

CHAPTER 5

REGULATORY INFRACTIONS

5-1 PURPOSE

5-1.01 Purpose. The purpose of this chapter is to identify infractions of law that the Council has determined are not sufficiently harmful to the public interest to warrant criminal sanctions but are sufficiently serious to warrant the establishment of civil penalties to deter their commission. It is the intention of Council to levy civil fines for crimes committed on tribal lands by individuals not subject to the criminal jurisdiction of the tribal court.

5-1.02 Burden of Proof. The finding of a regulatory infraction shall be by a preponderance of the evidence, that is, by evidence that shows, more probably than not, the infraction occurred.

5-2 REMEDIES

5-2.01 Available Remedies. In imposing civil penalties, the Court should consider remedies meant to end infractions and deter people from committing them. These remedies include assessing money damages, not to exceed five thousand dollars (\$5,000), impounding property used to commit infractions, and ordering the wrongdoer to cease the conduct constituting the infraction and to repair or remove damaged and offending property.

5-2.02 Limitation on Damages. Money damages or civil fines shall not exceed an amount necessary to pay for any inconvenience caused by the infraction and the Tribe's cost to bring the action unless it must use the property to collect money damages. Impounded property may be released by the Court if the alleged wrongdoer agrees in writing to pay any civil fine imposed.

5-3 REGULATORY INFRACTIONS

5-3.01 Destruction of Public Property. It shall be unlawful for any person to intentionally or maliciously deface or destroy any public property located within the Kootenai Reservation. Such property shall include all property of the Tribe, State of Idaho, and any municipal governments, or the government of the United States.

5-3.02 Disorderly Conduct. A person shall be guilty of disorderly conduct if such person shall knowingly disturb the peace by:

(1) using threatening, profane or abusive language; or

(2) the threatening or malicious display of firearms or other weapons; or

(3) impeding vehicular or pedestrian traffic ; or

(4) impeding the free ingress or egress to public or private places; or

(5) fighting or being involved in mutual combat or other tumultuous activities; or

(6) loud or unusual noise, or loud or boisterous voice and behavior that disturbs the peace or quiet of a neighborhood, or disturbs the dignity or reverential nature of any ceremony or gathering.

5-3.03 Maintaining a Nuisance. Any person who shall knowingly and intentionally create, conduct, or maintain a public nuisance commits an infraction. Upon the Court's finding against the person, the Court may direct the person to remove such nuisance. For purposes of this section, a "nuisance" shall mean:

(1) a condition which endangers safety or health, is offensive to the senses, or obstructs the free use of property by an entire community or neighborhood, or by any considerable number of persons; or

(2) any premises where person gather for the purpose of engaging in unlawful conduct; or

(3) a condition which renders dangerous for passage, any public pathway or right-of-way, or waters.

5-3.04 Sanitation and Public Health.

(1) Any person who violates any rules or regulations for the health and welfare of the

Kootenai people as adopted by the Tribal Council commits a public health infraction.

(2) The Judge of the Tribal Court may, in his/her discretion, take any action deemed necessary, under the circumstances, to safeguard the health or well being of the community, a family or a person.

5-3.05 [Renumbered Section 5-4.01; MOVED TO CHAPTER 5A MOTOR VEHICLE CODE]

5-3.06 [Renumbered Section 5-4.02; MOVED TO CHAPTER 5A MOTOR VEHICLE CODE]

5-3.07 Littering. It shall be unlawful for any person to deposit upon any Tribal or private property within the Kootenai Reservation, any debris, , litter, glass, barbed wire, construction debris , trash, garbage, or other waste substances when not authorized to do so by the Kootenai Tribe, or the owner of such property.

5-3.08 False Statement. A person shall be guilty of False Statement if he or she, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Kootenai Tribe of Idaho, knowingly and willfully—

(1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact;

(2) makes any materially false, fictitious, or fraudulent statement or representation; or

(3) makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry.

5-3.09 Tobacco. Any person violating the provisions of Chapter 10 shall be guilty of an offense and subject to a fine of not less than \$50.00 or more than \$250.00. Tribal law enforcement officers shall be empowered to seize forfeited goods. The Council is empowered to dispose of forfeited goods.

5-3.10 Alcohol. Any person violating the provisions of Chapter 11 shall be guilty of an offense and subject to a fine of not less than \$50.00 or more than \$250.00. Tribal law enforcement officers shall be empowered to seize

forfeited goods. The Council is empowered to dispose of forfeited goods.

5-3.11 Accommodation Obtained by Fraud.

