner. The plaintiff and defendant shall be entitled to appeal an adverse judgment entered at an informal hearing.
  - (1) The appeal from a magistrate shall be heard by a Judge of the Court.
  - (2) The appeal from a Judge shall be heard by a different Judge of the Court.
  - (3) The appeal shall be de novo in the form of a scheduled formal hearing.

### 3.1512 FORMAL HEARINGS.

- (a) Formal hearing, judge. A formal hearing shall be conducted only by a judge of the Court.
- (b) Representation. In a formal hearing the person cited may be represented by an attorney, but is not entitled to appointed counsel at expense of the Saginaw Chippewa Indian Tribe.
- (c) Notice, appearance of attorney production of witnesses. Notice of a formal hearing shall be given to the prosecuting attorney or attorney who represents the plaintiff. That attorney shall appear in court for a formal hearing and that attorney shall be responsible for the issuance of a subpoena to each witness for the plaintiff. The defendant may also subpoena witnesses.
- (d) Jury trial prohibited. There shall not be a jury trial in a formal hearing.
- (e) Order. If the judge determines by a preponderance of the evidence that the person cited is responsible for a civil infraction, the judge shall enter an order against the person as provided in section 3.1514. Otherwise, a judgment shall be entered for the defendant, but the defendant shall not be

entitled to costs of the action.

3.1513 FAILURE TO APPEAR; DEFAULT JUDGMENT. If the person to whom a citation is issued for a civil infraction fails to appear as directed by the citation or other notice, at a scheduled appearance, at a scheduled informal hearing; or at a scheduled formal hearing, the court shall enter a default judgment against that person.

3.1514 PENALTIES.

- (a) Civil infraction not a crime; penalty. A violation of this Code which is designated a civil infraction shall not be considered a lesser included offense of a criminal offense.
- (b) Fine and costs, civil infraction; payment, time or installments, permission. If a person is determined pursuant to Section 3.1501 to be responsible or responsible “with explanation” for a civil infraction under this Code, the judge or magistrate may order the person to pay a civil fine of not more than \$100.00 and costs as provided in subsection (3). Permission may be granted for payment of a civil fine and costs to be made within a specified period of time or in specified installments, but in the absence of permission being included in the order or judgment, the civil fine and costs shall be payable immediately.
- (c) Costs, inclusion; amount. If a civil fine is ordered to be paid under subsection (2) the judge or magistrate shall summarily tax and determine the costs of the action, which shall not be limited to the costs taxable in ordinary civil actions, and may include all expenses, direct and indirect, to which the plaintiff has been put in connection with the civil infraction, up to the entry of judgment. Except in a civil infraction for a parking violation, costs of not less than \$5.00 shall be ordered. costs shall not be ordered in excess of \$500.00. Except as otherwise provided by law, costs shall be payable to the Tribal Court.
- (d) Treatment, education, rehabilitation programs or community service. In addition to a civil fine and costs ordered under subsection (2), the judge or magistrate may order the person to attend and complete a program of treatment, education, rehabilitation, or community service.
- (e) Schedule of civil fines and costs, posting; contents; exclusions. The Court may establish a schedule of civil fines and costs to be imposed for civil infractions which occur within the jurisdiction. If a schedule is established, it shall be readily available for public inspection. A schedule need not include all violations which are designated by the Code as civil infractions.

A schedule may exclude cases on the basis of a defendant's prior record of civil infractions or traffic offenses, or a combination of civil infractions and traffic offenses.

- (f) Defective safety equipment; waiver of fine and costs, certificate of repair. If a person has received a civil infraction citation for defective safety equipment on a vehicle under Section 3.1604 the Court shall waive a civil fine and costs, upon receipt of certification by a law endorsement agency that repair of the defective equipment was made before the appearance date on the citation.
- (g) Failure to produce evidence of insurance; waiver of fine and costs. If a person has received a civil infraction citation for failure to produce evidence that a motor vehicle is insured the Court shall waive a civil fine and costs upon receipt of certification by a law enforcement agency that the defendant, before the appearance date on the citation, has produced evidence that the vehicle was insured on the date of issuance of the citation as required.
- (h) Carrying of registration certificate; violation; waiver of fine and costs, production of valid certificate. If a person has received a citation for a violation of section the Court shall waive any fine and costs, upon receipt of certification by a law enforcement agency that the person, before the appearance date on the citation, produced a valid registration certificate that was valid on the date the violation of Section 3.1604 occurred.

3.1515 DEFAULT, CIVIL CONTEMPT, ADDITIONAL TIME FOR PAYMENT  
IMPRISONMENT, SPECIFICATION, MAXIMUM; CREDIT; DISCHARGE,  
CONDITIONS; PURGE OF CIVIL CONTEMPT.

- (a) If a defendant defaults in the payment of a civil fine, costs, or both, or of any installment, as ordered pursuant to section 3.1514 the court, upon the motion of the plaintiff or upon its own motion, may require the defendant to show cause why the default should not be treated as in civil contempt and may issue a summons or order to show cause or a bench warrant of arrest for the defendant's appearance.
- (b) Unless the defendant shows that the default was not attributable to an intentional refusal to obey the order of the court or to a failure on his or her part to make a good faith effort to obtain the funds required for payment, the court shall find that the default constitutes a civil contempt and may order the defendant committed until the civil fine, costs, or both, or a specified part thereof, is paid.

- (c) If it appears that the default in the payment of a civil fine or costs does not constitute civil contempt, the court may enter an order allowing the defendant additional time for payment, reducing the amount of payment or of each installment, or revoking the fine or costs or the unpaid portion thereof in whole or in part.
- (d) The term of imprisonment on civil contempt for nonpayment of a civil fine or costs shall be specified in the order of commitment, and shall not exceed 1 day for each \$10.00 of the fine and costs. A person committed for nonpayment of a civil fine or costs shall be given credit toward payment for each day of imprisonment and each day of detention in default of recognizance before judgment at the rate of \$10.00 per day.
- (e) A defendant committed to imprisonment for civil contempt for nonpayment of a civil fine or costs shall not be discharged from custody until 1 of the following occurs:
  - (1) The defendant has been credited with the amount due pursuant to subsection (4).
  - (2) The amount due has actually been collected through execution of process or otherwise.
  - (3) The amount due has been satisfied pursuant to a combination of subdivisions (a) and (b).
- (f) The civil contempt shall be purged upon discharge of the defendant pursuant to subsection (e).

## **Chapter 3.16**

### **CIVIL INFRACTION OFFENSES**

3.1601 CIVIL DISORDERLY CONDUCT. It is unlawful for any person to engage in disorderly conduct in a public place.

- (a) It shall be disorderly conduct to:
  - (1) Throw or cause to be thrown any waste paper or other waste matter on any public place.
  - (2) Light or cause to be lit fire upon any street, sidewalk, or public parking lot.

