

## **PUBLIC NOTICE OF PROPOSED AMENDMENTS TO THE TRIBE'S DRUG LAWS AND REQUEST FOR COMMUNITY COMMENT**

### **I. REQUEST FOR COMMUNITY COMMENT**

Tribal Council would like community feedback and comment on proposed amendments to the Tribe's drug laws prior to Council action on those proposed amendments.

### **II. WHAT WOULD THE PROPOSED AMENDMENTS ACCOMPLISH?**

Increase the mandatory minimum sentences for possession of drugs and for the manufacture or delivery of controlled substances and in certain instances require alcohol/drug evaluation and treatment as recommended.

Expand criminalization of prostitution activities to promoters, patrons, and those who permit it within their establishments.

Added sentencing enhancements for the sale of drugs to school and community areas.

Changes to the definition of "drug" to those drugs and substances that appear on schedules I, II, III, IV, and V of the federal controlled substances act.

Allow for seizure and forfeiture of property used in connection with a violation of the Tribe's drug laws.

Provides clarity that is a crime to be under the influence of drugs or controlled substance (unless you have a valid medical marijuana authorization).

Provides clarity that affirmative defense of possession of one ounce or less of marijuana by a person 21 or older pursuant to valid medical authorization also serves as an affirmative defense to any related prosecution for possession of drug paraphernalia or to any related forfeiture proceeding.

### **III. HOW TO PROVIDE WRITTEN COMMENT AND DEADLINE**

Written comments can be provided to Kristy Flett in the Alfred McCoy Administration Building or you can email comments to [comments@SpokaneTribe.com](mailto:comments@SpokaneTribe.com).

**The community comment period closes June 14, 2018. A public meeting for oral comments and discussion will be announced soon.**

A "redline" copy of RSLOC Chapter 13 – Offenses Against Moral Turpitude which reflects all proposed changes can be accessed at [www.spokanetribe.com/links](http://www.spokanetribe.com/links) under the "Revised Spokane Law and Order Code- Chapter 13" tab. Redline hard copies have also been posted at the Alfred McCoy Administration Building and Spokane Tribal Court.

## CHAPTER 13 - OFFENSES INVOLVING MORAL TURPITUDE

### Section 13-1 Gambling Section 13-2 Prostitution Section 13-~~4~~<sup>3</sup> Huffing

### Section 13-~~5~~<sup>4</sup> Controlled Substances and Drugs of Marijuana and Drugs 13-5 Seizures Related to Controlled Substances

#### Section 13-1 Gambling

13-1.01 Gambling. Any person who shall violate any law, rule or regulation adopted by the Spokane Tribal Council for the control or regulation of gambling or traditional Indian games on the Spokane Reservation shall be deemed guilty of an offense and upon conviction thereof shall be sentenced to a period of confinement not to exceed 30 days or ordered to pay a fine of not to exceed \$100 or both jail sentence and fine and costs.

Readopted 8/01/06, Resolu. 2006-524.

#### Section 13-2 Prostitution

##### 13-2.01 Definitions.

"Prostitution." A person commits or engages in "prostitution" if the person knowingly engages in or agrees or offers to engage in any sexual conduct with another person for fee or compensation, whether such compensation is paid or to be paid.

"Advances Prostitution." A person "advances prostitution" if, acting other than as a prostitute or as a customer thereof, he or she causes or aids a person to commit or engage in prostitution, procures or solicits customers for prostitution, provides persons or premises for prostitution purposes, operates or assists in the operation of a house of prostitution or a prostitution enterprise, or engages in any other conduct designed to institute, aid, or facilitate an act or enterprise of prostitution.

"Profits from Prostitution." A person "profits from prostitution" if, acting other than as a prostitute receiving compensation for personally rendered prostitution services, he or she accepts or receives money or anything of value pursuant to an agreement or understanding with any person whereby he or she participates or is to participate in the proceeds of prostitution activity.

"Sexual Conduct" means "sexual intercourse" or "sexual contact" as further defined in Section 8-4.01 of the Revised Spokane Law and Order Code.

