

CHAPTER 13 - OFFENSES INVOLVING MORAL TURPITUDE

Section 13-1 Gambling Section 13-2 Prostitution Section 13-3 Inhalant Abuse Section 13-4 Controlled Substances and Drugs Section 13-5 Seizures Related to Controlled Substances 13-6 Marijuana Possession and Use

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; Readopted 08/07/18, Resolu. 2018-375.

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.

"Fee." means any goods or services, including but not limited to controlled substances.

Adopted 08/07/18, Resolu. 2018-375.

13-2.02 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 one (1) year, pay a maximum fine of not more than \$5000.00, 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.

Readopted 8/01/06, Resolu. 2006-524; Amended 08/07/18, Resolu. 2018-375.

13-2.03 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 (1) year, pay a maximum fine of not more than \$5000.00, 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.

Adopted 08/07/18, Resolu. 2018-375.

13-2.04 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 (1) year, pay a maximum fine of not more than \$5000.00, or both.

Adopted 08/07/18, Resolu. 2018-375.

13-2.05 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.

Adopted 08/07/18, Resolu. 2018-375.

13-2.06 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.

Adopted 08/07/18, Resolu. 2018-375.

Section 13-3 Inhalant Abuse

13-3.01 Inhalant Abuse.

- (a) 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:
 - (1) motor fuel, or any solvent, material substance, chemical, or combination thereof; or
 - (2) having the property to release toxic vapors, shall be guilty of the crime of Inhalant Abuse.

- (b) Penalties. Upon conviction an individual shall be sentenced to confinement for a maximum period of not more than one (1) year and a maximum fine of not more than \$5000, or both, provided however, that:
 - (1) for the first conviction there shall be a minimum sentence to confinement of one (1) days.
 - (2) 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.
 - (3) 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.
 - (4) Penalties are Mandatory. The minimum sentences specified above are mandatory and may not be suspended or reduced.

Adopted 4/26/07, Resolu. 2007-295; Amended 08/07/18, Resolu. 2018-375.

Section 13-4 Controlled Substances or Drugs

13-4.01 Definitions

- (a) Definitions:
 - (1) Intentionally deleted.
 - (2) "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 and Marijuana as defined in Section 13-6;
 - (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 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.
- (3) "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 a controlled substance. 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 a drug or controlled substance or from which a controlled substance can be derived;
 - (B) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances;
 - (C) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance;
 - (D) Testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness, or purity of controlled substances;
 - (E) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;
 - (F) Diluents and adulterants, including but not limited to, quinine hydrochloride, mannitol, mannite, dextrose, and lactose, used, intended for use, or designed for use in cutting controlled substances;
 - (G) Intentionally deleted.
 - (H) Blenders, bowls, containers, spoons, and mixing devices used, intended for use, or designed for use in compounding-controlled substances;
 - (I) Capsules, balloons, envelopes, and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances;

- (J) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances;
- (K) Hypodermic syringes, needles, and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body;
- (L) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing any controlled substance into the human body.:

(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 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 controlled substances;
- (5) The existence of any residue of any 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.

13-4.02 Under the Influence, Possession, or Use of Controlled Substances, Drugs, or Drug Paraphernalia.

- (a) Any person who shall plant, grow, cultivate, keep, have possession of, be under the influence of, or use controlled substances, or any drugs or have possession of drug paraphernalia, shall be guilty of an offense. Admissible evidence to demonstrate that a person is under the influence of controlled substances or drugs includes measurable blood, breath, or urine concentration of controlled substances or drugs in a person's body.
- (b) Penalties. Upon conviction an individual shall be sentenced to confinement for a period of not more than one (1) year, pay a fine of not more than \$5,000, or both, provided, however, that:
 - (1) for the first conviction there shall be a minimum sentence to confinement of two (2) days.
 - (2) For the second conviction the minimum sentence shall be seven (7) days confinement, a \$100.00 fine, and shall obtain a drug and/or alcohol evaluation and follow all treatment recommendations.
 - (3) For a third conviction, and for any subsequent conviction, the minimum sentence shall be thirty (30) days confinement, a \$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.