- (3) Urinate in a public place other than a public restroom.
  - (4) Use vulgar, profane or indecent language in any public place.
  - (5) Engage in any indecent, insulting, immoral or obscene conduct in any public place.
  - (6) Disturb or aid in disturbing the peace of others by violence, or by loud, offensive vulgar or boisterous conduct.
  - (7) Be under the influence of alcoholic liquor or any narcotic drug in any public place.
  - (8) Drink or consume alcoholic beverages in any public place, in or on any motor vehicle when such vehicle is in operation upon a public highway or in an area used principally for public parking.
  - (9) Be in possession of or have on one's person any bottle or receptacle containing alcoholic beverage which has been opened, or the seal broken, or the contents of which have been partially removed, in any public place, in or on a private vehicle in operation upon a public highway or in an area used principally for public parking.
- (b) Violation of this section shall constitute a civil infraction.

### 3.1602 REFUSAL OF PRELIMINARY CHEMICAL BREATH ANALYSIS.

- (a) A peace officer who has reasonable cause to believe that a person was operating a vehicle upon a public highway or other place open to the general public, including an area designated for the parking of vehicles, within the jurisdiction of the Saginaw Chippewa Indian Tribe of Michigan, and that the person by the consumption of intoxicating liquor may have affected his or her ability to operate a vehicle, may require the person to submit to a preliminary chemical breath analysis.
- (b) A peace officer may arrest a person based in whole or in part upon the results of a preliminary chemical breath analysis.
- (c) The results of a preliminary chemical breath analysis shall be admissible in a criminal prosecution for a crime enumerated in section 1.2313, solely to assist the court in determining a challenge to the validity of an arrest. This subsection does not limit the introduction of other competent evidence offered to establish the validity of an arrest.

- (d) It is unlawful and punishable for any person to refuse to submit to a preliminary chemical breath analysis upon a lawful request by a peace officer.
- (e) A violation of this section shall constitute a civil infraction.

3.1603 DISPLAY OF NUMBERED PLATE. Except as otherwise specifically provided, no person shall operate or drive a motor vehicle on the public highways within the jurisdiction of the Tribe, unless such vehicle shall have a current distinctive number assigned to it by a motor vehicle registration department, and a plate bearing such number conspicuously displayed, horizontally and in an upright position, one on the rear of such vehicle securely fastened thereto, except numbered plates assigned to a motorcycle or house trailers shall be attached to the rear thereof. As far as is reasonably possible, such plates shall at all times be kept free and clear of mud, ice, and snow so as to be clearly visible and all number plates, markers, or evidence of registration of licensing except for the current year shall be removed from such vehicle. Such license plates and their display shall in all respects comport to the laws of the State of Michigan or to the laws of such other Government as may have authorized their issuance, and compliance therewith shall be a bar to prosecution under this section of the Code.

3.1604 DRIVING WITHOUT REQUIRED REGISTRATION OR WITH VEHICLE IN UNSAFE CONDITION. No person shall operate a motor vehicle on the roadways within the jurisdiction of the Tribe, unless such vehicle is in safe condition and complies with registration laws of the State of Michigan or such other governmental unit as has licensed the said vehicle.

3.1605 STARTING, TURNING AND STOPPING WITHOUT REGARD TO SAFETY.

- (a) No person shall start a vehicle which is topped, standing, or parked unless and until such movement can be made with reasonable safety.
- (b) No person shall turn a vehicle at an intersection unless the vehicle is in such position on the highway that such movement can be made, with reasonable safety and a signal of intention to turn right or left, when required, had been given continuously during not less than the last one hundred (100) feet traveled by the vehicle before turning.
- (c) No person shall stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal to the driver of any vehicle immediately to the rear when there is opportunity to give such signal.
- (d) The signals herein required shall be given either by means of the standard hand and arm signals or by mechanical or electrical signal device.



- (e) Every driver of a vehicle approaching an intersection with a stop signal, or a flashing red light, shall stop on the near side of the intersection, or railroad grade crossing at the point where he has a view of approaching traffic and shall not proceed until the intersection is clear.

3.1606 SPEEDING.

- (a) Every person operating or driving a vehicle of any character on an highway within the jurisdiction of the Tribe shall drive in a careful and prudent manner and at a rate of speed no greater nor no less than is reasonable and proper under the conditions existing at the point of operation, taking into account the amount and character of traffic, condition of brakes, condition of surface, freedom from obstruction to view ahead and the rights of way other persons entitled to the use of the street or highway.
- (b) Where no special hazard exists that requires lower speed for compliance with paragraph.
- (c) Any speed not in excess of the limits specified in this section shall be lawful, but it is illegal for any person to drive at any speed in excess of the limits specified in this section.
  - (1) Five (5) miles per hour in the Tribal Campgrounds, Trailer Court, and Nish-Na-Be-Anong Road;
  - (2) Fifteen (15) miles per hour on Ogemaw, Otto, and Ojibway Drives;
  - (3) Forty-five (45) miles per hour on Broadway Street and Leaton Roads unless a different speed is posted;
  - (4) Twenty-five (25) miles per hour in any residential district unless a different speed is posted;
  - (5) Twenty (20) miles per hour when passing a school during a recess or when children are coming to or going from school during opening and closing hours;
  - (6) Twenty (20) miles per hour when approaching within fifty (50) feet of a railroad grade crossing or when the driver's view is obstructed within a distance of one hundred (100) feet;

- (7) The speed limit shall be fifty-five (55) miles per hour when permitted in special areas of State or Federal highways.
- (8) All posted speed limits of the State of Michigan or its political subdivisions are hereby incorporated by reference as the speed limits of the Saginaw Chippewa Indian Tribe of Michigan.
- (d) The speed limits set forth above shall not apply to vehicles when operated with due regard for safety under the direction of the police in the chase or apprehension of violators of the law or of persons charged with or suspects of any such violation, or to fire departments when traveling in response to a fire alarm; nor to public or private ambulances when traveling in emergencies, this exemption shall not however, protect the driver of any such vehicle from the consequences of reckless disregard of the safety of others.

3.1607 FAILURE TO DRIVE ON RIGHT SIDE OF ROADWAY.

- (a) Upon all highways of sufficient width, the driver of a vehicle shall drive upon the right half of the highway, except:
  - (1) When overtaking and passing another vehicle proceeding in the same direction; or
  - (2) When the right half of the roadway is closed to traffic while under construction or repair or sign posted for one-way traffic or other conditions.
- (b) No person shall at any time drive a vehicle to the left side of the roadway;
  - (1) When approaching the crest of a grade or upon a curve in the distance as to create a hazard in the event another vehicle might approach from the opposite direction;
  - (2) When approaching within one hundred (100) feet of or traversing any intersection or railroad grade crossing; or
  - (3) When the view is obstructed upon approaching within one hundred (100) feet of any bridge, viaduct, or tunnel.

3.1608 FOLLOWING TOO CLOSELY. The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard to the speed of such vehicle the traffic upon and condition of the highway.