##### 13-2.02~~1~~ Prostitution.

- (a) A person is guilty of the crime of Prostitution if he or she knowingly engages in or agrees or offers to engage in any sexual conduct with another person for fee or compensation, whether such compensation is paid or to be paid.
- (b) Penalties. A person who is convicted of Prostitution shall be sentenced to confinement for a maximum period of not more than ninety (90) days, pay a maximum fine of not more than \$500.00, or both.

- (c) Defenses. In any prosecution for prostitution under this subsection, it is an affirmative defense that the person committed the offense as a result of being a victim of trafficking.

~~Any person who shall engage in sexual acts as a means of livelihood or who shall knowingly keep, maintain, rent or lease any house, room or tent or other place utilized for such activity or who shall procure any person to engage in such activity, or live off of the earnings of any person engaged in such activity, shall be deemed guilty of an offense and upon conviction thereof shall be sentenced to a period of confinement not to exceed 6 months or ordered to pay a fine of not to exceed \$500, or both jail sentence and fine, and costs.~~

~~Readopted 8/01/06, Resolu. 2006-524.~~

### 13-2.01 Patronizing a Prostitute.

- (a) A person is guilty of the crime of Patronizing a Prostitute if:
- (1) He or she pays a fee to another person as compensation for such person or a third person having engaged in sexual conduct with him or her; or
  - (2) He or she pays or agrees to pay a fee to another person pursuant to an understanding that in return therefore such person will engage in sexual conduct with him or her; or
  - (3) He or she solicits or requests another person to engage in sexual conduct with him or her in return for a fee.
- (d) Penalties. A person who is convicted of Patronizing a Prostitute shall be sentenced to confinement for a maximum period of not more than one hundred and eighty days (180) days, pay a maximum fine of not more than \$500.00, or both, provided however, that there shall be a mandatory minimum of one (1) days of confinement and a \$100.00 fine. The minimum sentence is mandatory and may not be suspended or reduced.
- (e) The crime of Patronizing a Prostitute may be committed in more than one location. The crime is deemed to have been committed in any location in which the defendant commits any act under subsections (a), (b), or (c) of this section that constitutes part of the crime. A person who sends a communication to Patronize a Prostitute is considered to have committed the crime both at the place from which the contact was made pursuant to subsection(a), (b), or (c) of this section and where the communication is received, provided that this section must be construed to prohibit anyone from being prosecuted twice for substantially the same crime by the same sovereign.

### 13-2.02 Permitting Prostitution.

- (a) A person is guilty of the crime of Permitting Prostitution if, having possession or control of premises which he or she knows are being used for prostitution purposes, he or she fails without lawful excuse to make reasonable effort to halt or abate such use.
- (b) Penalties. A person who is convicted of Permitting Prostitution shall be sentenced to confinement for a maximum period of not more than one hundred and eighty days (180) days, pay a maximum fine of not more than \$500.00, or both.

13-2.03 Promoting Prostitution.

- (a) A person is guilty of the crime of Promoting Prostitution if he or she knowingly:
- (1) Profits from prostitution; or
  - (2) Advances prostitution.
- (b) Penalties. A person who is convicted of Promoting Prostitution shall be sentenced to confinement for a maximum period of not more than one (1) year, pay a maximum fine of not more than \$5000.00, or both, provided however, that there shall be a mandatory minimum of five (5) days of confinement and a \$500.00 fine. The minimum sentence is mandatory and may not be suspended or reduced.

13-2.04 Aggravated Promotion of Prostitution.

- (a) A person is guilty of the crime of Aggravated Promotion of Prostitution if he or she purposely or knowingly:
- (1) Compels another to engage in or promote prostitution; or
  - (2) Promotes prostitution of a child under the age of 18 years, whether or not he or she is aware of the child's age; or
  - (3) Promotes the prostitution of one's child, ward, or any person for whose care, protection, or support he or she is responsible.
- (b) Penalties. A person who is convicted of Promoting Prostitution shall be sentenced to confinement for a maximum period of not more than one (1) year, pay a maximum fine of not more than \$5000.00, or both, provided however, that there shall be a mandatory minimum of thirty (30) days of confinement and a \$1000.00 fine. The minimum sentence is mandatory and may not be suspended or reduced.
- (c) Statute of Limitations.
- (1) Prosecutions for Aggravated Promotion of Prostitution shall not be commenced after the periods prescribed in this section:
    - (i) ten years after commission of the offense; or
    - (ii) ten years after the recovery of repressed memories of childhood sexual abuse, whichever time period is greater.
  - (2) The periods of limitation prescribed in subsection 13-2.04(c)(1) do not run during any time when the person charged is not usually and publicly a resident within the territory of the Spokane Tribe of Indians Nation.
- (d) Any conviction under 13-2.04 Aggravated Promotion of Prostitution shall be a "sex offense" for all purposes of RSLOC Chapter 8A.