(1) Proof that lodging, food or other accommodation was obtained by any deception or false pretense, or by any false or fictitious show or pretense of any baggage or other property, or that any person absconded without paying or offering to pay for such food, lodging or other accommodation, or that any such person surreptitiously removed, or attempted to remove, his or her baggage, shall be prima facie proof of the intent necessary for the theft of the same.

(2) Any person not subject to the criminal jurisdiction of the Kootenai Tribal Court but found to have Obtained Accommodation by Fraud shall be guilty of a regulatory infraction and ordered to pay restitution equal to the amount of the fraud and a fine not to exceed \$500.

5-4 VEHICLE INFRACTIONS - Moved to Chapter 5A Motor Vehicle Code.

[Renumbered. See Chapter 5A for Vehicle Infractions.

5-4.01 Traffic Violations.

5-4.02 Off-Road Use of Motor Bikes, Cycles or Scooters.

5-4.03 Persons Under the Influence of Alcohol, Drugs OR Any Other Intoxicating Substances.

5-4.04 Reckless Driving and/or Inattentive Driving.

5-4.05 Unauthorized Use of Handicapped Parking Place.

5-4.06 Unauthorized Parking.]

5-5 RECREATION INFRACTIONS

5-5.01 Trespassing. It shall be an infraction for any person to enter upon lands that are posted with "No Trespassing" signs or other proper notice; or lands that are fenced or otherwise enclosed in a manner that a reasonable person would recognize as intended to exclude intruders; or when the person is directed not to enter or leave the land by the landowner, landowners' employee or agent.

The fine for violation of this section shall be \$50.00

5-5.02 Failure to Pay User Fee. It shall be an infraction for any person to fail to pay the assigned user fee to camp or recreate on the Kootenai Indian Reservation.

The fine for violation of this section shall be \$50 plus the amount of the unpaid user fee.

5-5.03 Violation of Quiet Hours. It shall be an infraction for any person to engage in loud or unusual noise, or loud or boisterous voice and behavior when camping or recreating at the Kootenai River Inn and the Twin Rivers RV Resort between the hours of 10 p.m. and 7 a.m.

The fine for violation of this section shall be \$50.

5-5.04 Fires. It shall be an infraction for any person to build or maintain a fire outside a fire circle, grill, or other places otherwise designated without permission. All fires shall be kept under control at all times, and shall be extinguished whenever a fire is left unattended. Areas may be closed to open fires during extreme fire danger.

The fine for violation of this section shall be \$50.

5-5.05 Failure to Report or Control a Fire. It shall be an infraction for any person who shall, with knowledge that a fire is endangering life or property, fail to give a timely fire alarm or fail to take reasonable measures to extinguish or control such fire when such action would not endanger himself when he knowingly has an official, contractual or other legal duty to prevent or combat such fire; or if such individual started the fire, lawfully or unlawfully, or if such fire was started with his assent on property within his custody or control.

The fine for violation of this section shall be \$100.

5-5.06 Setting Fire to Tribal Lands. It shall be an infraction for any person who shall willfully set on fire any wooded or grassland area of the Kootenai Reservation or any lands owned by or held in trust for the Kootenai Tribe of Idaho or its citizens with the exception of lawful burns conducted under Chapter 28.

The fine for violation of this section shall be \$250.

5-5.07 Discharge of Firearms. Other than in a Designated Area identified by Tribal Council, it shall be an infraction for any person to discharge any kind of dangerous weapon or firearm:

(1) from any motor vehicle, off-highway vehicle or watercraft;

(2) from, upon, or across any roadway;

(3) at any road signs placed upon any roadway on the Reservation;

(4) within 500 feet of any house, dwelling, building, barn, or other structure without written permission of the owner or person in charge of the property.

The fine for violation of this section shall be \$100.

5-5.08 Carrying a Dangerous Weapon While Under the Influence of Alcohol or Drugs. It shall be an infraction for any person to possess any kind of dangerous weapon or firearm while under the influence of alcohol, drugs or any other intoxicating substance on the Kootenai Indian Reservation.

The fine for violation of this section shall be \$250.

5-5.09 Weapons Prohibited in Tribal Government Buildings. Any person who approaches or enters a Tribal government building carrying a firearm or other dangerous weapon shall be guilty of a regulatory infraction. This section does not apply to any authorized law enforcement officer.

The fine for this violation shall be five hundred dollars (\$500).

5-5.10 Hunting, Fishing or Gathering. It shall be an infraction for any person to hunt, fish or gather on the Kootenai Indian Reservation or other area under the jurisdiction of the Kootenai Tribe of Idaho. The lack of signage indicating the infraction shall not be a defense to the infraction. The fine for violation of this section shall be \$500.