3.1609 OVERTAKING A VEHICLE WITHOUT REGARD FOR SAFETY.

- (a) The driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass at a safe distance to the left, and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle.
- (b) The driver of a vehicle which is being overtaken shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.
- (c) No person shall drive a vehicle to the left side of the center line of a highway in overtaking another vehicle unless such left side is clearly visible and is free from oncoming traffic for a sufficient distance ahead to permit such overtaking to be made in safety. No driver shall overtake another vehicle in a no passing zone.

3.1610 FAILURE TO STOP FOR SCHOOL BUS FLASHING LIGHTS. Every driver shall stop before reaching a school bus receiving or discharging school children or when flashing lights are in operation and shall not proceed until the school bus resumes motion, or until signaled by the driver to proceed.

3.1611 FAILURE TO GIVE RIGHT OF WAY.

- (a) The driver of a vehicle about to enter or cross a highway from a private drive or road shall yield the right of way to all vehicles approaching on the highway.
- (b) When two vehicles from different highways enter an intersection at approximately the same time, the driver of the vehicle on the left shall yield the right of way to all vehicles approaching on the highway.
- (c) The driver of the vehicle within an intersection intending to turn left shall yield the right of way to any vehicle approaching from the opposite direction which is too close as to constitute an immediate hazard.
- (d) The driver of a vehicle approaching but not having entered an intersection, shall yield the right of way to a vehicle already within such intersection and making a left turn, providing the driver of the vehicle turning left has given a plainly visible signal of intention to turn.
- (e) Upon the immediate audible of flashing light signal the driver of every other vehicle shall yield the right of way and shall immediately drive to a position as close as possible to the right hand edge of the road and stop until the emergency vehicle has passed. This provision shall not operate to

relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using highways.

- (f) The driver of any vehicle upon a highway within a business or residence district shall yield the right of way to a pedestrian crossing at any marked or unmarked crosswalk at an intersection.

### 3.1612 STOPPING, STANDING OR PARKING ON A HIGHWAY.

- (a) No person shall park or leave standing any vehicle whether attended or unattended, upon the paved or unpaved or main traveled portion of any highway or of a business or residential district within the jurisdiction of the Tribe when it is practicable or leave such vehicle standing off the paved or unpaved or main traveled portion of such highway; but in the event an obstructed width of highway opposite the standing vehicle shall be left free for the passage of other vehicles and the vehicle must be clearly visible for a distance of five hundred (500) feet to the driver of vehicles approaching from either direction.
- (b) When any duly authorized law officer finds a vehicle standing upon a highway within the jurisdiction of the Tribal Court in violation of this provision, he is hereby authorized to move such vehicle or require the driver or person in charge of such vehicle to move such vehicle to the nearest place of safety.
- (c) No person driving or in charge of a motor vehicle shall permit it to stand unattended without first stopping the engine, effectively setting the brake, and, when standing upon any grade, turning the front wheels to the curb or side of the highway.

3.1613 COASTING. No driver of a motor vehicle when traveling upon a down grade shall coast with the gears of the vehicle in neutral or with the clutch manually disengaged.

### 3.1614 OBSTRUCTION TO DRIVER'S VIEW OR DRIVING MECHANISM.

- (a) No person shall drive a vehicle when it is so loaded, or where there are in the front seat such number of persons, exceeding three (3), as to obstruct the view of the driver to the front or sides of the vehicle so as to interfere with the vehicle.
- (b) No passenger in a vehicle shall ride in such position as to interfere with the driver's view ahead or to the sides, or to interfere with his control over the driver's mechanism of the vehicle.

3.1615 RIDING ON FENDERS, BUMPERS, OR RUNNING BOARDS. No driver shall permit passengers to ride on the fenders, bumpers or running boards nor shall any passenger ride on the fenders, bumpers, or running boards of a vehicle.

3.1616 PEDESTRIANS ON ROADWAYS WITHOUT REGARD FOR SAFETY.

- (a) Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield right of way to all vehicles upon the roadway.
- (b) The driver of any vehicle which collides with any vehicle of which is unattended shall immediately stop and shall then and there either locate and notify the operator or owner of such vehicle of the name and address of the driver and of the owner of the vehicle doing the striking and a statement of the circumstances thereof.
- (c) The driver of any vehicle involved in an accident resulting only in damage to fixtures or other property legally upon or adjacent to a highway shall take reasonable steps to locate and notify the owner or person in charge of such property of the accident and of his name and address and of the registration number of the vehicle he is driving and shall upon request, and if available, exhibit his operator's or chauffeur's license.
- (d) The driver of a vehicle involved in an accident resulting in injury to or death of any person or property damage to another or others to an apparent extent of one hundred dollars (\$100) or more, shall as soon as practicable thereafter give notice of such accident to a police officer of the Tribe.

3.1617 CRASH HELMETS REQUIRED FOR OPERATORS OF AN PASSENGERS ON MOTORCYCLES. Every operator and passenger on any motorcycle shall at all times when such motorcycle is in motion be required to wear a crash helmet of a type and meeting the standards approved and established by the Michigan Motor Vehicle Code, provided, however, such helmets shall not be required to be worn when such motorcycle is driven in a parade or ceremonial conducted or permitted under local ordinance.

3.1618 NUMBER OF RIDERS ON MOTORCYCLES LIMITED. No motorcycle designed to travel with fewer than three (3) wheels in contact with the ground, shall be operated with not more than one (1) person thereon except that a motorcycle may be operated with not more than two (2) persons riding thereon if such motorcycle is designed specifically for the purpose of carrying more than one (1) person, in which event a passenger may ride upon the permanent and regular seat if designed for two (2) persons, or upon another seat attached firmly behind the operator.

3.1619 WHEN LIGHTED LAMPS ARE REQUIRED. Every vehicle upon a highway within the jurisdiction of the Tribe at any time from on half hour after sunset to a half hour before sunrise and at any other time when, due to insufficient light or unfavorable atmospheric conditions, persons and vehicles on the highway are not clearly discernible at a distance of five-hundred (500) feet ahead, shall display lighted lamps, and illuminating devices.

3.1620 VISIBILITY DISTANCE AND MOUNTED HEIGHT OF LAMPS.

- (a) Whenever a requirement is hereinafter declared as to distance from which certain lamps and devices shall render objects visible or within which such lamps or devices shall be visible, said provisions shall apply during the times stated in section 1.2331 in respect to a vehicle without load when upon a straight, level, unlighted highway under normal atmospheric conditions unless a different time of condition is expressly stated.
- (b) Whenever a requirement is hereinafter declared as to the mounted height of lamps or devices it shall mean from the center of lamp or device to the level ground upon which the vehicle stands when such vehicle is without a load.

3.1621 HEAD LAMPS ON MOTOR VEHICLES. Every motor vehicle other than a motorcycle or motor driven cycle shall be equipped with head lamps which comport with the laws of the State of Michigan.