Section 13-4-3 Huffing

~~13-43.01~~ Huffing. Any person who in order to cause or induce symptoms of intoxication, elation, euphoria, or exhilaration intentionally smells, breathes, or otherwise inhales the fumes of any type of substance, including:

- (a) motor fuel, or any solvent, material substance, chemical, or combination thereof,
- (b) having the property to release toxic vapors,

- ~~(c) in order to cause or induce:~~
  - ~~(1) symptoms of intoxication;~~
  - ~~(2) elation;~~
  - ~~(3) euphoria, or~~
  - ~~(4) exhilaration~~

shall be guilty of a crime, and upon conviction, shall be sentenced to confinement for a period of not more than one (1) year 90 days and a fine of not more than \$15,000, provided however, that:-

(a) for the first conviction there shall be a minimum sentence to confinement of one (1) days.

(b) For the second conviction the minimum sentence shall be three (3) days confinement, a \$50.00 fine, and shall obtain a drug and/or alcohol evaluation and follow all treatment recommendations.

(c) For a third conviction, and for any subsequent conviction, the minimum sentence shall be seven (7) days confinement, a \$150.00 fine, and shall obtain a drug and/or alcohol evaluation and follow all treatment recommendations.

(d) Penalties are Mandatory. The minimum sentences specified above are mandatory and may not be suspended or reduced.

(e) Convictions includes any prior conviction in any tribal, state or federal court within a rolling ten (10) year period for the same or substantially similar crime .

Adopted 4/26/07, Resolu. 2007-295.

Section 13-5-4 ~~Controlled Substances- or Drugs~~ of Marijuana and Drugs

Referred s

~~13-54.01~~ Control of Marijuana and Drugs-Definitions

~~13-5.01~~ ~~XXXXXX~~

(a) Definitions:

(1) "Marijuana" means all parts of the plant of the genus Cannabis L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted there from), fiber, oil, or cake, or the sterilized seed of the plant that is incapable of germination.

(2) "Drug"-~~or~~ "Controlled substance" means:

- (a) each drug or other substance classified in Schedule I, II, III, IV, and V of the Controlled Substances Act, 21 U.S.C. § 801, et seq. but does not include industrial hemp as defined in RCW 15.120.010;
- (b) substances recognized as drugs in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or Official National Formulary, or any supplement to any of them;
- (c) substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals;
- (d) substances ~~(other than food)~~ intended to affect the structure or any function of the body of man or animals; and
- (e) substances intended for use as a component of any article specified in clause (1) or (2) of this subsection. It does not include devices or their components, parts, or accessories. Those drugs specifically listed in Schedules I through V of Chapter 69.50 of the RCW are intended to be controlled by this Chapter.

(43) "Drug paraphernalia" means all equipment, products, and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body ~~marijuana or a controlled substance~~ or drugs. It includes, but is not limited to:

- (A) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing, or harvesting of any species of plant which is ~~marijuana or drugs~~ a drug or controlled substance or from which ~~marijuana or drugs~~ a drug or controlled substance can be derived;
- (B) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing ~~marijuana or drugs~~ drugs or controlled substances;
- (C) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is ~~marijuana or drugs~~ a drug or controlled substance;
- (D) Testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness, or purity of ~~marijuana or drugs~~ controlled substances;
- (E) Scales and balances used, intended for use, or designed for use in weighing or measuring ~~marijuana or drugs~~ drugs or controlled substances;
- (F) Diluents and adulterants, including but not limited to, such as quinine hydrochloride, mannitol, mannite, dextrose, and lactose, used, intended for use, or designed for use in cutting ~~drugs or marijuana or drugs~~ controlled substances;
- (G) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana;

- (H) Blenders, bowls, containers, spoons, and mixing devices used, intended for use, or designed for use in compounding ~~marijuana or~~ drugs, drugs or controlled substances;
- (I) Capsules, balloons, envelopes, and other containers used, intended for use, or designed for use in packaging small quantities of ~~marijuana or drugs~~ drugs or controlled substances;
- (J) Containers and other objects used, intended for use, or designed for use in storing or concealing ~~marijuana or drugs~~ drugs or controlled substances;
- (K) Hypodermic syringes, needles, and other objects used, intended for use, or designed for use in parenterally injecting drugs or controlled substances ~~drugs~~ into the human body;
- (L) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing ~~any marijuana, cocaine, hashish, or hashish oil~~ drugs or controlled substance or drug into the human body, such as but not limited to:
  - (i) Metal, tin foil, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
  - (ii) Water pipes;
  - (iii) Carburetion tubes and devices;
  - (iv) Smoking and carburetion masks;
  - (v) Roach clips: Meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or short to be held in the hand;
  - (vi) Miniature cocaine spoons, and cocaine vials;
  - (vii) Chamber pipes;
  - (viii) Carburetor pipes;
  - (ix) Electric pipes;
  - (x) Air-driven pipes;
  - (xi) Chillums;
  - (xii) Bongs; and
  - (xiii) Ice pipes or chillers.

(b) Court Considerations in Determination of Drug Paraphernalia In determining whether an object is drug paraphernalia under this section, the court should consider, in addition to all other logically relevant factors, the following:

- (1) Statements by an owner or by anyone in control of the object concerning its use;
- (2) Prior convictions, if any, of an owner, or of anyone in control of the object, under any Tribal, state or federal law relating to ~~marijuana or drugs~~ any drugs or controlled substance;
- (3) The proximity of the object, in time and space, to a direct violation of this chapter;
- (4) The proximity of the object to ~~marijuana or drugs~~ drugs or a controlled substances;
- (5) The existence of any residue of ~~marijuana or drugs~~ any drugs or controlled substances on the object;
- (6) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he or she knows, or should

reasonably know, intend to use the object to facilitate a violation of this chapter; the innocence of an owner, or of anyone in control of the object, as to a direct violation of this chapter shall not prevent a finding that the object is intended or designed for use as drug paraphernalia;

- (7) Instructions, oral or written, provided with the object concerning its use;
- (8) Descriptive materials accompanying the object which explain or depict its use;
- (9) National and local advertising concerning its use;
- (10) The manner in which the object is displayed for sale;
- (11) Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;
- (12) Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise;
- (13) The existence and scope of legitimate uses for the object in the community; and
- (14) Expert testimony concerning its use.

13-54.02 Under the Influence, Possession, or Use of Controlled Substances, Drugs, or Drug Paraphernalia

(ae) Under the influence, possession or use of Marijuana, Drugs, Controlled Substances, Drugs, or Drug Paraphernalia. Any person who shall plant, grow, cultivate, keep, have possession of, be under the influence of, or use controlled substances marijuana, including marijuana used for medical purposes, or any drugs as defined above, or have or have possession of drug paraphernalia as defined above, shall be guilty of an offense. Admissible evidence to demonstrate that a person is under the influence of controlled substances or drugs includes measureable blood, breath, or urine concentration of controlled substances or drugs in a person's body.

(b) Penalties. (1) Upon and upon the first conviction an individual shall be sentenced to confinement for a period of not more than one (90 days-1) year, and to pay a fine of not more than \$53,000, or both, provided, however, that

(1) for the first offense conviction there shall be a minimum sentence to confinement of two (2) 5- days and a minimum fine of \$500.

(+2) For the second offense conviction the minimum sentence shall be fifteen seven (7+5) days confinement, and a \$2,000 500-00 \$100.00 fine, and shall obtain a drug and/or alcohol evaluation and follow all treatment recommendations.

(23) For a third conviction offense, and for any subsequent offense conviction, the minimum sentence shall be thirty thirty -(3030) days confinement, and a \$13,000 250.00 fine, and shall obtain a drug and/or alcohol evaluation and follow all treatment recommendations.-

(c) Penalties are Mandatory. The minimum sentences specified above are mandatory and may not be suspended or reduced.