3.1622 TAIL LAMPS AND REFLECTORS. Every motor vehicle, trailer, semi-trailer, pole trailer, and any other vehicle which is being drawn at the end of a train of vehicles, shall be equipped with tail lamps which comport with the laws of the State of Michigan.

3.1623 LAMP OR FLAG ON PROJECTION LOAD. Whenever the load upon any vehicle extends to the rear four (4) feet or more beyond the bed or body of such vehicle there shall be displayed at the extreme rear end of the load at the time specified in Section 3.1622, a red light or lantern plainly visible from a distance of at least six hundred (600) feet to the sides and rear. The red light or lantern required under this section shall be in addition to the red rear light required upon every vehicle. Any other time there shall be displayed at the extreme rear end of such load a red flag or cloth not less than twelve (12) inches square and so hung that the entire area is visible to the driver of an vehicle approaching from the rear unless such vehicle is in safe condition.

3.1624 BRAKE EQUIPMENT REQUIRED.

- (a) Every motor vehicle other than a motorcycle or motor driven cycle, when operated upon a highway within the jurisdiction of the Tribe shall be equipped with brakes adequate to control the movement of and to stop and

hold such vehicle, including two (2) separate means of applying the brakes, each of which means shall be effective to apply the brakes to at least two (2) wheels. If these two (2) separate means of applying the brakes are connected in any way, they shall be so constructed that failure of any one part of the operating mechanism shall not leave the motor vehicle without brakes on at least two (2) wheels.

- (b) Every farm tractor, motorcycle and motor driven cycle, when operated upon a highway within the jurisdiction of the Tribe shall be equipped with at least one (1) brake, which may be operated by hand or by foot.
- (c) Every trailer or semi-trailer when operated upon a highway within the jurisdiction of the Tribe at a speed in excess of fifteen (15) miles per hour shall be equipped with safety chains or brakes adequate to control the movement of and to stop and to hold such vehicle and so designed as to be applied by the driver of the towing motor vehicle from its cab, and said brakes shall be so designed and connected that in case of an accidental break away of the towed vehicle the brakes shall be automatically applied.

### 3.1625 HORNS AND WARNING DEVICES.

- (a) Every motor vehicle when operating on a highway within the jurisdiction of the Tribe, shall be equipped with a horn in good working order and capable of emitting sound audible under normal conditions from a distance of not less than two hundred (200) feet, but no horn or other warning device shall emit an unreasonable loud or harsh sound or a whistle. The driver of a motor vehicle shall when reasonably necessary to insure safe operation give audible warning with his horn but shall not otherwise use such horn when upon a highway.
- (b) No vehicle shall be equipped with nor shall any person use upon a highway within the jurisdiction of the Tribe use upon a vehicle any siren, whistle or bell except as otherwise permitted in this section.
- (c) Any vehicle may be equipped with a theft alarm signal device which is so arranged that it cannot be used by the driver as an ordinary warning signal.
- (d) Any authorized emergency vehicle may be equipped with a siren, whistle or bell, capable of emitting sound available under normal conditions from a distance of not less than five hundred (500) feet and a type approved by the department of motor vehicles, State of Michigan, but such siren shall not be, used except when such vehicle is operated in response to an emergency call or in the immediate pursuit of an actual or suspected

violator of the law, in which said latter when reasonably necessary to warn pedestrians and other drivers of approach thereof and to attract attention of the pursued car thereby giving the driver of the pursued car an order to pull over to the side of the road and to stop.

3.1626 MUFFLERS, PREVENTION OF NOISE. Every motor vehicle shall at all times be equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke, and no person shall use a muffler cut out, by pass, or similar device upon a motor vehicle.

3.1627 WINDSHIELD MUST BE UNOBSTRUCTED AND EQUIPPED WITH WIPERS.

- (a) No person shall drive any motor vehicle with any sign, poster or other non-transparent material upon the front windshield, side wings, or side or rear windows of such vehicle which obstructs the driver's clear view of the highway of any intersection highway.
- (b) The windshield on every motor vehicle shall be equipped with a device for cleaning rain, snow or other moisture from the windshield which device shall be so constructed as to be controlled by the driver of the vehicle.
- (c) Every windshield wiper upon a motor vehicle shall be maintained in good working order.

3.1628 RESTRICTIONS OF TIRE EQUIPMENT.

- (a) Every solid rubber tire on a vehicle shall have rubber on its entire traction surface at least one (1) inch thick above the edge of the flange of the entire periphery.
- (b) No person shall operate or move on any highway within the jurisdiction of the Tribe any motor vehicle, trailer, or semi-trailer having any metal tire in contact with the roadway.
- (c) No tire on a vehicle moved on a highway shall have on its periphery any block, stud, flange, cleat, or spike or any other protuberance of any material other than rubber which projects beyond the tread of the traction surface of the tire, except that it shall be permissible to use farm machinery with tires having protuberances which will not injure the highway. Metal studs, as allowed by the laws of the State of Michigan, shall be allowable within the jurisdiction of the Tribe.



3.1629 VEHICLE TO BE CONSTRUCTED TO PREVENT SHIFTING OR LEAKING

LOADS. No vehicle shall be driven or moved on any highway unless it is so constructed or loaded as to prevent its contents from dropping, sifting, leaking or otherwise escaping therefrom, except that sand may be dropped for the purpose of securing traction, or water or other substance may be sprinkled on a roadway in cleaning or maintaining the roadway. No person shall operate on any highway any vehicle with any load unless the load and any covering thereon is securely fastened so as to prevent said covering or load from becoming loose, detached or in any manner a hazard to other users of the highway.

3.1630 REGISTRATION CARD TO BE CARRIED IN DRIVER'S COMPARTMENT,

INSPECTION OF CARD. The provision of the laws of the State of Michigan with respect to the registration of motor vehicles are hereby incorporated by reference, except with respect to penalties for the violation thereof which are specifically provided for herein, registration card shall be subject to inspection by police officers commissioned to enforce the laws within the jurisdiction of the Saginaw Chippewa Indian Tribe of Michigan.

3.1631 TRANSFER OF TITLE OR VEHICLE. The provisions of the laws of the State of Michigan with respect to the transfer of Title to motor vehicles are hereby incorporated by reference and are made part of this section.

3.1632 DUTY OF DRIVERS UPON APPROACH OF POLICE OR FIRE DEPARTMENT

VEHICLE. Upon the approach of any police or fire department vehicle giving an audible signal by bell, siren or whistle the driver of every other vehicle immediately shall drive to the same position as near as possible and parallel to the right hand edge or curb of the highway, clear of any intersection of highways, and shall stop and remain in such position unless otherwise directed by a police or traffic officer until the police or traffic officer until the police or fire department vehicle shall have passed.

3.1633 Violation of the following Tribal Ordinances shall constitute civil infractions:

Ordinance No. 5, Parking Area Traffic Control

Ordinance No. 8, Fire Permits

Ordinance No. 9, Minor in Possession

Ordinance No. 12, Bicycle Operation, Registration and Safety Act.

### **Chapter 3.17**

### **FAMILY CODE**

3.1701 DEFINITIONS

1. "Alimony" is monetary support which one spouse pays the other spouse for maintenance while they are separated or after they are divorced.

2. "Annulment" means the legal separation of man and wife because it is established that a marital status never existed.
3. "Declaration of paternity" means an order of the Court either establishing, affirming or disestablishing paternity.
4. "Divorce" means the legal separation of man and wife, totally dissolving the marriage relation, effected by the judgment or decree of the court.
5. "Emancipation" means termination of the rights of the parents to the custody, control, services and earnings of a minor.
6. "Marriage" means the legal union of one man and one woman as husband and wife for life, or until divorced.
7. "Minor" means a person under the age of 18 years.
8. "Parents" means natural parents, if married prior or subsequent to the minor's birth; adopting parents, if the minor has been legally adopted; the mother, if the minor is illegitimate; the child's reputed blood parent who has expressly acknowledged paternity and makes a meaningful contribution to support the child; or a guardian by judicial decree.
9. "Paternity" means the biological relationship of a man to his child.
10. A "Traditional Indian marriage" means a marriage performed by an Indian person who claims the authority to solemnize and formalize marriages between Indian persons in accordance with commonly accepted Indian customs and traditions of any recognized Indian Tribe by virtue of such persons status as a medicine man or Indian spiritual leader.

### 3.1702 SERVICE OF PROCESS; HEARINGS

1. Service of all process required by this chapter shall be governed by Sections 3.405 through 3.406 of the Civil Code. A "return" shall be filed with the court in compliance with Section 3.407 of the Civil Code.
2. When service of papers cannot reasonably be made, a party cannot be found, or for any other good cause, the court, on ex-parte application, may direct the manner and on whom service may be made.
3. Once a "return" has been filed with the court evidencing proper service, all further pleadings and notices involving the action may be served by first class mail to the address of the person stated on the pleadings or, if none,

to the last known address of the affected person.

4. All hearings required by this code shall be held before a Tribal Court Judge sitting without a jury.

## MARRIAGE

### 3.1703 STATEMENT OF PURPOSE

The Saginaw Chippewa Indian Tribe is committed to the promotion of legal marriages which are deemed to create stable family relationships and promote a positive moral climate on the reservation.

### 3.1704 QUALIFICATIONS TO PERFORM MARRIAGES

1. It is the express policy of the Saginaw Chippewa Indian Tribe of Michigan to recognize traditional marriages provided that the person who has been designated to solemnize or formalize the marriage is recognized as a medicine man or traditional spiritual leader by a significant number of Indian persons and provided further, that such person shall be recognized by the order of the Tribal Court as being a medicine man or traditional spiritual Indian leader.
2. The following persons shall be qualified to perform marriages under this code:
  - (a) Clergymen duly designated by the governing body of his or her faith as having the authority to perform marriages;
  - (b) A medicine man or traditional spiritual leader as defined in 1. above;
  - (c) A Tribal Judge of the Saginaw Chippewa Tribal Court;
  - (d) A Tribal Judge of a Court of another Federally recognized Tribe who is authorized by Tribal law to perform marriages.

### 3.1705 RECOGNITION OF MARRIAGES

1. The Saginaw Chippewa Indian Tribe of Michigan shall recognize as a valid and binding marriage any marriage between a man and a woman, formalized or solemnized in compliance with the laws of the jurisdiction in which such marriage was formalized or solemnized.

2. Recognition may come about on the Court's own motion or upon the motion of any other person, and such order of recognition shall not be unreasonably withheld.
3. An order denying recognition shall be appealable in the same fashion and manner as any other order of the Court.

### 3.1706 MARRIAGE BETWEEN INDIAN PERSONS; LICENSE REQUIRED; QUALIFICATIONS; LOCATION

1. Parties may not be married under this code unless they obtain a valid marriage license.
2. A Tribal Court Judge or Tribal Court Clerk shall have the power to issue a marriage license where at least one of the parties is a Native American man or woman, whether or not they are enrolled Tribal members.
3. Marriage licenses shall be issued within three days of application following:
  - (a) Completion of an application prescribed by the Tribal Court;
  - (b) Payment of a license fee set by the Tribal Court;
  - (c) Verification that at least one party to the proposed marriage is a Native American.
4. Marriage licenses shall be effective for 30 days from the date of issuance.
5. All requirements that the State of Michigan imposes on individuals to entitle them to marry within its jurisdiction are hereby adopted. Those seeking to be married:
  - (a) Must be at least eighteen (18) years of age, or be at least sixteen (16) years of age with the consent of their custodial parent(s) or legal guardian(s);
  - (b) Must freely consent to the marriage;
  - (c) Must have the mental capacity to marry;
  - (d) Must not have an existing spouse;

- (e) Must not be blood relatives to each other in any of the following degrees:
    - i. Parent and child;
    - ii. Grandparent and grandchild;
    - iii. Brother and sister, or half-brother and half-sister;
    - iv. Aunt and nephew, or uncle and niece;
    - v. Cousins in the first degree.
  - (f) Persons wishing to be married must each undergo a counseling session on AIDS and communicable diseases.
6. A marriage performed pursuant to a tribal license by one authorized to solemnize a marriage as herein provided may be performed at any location within the exterior boundaries of the Isabella or Saganing Reservations.

### 3.1707 MAINTENANCE OF PERMANENT RECORDS; PROCEDURE FOR RECOGNITION OF MARRIAGE AFTER SOLEMNIZATION

1. All applications for marriage and copies of all marriage licenses issued, shall be filed with the Tribal Court and maintained as permanent records of the Saginaw Chippewa Indian Tribe.
2. Following the marriage ceremony, two (2) fully executed and conformed copies of the marriage license, executed by two (2) witnesses and the person who conducted the ceremony shall be returned to the Tribal Court Clerk within fourteen (14) days.
  - (a) The Clerk of the Court must endorse upon each copy its date of receipt and deliver it to the Judge who authorized the issuance of the license.
  - (b) Upon delivery the Judge must examine the application for a marriage license, the license, and the certificate of the person performing the marriage to insure that the information appearing is properly completed and that the marriage was performed in accordance with the provisions of the license.
  - (c) Upon a determination that the application, the license, and the certification are in proper form, and that there has been compliance

with the terms of the license, the Court shall endorse its approval upon the license and shall cause a Certificate of Marriage to be issued.

3. A copy of the Certificate of Marriage shall be maintained in the same file as the related application for marriage license and marriage license. A certified copy of the certificate shall be returned to the parties to the marriage.

### 3.1708 MARRIAGE CERTIFICATE; RECORDING OR FILING OF THE SAME

1. It shall not be the responsibility of the Tribal Court to record or file the Certificate of Marriage with any state, county, or Tribal government.
2. Should the parties to any marriage performed under the auspices of these provisions desire that a Marriage Certificate be filed or recorded in another jurisdiction, they may obtain certified copies from the Clerk of the Tribal Court at the normal and customary charge.