(e) Convictions includes any prior conviction in any tribal, state or federal court within a rolling ten (10) year period for the same or substantially similar crime .



13-54.03 Sale of Controlled Substances or Drugs

~~(a)~~ Sale of Marijuana or Drugs ~~Controlled Substances or Drugs.~~ Any person who shall keep for sale, ~~e~~ or sell, barter, or give ~~marijuana~~ controlled substances or drugs, ~~including marijuana for medical purposes,~~ or any such drug as defined above to any person, shall be guilty of an offense.

~~(b)~~ Penalties. ~~(1) For the first and upon~~ Upon conviction ~~thereof~~ an individual shall be sentenced to confinement for a period of not more than one (1) year, ~~and to pay a fine of not more than \$5,000, or both, provided, however, that;~~

~~(1)~~ provided, however, that ~~f~~For the first ~~offense conviction~~ there shall be a mandatory minimum sentence to confinement of 90~~30~~ days of confinement and a ~~and a~~ minimum fine of \$1,500~~3,000~~ fine, and shall obtain a drug and/or alcohol evaluation and follow all treatment recommendations.

~~(2)~~ For the second ~~offense conviction~~ the mandatory minimum sentence shall be 180~~60~~ days confinement and a mandatory minimum \$3,000 ~~\$4,000~~ fine, and shall obtain a drug and/or alcohol evaluation and follow all treatment recommendations.

~~(3)~~ For a third ~~offense conviction~~, and for any subsequent offense, the mandatory minimum sentence shall be one (1) year~~90 days~~ confinement and a \$5,000 fine.

~~(e)~~ Penalties are Mandatory. The minimum sentences specified above are mandatory and may not be suspended or reduced.

~~(f)~~ Convictions includes any prior conviction in any tribal, state or federal court within a rolling ten (10) year period for the same or substantially similar crime.

~~(1)~~ Each sentence shall include both the confinement and the fine and neither may be suspended or reduced.

~~(2)~~ Work release programs shall be available only for first offenders.

Legislative History-Amended 8/30/99, Resolu. 1999-349; Readopted 8/01/06, Resolu. 2006-524; Amended 4/20/07, Resolu. 2007-289.

13-54.04 ~~(f)~~ Affirmative Defense for Medical Marijuana.

The following shall be an affirmative defense to any prosecution for possession of or use of marijuana:

~~(a)~~ Over 21 years of age. That the person using or in possession of marijuana is at least twenty-one years of age;

~~(b)~~ Not Used or Possessed in Public. That the person is not using or outwardly possessing marijuana in a public place;

~~(c3)~~ Valid Documentation as Qualified Patient. That, at the time of use or possession of marijuana, the person has received "valid documentation" that he or she is a "qualifying patient", as those terms are defined in Revised Code of Washington 69.51.A.010; and

~~(d4)~~ One Ounce or Less. That the person is in possession of one ounce or less of marijuana.

~~(e)~~ A affirmative defense pursuant to Subsection 13-4.04 shall also serve as an affirmative defense to any related prosecution under Subsection 13-4.02 or Section 13-5.

Adopted 1/22/2015; Resolu. 2015-099 ~~13-5.02~~

~~13-5.03-13-54.06~~ Sentencing Enhancements.

~~(a)~~ Any person who violates RSLOC 13-5.03 Sale of Controlled Substances or Drugs by manufacturing, selling, delivering, or possessing with the intent to manufacture, sell, or deliver a controlled substance or drug as defined by RSLOC 13-5.01

~~(1)~~ In a school;

~~(2)~~ In a community center;

~~(3)~~ In a day care or other child center;

~~(4)~~ On a school bus;

~~(5)~~ Within one thousand feet of a school bus route stop designated by the school district;

~~(6)~~ Within one thousand feet of the perimeter of school grounds, community center, day care, child center, or community center grounds;

~~(7)~~ In a public park or recreational area;

~~(8)~~ In a public housing project designated by a local governing authority as a drug-free zone, including housing for tribal elders;

~~(9)~~ On a public transit vehicle; or

~~(10)~~ In a public transit stop shelter;

shall be punished by a fine or imprisonment up to twice the minimum amount otherwise authorized by RSLOC 13-5.03, or both.