## DIVORCE AND ANNULMENT

### 3.1709 JURISDICTION; DIVORCE; ANNULMENT

The Tribal Court Shall have jurisdiction over annulment, divorce, and any paternity, child custody, child support, division of property, or alimony issue where at least one (1) party to the marriage is a Native American, and at least one (1) party has been a bona fide resident of the Isabella or Saganing Indian Reservations for a period of at least 180 days prior to the filing of the action.

### 3.1710 ANNULMENT

1. Within one (1) year of the date of marriage, following payment of a filing fee prescribed by the court, one or both parties may submit a petition for annulment to the court, stating as grounds that:
  - (a) one (1) or both parties to the marriage were under sixteen (16) years of age at the time of the marriage;
  - (b) one (1) or both parties did not freely consent to the marriage;
  - (c) the parties were related to each other in a prohibited manner:
    - i. Parent and child;

- ii. Grandparent and grandchild;
  - iii. Brother and sister, or half-brother and half-sister;
  - iv. Aunt and nephew, or uncle and niece;
  - v. Cousins in the first degree.
- (d) one (1) or both parties had an existing spouse at the time of the marriage;
- (e) one (1) or both parties lacked the requisite capacity to marry.
2. Petitions for annulment must be sworn before a notary public or other official designated to verify signatures, and must contain a proposed division of marital property and debt, and custody of children, if any.
  3. If the non-petitioning spouse doesn't agree with the petition's allegations as to grounds for annulment, division of property, or custody of children, the non-petitioning spouse must file a response with the Tribal Court within thirty (30) days of receipt of the petition.
  4. Such response must be sworn before a notary public or other official designated to verify signatures, and must contain an explanation of why there are no grounds for annulment, or why the proposed division of property or grant of custody contained in the petition is not appropriate.
  5. A copy of the response must be served on the petitioning spouse.
  6. Where such a response is received, the Tribal Court must hold a hearing to resolve the dispute.
  7. Failure to respond shall constitute an admission to the allegations contained in the complaint, and shall lead to a default judgment against the defendant.
  8. If no response is received within thirty (30) days, or, if the Tribal Court determines that there are valid grounds for annulment, then the Court shall enter a decree of annulment which provides for a division of property in an equitable manner and determines custody based on the best interests of the child(ren).

### 3.1711 DIVORCE; GROUNDS; COMMENCEMENT OF ACTION

1. Petitioning for Divorce:
  - (a) One (1) or both parties may file a petition with the Tribal Court, sworn before a notary public or other official designated to verify signatures.
  - (b) Such petition shall state the grounds for divorce, and the facts and circumstances substantiating those grounds.
2. Divorces shall be granted without regard to the fault of the parties. The Tribal Court shall grant a divorce upon finding that:
  - (a) There has been a breakdown in the marital relationship to the point that the objects of matrimony have been destroyed, and that there remains no reasonable likelihood that the marriage can be preserved; or
  - (b) The parties have mutually and voluntarily lived separate and apart without cohabitation for a period of at least one (1) year immediately prior to the filing of the petition for divorce.
3. Commencement of Action:
  - (a) An action for divorce shall be commenced by the filing of a complaint, the payment of the applicable fee, and the issuance of a summons.
  - (b) The complaint shall contain the following information, set forth in separately numbered paragraphs:
    - i. The full legal name, address, social security number, and drivers license number of each party to the marriage;
    - ii. The Tribal affiliation/membership of each party to the marriage;
    - iii. The names, ages, and birth dates of any children born of the marriage between the parties, or, of any children born prior to the marriage when the husband is asserted to be the father of the child(ren)-1;
    - iv. The Tribal affiliation/membership of each child;
    - v. A statement as to whether or not the wife is pregnant at the



time the complaint is filed;

- vi. The maiden name of the wife and/or her name prior to the marriage if different;
- vii. The date and location of the marriage;
- viii. The date and location of the separation of the parties;
- ix. A statement of the assets and liabilities of the parties that need to be allocated between them;
- x. A statement as to any pending court proceedings in other jurisdictions that could effect the minor child(ren);
- xi. A statement that there has been a breakdown in the marital relationship to the point that the objects of matrimony have been destroyed and there remains no reasonable likelihood that the marriage can be preserved, or that the parties have lived separate and apart for one year -1
- xii. A statement that the plaintiff desires the Court to enter a judgment of divorce;
- xiii. A statement of the specific relief requested as to child custody, child support, visitation, alimony, proposed property settlement or other such relief.

4. Response to Complaint:

- (a) The non-petitioning spouse may file a response to the petition within thirty (30) days of receipt of the petition.
- (b) Such response may state the facts and circumstances which show that there are no valid grounds for divorce, or may seek a division of property, child custody arrangement, or other relief different than that proposed by the petitioner.
- (c) A copy of the response must be served on the petitioning spouse.

5. Hearing:

- (a) Following a petition for divorce or annulment, and after the opportunity for the non-petitioning party to respond, the Tribal Court shall hold a hearing unless the parties have stipulated to all

matters and issues pending.

- (b) If the parties stipulate, and the Tribal Court is convinced that the stipulation is fair and equitable, the court may enter a decree without a hearing.
- (c) Hearings shall be held within six (6) months of the date that the petition is filed, with actions involving the custody/welfare of minor children taking precedence over all other civil cases.
- (d) Where the custody of minor children is at issue, the Tribal Court may order that a home study be completed by a person appointed by the Court prior to the hearing, to aid the Court in determining the issue.
- (e) In determining who will have custody of the minor child(ren), the best interest(s) of the child(ren) shall control. Visitation shall be ordered to promote a positive parent-child relationship, whenever possible.
- (f) At the hearing, both spouses shall have an opportunity to testify, call witnesses, present evidence, and cross-examine their spouse and any other witnesses.
- (g) Once a final ruling has been made, parties seeking to alter the Court's decision must demonstrate that there has been a significant change in circumstances before the court shall consider amending it's prior ruling.
- (h) The intentional filing of groundless petitions shall result in the imposition of sanctions.
- (i) A final order of the Tribal Court shall be appealable in the same fashion and manner as any other order of the Court.

### 3.1712 DIVISION OF PROPERTY

When an annulment or divorce is granted, the Court shall order distribution of all real and personal property in an equitable fashion giving consideration to party fault, and shall allocate the marital financial obligations of the parties, in whole to either party, or partially to each party.

### 3.1713 ALIMONY

1. When an annulment or divorce is granted, the Court may order either party to make periodic alimony payments as necessary to provide for the support of the other party.
  - (a) Such orders may be modified, on motion of either party, to reflect changes in either party's economic circumstances.
  - (b) Groundless filings may result in the imposition of sanctions.
  - (c) The court, upon motion, shall terminate alimony to any spouse who has remarried or upon the death of either party.