~~(b)~~ The provisions of this section shall not operate to increase the maximum fine or imprisonment otherwise authorized under this Chapter for an ~~offense conviction.~~

#### Section 13-5 Seizures Related to Controlled Substances

##### 13-5.01 Seizure Proceedings

~~(a)~~ Subject Property. The following shall be subject to forfeiture to the Spokane Tribe of Indians and no property right shall exist in them:

~~(1)~~ All controlled substances that have been manufactured, distributed, dispensed, or acquired in violation of Spokane Tribal law.

~~(2)~~ All raw materials, products, and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of Spokane Tribal law.

~~(3)~~ All property which is used, or intended for use, as a container for property described in (a)(1), (2), (8), (9), or (10) of this Subsection.

- (4) All conveyances, including aircraft, vehicles, or vessels, which are used, or are intended for use, to transport or in any manner to facilitate the transportation, sale, receipt, possession, or concealment of property described in (a)(1), (2), (8), (9), or (10) of this Subsection.
- (5) All books, records, and research, including formulas, microfilm, tapes, and data that are used, or intended for use, in violation of this Section.
- (6) All monies, negotiable instruments, securities, or other things of value furnished or intended to be furnished by any person in exchange for a controlled substance in violation of this Section or Section 13-4, all proceeds traceable to such an exchange, and all monies, negotiable instruments, and securities used or intended to be used to facilitate any violation of this Section or Section 13-4.
- (7) All real property, including any right, title, and interest (including any leasehold interest) in the whole of any lot or tract of land and any appurtenances or improvements, which is used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, an offense involving the manufacture, cultivation, delivery, or possession with intent to manufacture or deliver, of a controlled substance, provided that seizure of Trust property shall occur only as permitted by Federal law.
- (8) All controlled substances which have been possessed in violation of Spokane Tribal law.
- (9) All controlled substance manufacturing equipment, all tableting machines, all encapsulating machines, all gelatin capsules, which have been imported exported, manufactured, possessed, distributed, dispensed, acquired, or intended to be distributed, dispensed, acquired, imported, or exported, in violation of this Section or Section 13-4.
- (10) Any controlled substances or drug paraphernalia as defined by section 13-4.01(a)(4) and/or section 13-4.01(b)
- (+) (11) Any firearm used or intended to be used to facilitate the transportation, sale, receipt, possession, or concealment of property described in subsection (a)(1), (2), (8), (9), or (10) of this Subsection and any proceeds traceable to such property.

- (b) Property taken or detained under this section shall not be repleviable, but shall be deemed to be in the custody of the Spokane Tribe of Indians, subject only to the orders and decrees of the Spokane Tribal Court. Whenever property is seized under any of the provisions of this section, the Tribe may:
  - (1) Place the property under seal;
  - (2) Remove the property to a designated place; or
  - (3) Require that the Spokane Tribe of Indians take custody of the property and remove it, if practicable, to an appropriate location for disposition in accordance with law.
- (c) Summary Forfeiture. Property seized pursuant to subsection (a)(1), (2), (3), (8), (9), (10), and (11) of this section is subject to summary forfeiture, subject to possible discovery and use by the defendants in their defense.
- (d) Nonsummary Forfeiture. For purposes of this section, "days" means calendar days. Property seized pursuant to (a)(4), (5), (6), and (7) of this Subsection is subject to the following forfeiture procedures.

- (1) Forfeiture Proceedings.

(A) Within 45 days of the seizure, The Tribe shall file a petition to institute forfeiture proceedings with the Court. The Clerk shall issue a summons, and the Tribe shall cause the petition and summons to be served upon all owners or claimants of the property as provided by Revised Spokane Law and Order Code Chapter 4 and the civil rules of court.

(B) Within 30 days after service of the petition and summons, the owner or claimant of the seized property shall file an answer to the allegations described in the petition to institute forfeiture proceedings. No extension of this time may be granted, unless extraordinary circumstances exist.

(i) If an answer is not filed within 30 days after the service of the petition and summons, the Court upon motion shall order the property forfeited to the Spokane Tribe of Indians.

(ii) If an answer is filed within 30 days, the forfeiture proceeding must be set for hearing without a jury no later than 60 days after the answer is filed. Notice of the hearing must be given as provided by the civil rules of court.

(C) A claimant of a security interest in the property who has a verified answer on file must prove that his security interest is bona fide and that it was created after a reasonable investigation of the moral responsibility, character, and reputation of the purchaser and without knowledge that the property was being or was to be used for the purpose charged.

(D) However, no person who has a lien dependent upon possession for compensation to which he is legally entitled for making repairs or performing labor upon, furnishing supplies or materials for, or providing storage, repair or safekeeping of any property and no person doing business under any applicable law relating to financial institutions, loan companies, or licensed pawnbrokers or persons regularly engaged in the business of selling the property or of purchasing conditional sales contracts for the property shall be required to prove that his security interest was created after a reasonable investigation of the moral responsibility, character, and reputation of the owner, purchaser, or person in possession of the property when it was brought to such person.

(1)(2) Forfeiture Hearing. The Tribe must prove the allegations in the petition by a preponderance of the evidence. If the Court finds that the property was not used for the purpose charged or that the property was used without the knowledge or consent of the owner, it shall order the property released to the owner of record as of the date of the seizure. If the Court finds that the property was used for the purpose charged and that the property was used with the knowledge or consent of the owner, the property shall be forfeited to the Spokane Tribe of Indians.

(e) Disposition of Forfeited Property.

(1) Whenever property is forfeited under this chapter, the Spokane Tribe of Indians may:

(A) Retain the property for official use;

(B) Sell, by public sale or any other commercially feasible means, any forfeited property which is not required to be destroyed by law and which is not harmful to the public;

(C) Take custody of the property and dispose of it in accordance with law;

(D) Forward it to the Spokane Police Department for disposition or destruction;  
or

(E) Transfer the forfeited personal property or the proceeds of the sale of any forfeited personal or real property to any other jurisdiction which participated directly or indirectly in the seizure or forfeiture of the property, if such a transfer:

(i) Has been agreed to by the Spokane Tribe of Indians; or

(ii) Is authorized in an agreement between the Spokane Tribe of Indians and the other jurisdiction.

(2) The proceeds from any sale under (e)(1)(B) and any monies forfeited under this section shall be used to pay:

(a) All property expenses of the proceedings for forfeiture and sale including expenses of seizure, maintenance of custody, advertising, and Court costs; and

(b) Training costs and/or equipment for the use of the Department of Public Safety. Proceeds shall not be used to pay for salaries.

(c) To defray costs associated with controlled substance/drugs and alcohol treatment services provided by the Tribe.

(f) Forfeiture and Destruction of Controlled substances and Drugs

(1) All controlled substances and drugs as defined in this section that are possessed, transferred, sold, or offered for sale in violation of the provisions of Spokane Tribal law; all dangerous, toxic, or hazardous raw materials or products subject to forfeiture under subsection (a) of this section and any equipment or container subject to forfeiture which cannot be separated safely from such raw materials or products shall be deemed contraband and seized and summarily forfeited to the Spokane Tribe of Indians. Similarly, all controlled substances defined in this section and 21 U.S.C. 812(c) which are seized or come into the possession of the Spokane Tribe of Indians, the owners of which are unknown, shall be deemed contraband and summarily forfeited to the Spokane Tribe of Indians.

(2) The Spokane Tribe of Indians may direct the destruction of all controlled substances defined in this section; all dangerous, toxic, or hazardous raw materials or products subject to forfeiture under this section; and any equipment or container subject to forfeiture under this section which cannot be separated safely from such raw materials or products under such circumstances as the Spokane Tribe of Indians may deem necessary.

(3) All species of plants from which controlled substances in this section may be derived which have been planted or cultivated in violation of Spokane Tribal law, or of which the owners or cultivators are unknown, or which are wild growths, may be seized and summarily forfeited to the Tribe. The Tribe, or its duly authorized agent, shall have authority to enter upon any lands, or into any dwelling pursuant to a search warrant, to cut, harvest, carry off, or destroy such plants.

(g) Vesting of Title in the Tribe All right, title, and interest in property described in this section shall vest in the Spokane Tribe of Indians upon commission of the act giving rise to forfeiture under this section, subject to possible discovery and use by the defendants in their defense.