### 3.1714 CHILD CUSTODY, VISITATION, AND SUPPORT

1. In any action concerning annulment, divorce, or paternity, the Tribal Court shall have the authority to determine the custody of any children under eighteen (18) years of age.
  - (a) The Court may grant custody to one (1) parent, or may grant joint custody. The Court shall specify the period(s) when each parent shall have custody, and shall determine the visitation rights (if any) of the non-custodial parent.
  - (b) Visitation shall be designed to foster and expand the relationship between the non-custodial parent and the child(ren), whenever possible.
  - (c) In cases where the Court awards joint legal custody to both parents and sole physical custody to one parent, the parent having physical custody cannot relocate to a residence farther than ninety (90) miles from his or her residence on the date of entry of the Custody Order without first receiving written permission from the other parent or the Court in the form of a Relocation Order. In a petition to relocate the Court shall review the best interests of the child as determined by the factors specified in this section when determining whether or not to grant the Relocation Order.
  - (d) Violations of (c) above may result in a civil fine for contempt of court in the amount of up to one thousand dollars (\$1,000) per violation and whatever other remedy the court finds appropriate to ensure compliance with its orders.
2. Child Custody shall be based on the best interest of the child(ren) following a custody and home study evaluation and recommendation

completed by a person appointed by the Court. There shall be no presumption that one parent is better suited to be a custodial parent because of gender.

3. The Tribal Court shall have the authority to require the noncustodial-parent to pay support to the custodial parent in an amount the Court determines appropriate and proper for the support and maintenance of the child(ren). When determining the appropriate amount of support, the Court shall make a determination consistent with the following:
  - (a) An amount not exceeding ten percent (10%) of the non-custodial parent's Per Capita Payment(s) remaining after deductions have been made to satisfy tax obligations and where the non-custodial parent is supporting a spouse and/or child(ren) not subject to a support order, when the child(ren) being supported is/are a Tribal Member, and the Custodial Parent is receiving Per Capita Payments on behalf of the child(ren). If the child(ren) being supported is/are not a Tribal Member, or the Custodial Parent is not receiving Per Capita Payments on behalf of the child(ren), the court shall use twenty (20%).
  - (b) An amount not exceeding fifteen percent (15%) of the non-custodial parent's Per Capita Payment(s) remaining after deductions have been made to satisfy tax obligations and where the non-custodial parent is not supporting a spouse and/or child(ren) not subject to a support order, when the child(ren) being supported is a is/are a Tribal Member, and the Custodial Parent is receiving Per Capita Payments on behalf of the child. If the child(ren) being supported is/are not a Tribal Member, or the Custodial Parent is not receiving Per Capita Payments on behalf of the child(ren), the court shall use thirty (30%).
  - (c) The portion of the non-custodial parent's earnings that are subject to garnishment under the Consumer Credit Protection Act, 15 USC 1673.
  - (d) For purposes of this section, Per Capita Payment(s) means payments provided to Tribal Members pursuant to the Plan approved by the Tribal Council and the United States Department of Interior under 25 USC §2710(b)(3)(B).
  - (e) Any person(s) subject to judgments exceeding the garnishment limits contained herein may petition the Court for the purposes of amending the garnishment in accordance with this section.

4. The Tribal Court, upon petition of either party, or any third party to whom custody or visitation of the minor child may be awarded, may revise, amend, or alter any order concerning the care, custody, support, or visitation rights with any minor child(ren) consistent with their best interests.
5. In determining the best interests of the child(ren), the Court shall consider the relative ability of each parent to provide education, welfare, safety, adequate food, shelter, medical care, love, emotional support and day to day supervision.
  - (a) The Court shall also take into account the desires of the child(ren) and such other factors as the court deems appropriate.
  - (b) Differences in financial circumstances alone shall not be the deciding factor.

### 3.1715 CHILD CUSTODY ACTIONS OUTSIDE OF DIVORCE AND ANNULMENT PROCEEDINGS

1. The Tribal Court shall have authority to determine the custody and visitation of children as between parents and legal guardians, or as between parents and legal guardians and anyone who has actual physical custody of the child(ren). This authority shall exist whether or not there is a divorce or annulment proceeding pending.
2. Such proceeding shall commence upon the filing of a petition by the parent or legal guardian.
3. In ruling on a custody petition, the Court shall employ the standards set forth in Section 3.1714 of this code, and may order periodic support payments as set forth in that section.
4. After the Court rules on the petition, neither party may file another petition for six (6) months, unless there has been a substantial change in circumstances, or where abuse, neglect or abandonment of the child is suspected.

### 3.1716 ENFORCEMENT OF CHILD SUPPORT ORDERS

1. When the Court has ordered periodic support payments under this code, and the parent does not pay as ordered, the Court shall use the same methods to collect these payments as it would to enforce any money judgment in a civil action, including contempt.

2. If the parent willfully refuses to make support payments as ordered by the Court, and the procedures set forth in Subsection (1.) do not result in payment, the Tribe may initiate criminal proceedings.

### 3.1717 TEMPORARY INTERIM ORDERS

1. The Court may issue temporary orders during the pendency of all proceedings involving child custody, child support, visitation, alimony, and the possession of real and personal property.
2. Such orders may be granted upon the motion of either party, or on the Court's own motion. A hearing shall be held prior to the issuance of such orders, unless the Court determines that an emergency exists, or a party cannot be found, in which case such orders may be issued ex-parte.
3. Emergency may be interpreted to include, but not be limited to:
  - (a) A danger of physical abuse to the spouse or the parties child(ren);
  - (b) Severe emotional abuse;
  - (c) A lack of means for interim subsistence; or
  - (d) The danger that the child(ren) will be removed from the jurisdiction.
4. If the initial order is issued ex-parte, a full hearing on the temporary order shall be held within fourteen (14) days.

## PATERNITY

### 3.1718 PATERNITY

1. The court shall have jurisdiction to adjudicate the paternity of a child in divorce or annulment proceedings, or, upon the filing of a petition with the Court. The Court shall have the power to compel payment for support and to award custody. This Section 3.1718 and any amendments thereto shall apply to all current, pending and future proceedings. There shall be no statute of limitations on any action or proceeding made pursuant to this Section.
2. Petition for Declaration of Paternity. A Petition for Declaration of Paternity may be filed with the Court by the mother or father of the

child(ren). If one of the parents does not have custody, a Petition for Declaration of Paternity may be filed by an individual who has legal custody or guardianship of the child(ren). The petition must be sworn to before a notary public or other individual who has authority to verify signatures.

3. Petition for Revocation of Acknowledge of Paternity. The putative father of a child may revoke his acknowledgment of paternity upon a showing of good cause to the Court for such revocation. Good cause may be established by DNA evidence or an order of the Court that the putative father is not the biological father the of the child. The putative father must file a Petition for Revocation of Acknowledgment of Paternity with the Court requesting an Order of Revocation of Acknowledgment of Paternity.
4. The respondent in a paternity suit may contest the allegations in the proceeding by filing a response within thirty (30) days of receiving the petition. The response must be sworn to before a notary public or other individual who has authority to verify signatures
5. Where a response is received, the Court must hold a hearing.
  - (a) The legitimacy of all children conceived during the marriage of the parties shall be presumed, unless and until the contrary is shown by clear and convincing evidence.
  - (b) A Tribal Court Judge shall have the authority to order the parties and the child to submit to blood or DNA testing in any paternity action to establish paternity or to challenge paternity coming before the Court.
  - (c) The results of such testing shall be admissible as evidence for the Court's consideration when deciding paternity.
6. Declaration of Paternity:
  - (a) If no response is received from the respondent after thirty (30) days, or if the Court determines based on clear and convincing evidence that the putative father is or is not the father of the child, the Court shall enter a Declaration of Paternity.
  - (b) A Declaration of Paternity based on lack of response may be set aside upon a showing by blood or DNA testing that the defendant could not be the father of the child in question.

- (c) In any Petition for Declaration of Paternity, the Court shall ascertain whether the child who is the subject of the Petition is a member of the Saginaw Chippewa Indian Tribe of Michigan.
- (d) The Court shall render a decision for a Petition for Declaration of Paternity properly before the Court by written Order of the Court. The Court's Order shall at a minimum declare whether the putative father of the child who is the subject of the Petition is or is not the biological father of such child and whether the child is a member of the Saginaw Chippewa Indian Tribe of Michigan.
- (e) If the child who is the subject of a Petition for Declaration of Paternity is a member of the Saginaw Chippewa Indian Tribe of Michigan, then the Court shall provide a copy of its Order in the matter to the Executive Tribal Council Members. Such copy shall be provided no later than 5 days after the issuance of the Court's Order.

## EMANCIPATION

### 3.1719 EMANCIPATION OF MINORS; RIGHTS OF FAMILY MEMBERS

- 1. Unless otherwise ordered, the parents of an un-emancipated minor are equally entitled to the custody, control, services and earnings of the minor.
- 2. Emancipation may occur by operation of law or by court order.
- 3. An emancipation occurs by operation of law under any of the following circumstances:
  - (a) When a minor is validly married;
  - (b) When a person reaches the age of 18 years;
  - (c) During the period when the minor is on active duty with the armed forces of the United States.
- 4. An emancipation occurs by court order subsequent to hearing on a petition filed by a minor with the Tribal Court.

### 3.1720 PETITION FOR EMANCIPATION

- 1. A minor seeking emancipation shall file a petition for emancipation in the Tribal Court. The petition must be signed and sworn by the minor, and



must include all of the following information:

- (a) The minor's full name and birth date;
- (b) A certified copy of the minor's birth certificate;
- (c) The name and address of the minor's parents, guardian, or custodian;
- (d) The minor's present address, and length of residency at that address;
- (e) The membership or decendancy status of the minor;
- (f) A declaration by the minor indicating that they have demonstrated the ability to manage their financial affairs;
- (g) A declaration by the minor indicating that they have the ability to manage their personal and social affairs.

2. The petition shall include an affidavit by one of the following individuals declaring that the individual has personal knowledge of the minor's circumstances and believes that emancipation is in the best interests of the minor:

- (a) Physician or nurse;
- (b) Member of the clergy;
- (c) Psychologist or Family Therapist;
- (d) Social worker;
- (e) School administrator, counselor, or teacher; Law enforcement officer;
- (g) Child care provider.

3. A copy of the petition and a summons to appear at the hearing shall be served on the minor's parents or guardian.

### 3.1721 POWERS OF THE COURT

1. After a petition is filed, the court may do one (1) or more of the following:

- (a) Assign a person to investigate the allegations contained in the petition and to report the results of the investigation to the court;
- (b) Appoint legal counsel for the minor;
- (c) Appoint legal counsel for the minor's parents or guardian if they are indigent and if they oppose the petition;
- (d) Dismiss the petition if the minor's custodial parent does not consent and is providing support.

### 3.1722 EMANCIPATION ORDER AND APPEAL

1. The court shall issue an emancipation order if it determines that emancipation is in the best interest of the minor and the minor establishes all of the following:
  - (a) That the minor's parent or guardian does not object to the petition or if a parent or guardian objects to the petition, that the objecting parent or guardian is not providing the minor with support;
  - (b) That the minor is at least 16 years of age;
  - (c) That the minor is a tribal member or descendant;
  - (d) That the minor has demonstrated the ability to manage his or her financial affairs, including proof of employment or other means of support;
  - (e) That the minor has the ability to manage his or her personal and social affairs, including, but not limited to, proof of housing;
  - (f) That the minor understands his or her rights and responsibilities under the Tribal Code as an emancipated minor.
2. A minor who petitions the court for emancipation shall have the burden of showing by clear and convincing evidence that emancipation should be ordered.
3. The minor or a parent or guardian of the minor may file an appeal from the court's grant or denial of an emancipation petition in the same fashion and manner as any other order of the court.

### 3.1724 EMANCIPATED MINORS RIGHTS

An emancipated minor shall be considered to have the rights and responsibilities of an adult, except for those specific constitutional and statutory age requirements regarding voting, Per-Capita benefits, use of alcoholic beverages, and other health and safety regulations relevant because of age. A minor shall be considered emancipated for the purposes of, but not limited to, all of the following:

1. The right to enter into enforceable contracts, including leases;
2. The right to sue or be sued;
3. The right to retain his or her own earnings;
4. The right to establish a separate domicile;
5. The right to act autonomously, and with the rights and responsibilities of an adult, in all business relationships;
6. The right to earn a living, subject only to the health and safety regulations designed to protect those under the age of majority;
7. The right to authorize health care, medical care, dental care, and mental health care, without parental knowledge or liability;
8. The right to apply for a driver's or other licenses;
9. The right to register for school;
10. The right to marry;
11. The right of a parent to make decisions and provide care for their own minor child.

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#### **Legislative History**

Enacted August 2, 1982, Res. No. L&O-09-82 (app'd by BIA September 24, 1982); Chapter 3.17 enacted by oral motion February 3, 1998; Chapter 3.9 revised July 27, 2010 by Resolution 10-128; Section 3.1714 amended by Resolution 11-053 on June 14, 2011. Section 3.1701 and 3.1718 amended by Resolution 12-046 on February 10, 2012. Section 3.1301 amended by Resolution 12-067 approved on May 16, 2012. Subsections 3.1714 1.(c) and 3.1714 1.(d) added by Resolution 14-141 approved on July 16, 2014. Subsections 3.1714 3 and 3.1714 3(d) amended by Resolution 15-065 approved on February 25, 2015. Subsections 3.1714 3, 3.1714 3(a) and 3.1714 3(b) amended by Resolution 15-071 approved on March 18, 2015. Subsection 3.911(d) amended by Resolution 20-008 approved on October 23, 2019. Section 3.903 amended by Resolution 20-024 approved on January 15, 2020.