Adopted 08/07/18, Resolu. 2018-375.

13-4.02 Under the Influence. Possession. or Use of Controlled Substances, Drugs. or Drug Paraphernalia.

- (a) Any person who knowingly shall plant, grow, cultivate, keep, have possession of, be under the influence of, or use controlled substances, or any drugs or have possession of drug paraphernalia, shall be guilty of an offense. Admissible evidence to demonstrate that a person is under the influence of controlled substances or drugs includes measurable blood, breath, or urine concentration of controlled substances or drugs in a person's body.
- (b) Penalties. Upon conviction an individual shall be sentenced to confinement for a period of not more than one (1) year, pay a fine of not more than \$5,000, or both, provided, however, that:
 - (1) for the first conviction there shall be a minimum sentence to confinement of two (2) days.
 - (2) For the second conviction the minimum sentence shall be seven (7) days confinement, a \$100.00 fine, and shall obtain a drug and/or alcohol evaluation and follow all treatment recommendations.

- (3) For a third conviction, and for any subsequent conviction, the minimum sentence shall be thirty (30) days confinement, a \$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.

Adopted 08/07/18, Resolu. 2018-375; Amended 06/30/2022, Resolu. 2022-330.

13-4.03 Sale of Controlled Substances or Drugs.

- (a) Sale of Controlled Substances or Drugs. Any person who shall keep for sale, sell, barter, or give controlled substances or drugs, or any such drug as defined above to any person, shall be guilty of an offense.
- (b) Penalties. Upon conviction an individual shall be sentenced to confinement for a period of not more than one (1) year, pay a fine of not more than \$5,000, or both, provided, however, that;
 - (1) For the first conviction there shall be a mandatory minimum sentence to confinement of ninety (90) days of confinement and a \$1,500 fine, and shall obtain a drug and/or alcohol evaluation and follow all treatment recommendations.
 - (2) For the second conviction the mandatory minimum sentence shall be 180 days confinement and a mandatory minimum \$3,000 fine, and shall obtain a drug and/or alcohol evaluation and follow all treatment recommendations.
 - (3) For a third conviction, and for any subsequent offense, the mandatory minimum sentence shall be one (1) year confinement and a \$5,000 fine.
- (e) Penalties are Mandatory. The minimum sentences specified above are mandatory and may not be suspended or reduced.

Adopted 08/07/18, Resolu. 2018-375.

13-4.04 Intentionally Deleted

Adopted 1/22/2015; Resolu. 2015-099; Amended 08/07/18, Resol. 2018-375. Amended 09/22/20, Resolu. 2020-411

13-4.05 Sentencing Enhancements.

- (a) Any person convicted of 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 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;
- (8) In a recreational area, which is defined as an area used by the Tribal Membership and/or the general public for recreation, including areas around lakes, streams and rivers, and campgrounds;
- (9) In a public housing project designated by a local governing authority as a drug-free zone, including housing for tribal elders;
- (10) On a public transit vehicle;
- (11) In a public transit stop shelter;
- (12) The pow-wow grounds; or
- (13) The Longhouse or other areas of traditional or cultural significance.

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 a conviction.

Adopted 08/07/18, Resolu. 2018-375.

13-4.06 Bail Related to Controlled Substances.

(a) Mandatory Minimum Bail.

- (1) Any Defendant charged with a violation of 13-4.02 shall be subject to a mandatory minimum three hundred-dollar (\$300) cash-only bail, per charge, prior to release from custody.
- (2) Any Defendant charged with a violation of 13-4.03 shall be subject to a mandatory minimum one thousand-dollar (\$1,000.00) cash-only bail, per charge, prior to release from custody.

(c) Bail Forfeiture.

- (1) If a Defendant charged with any violation under Section 13-4 posts bail, the Defendant shall appear for all hearings before the Spokane Tribal Court and obey all conditions of release.
- (2) Where the Defendant fails to appear for any hearing or otherwise fails to meet any condition of release, and bail and/or bond has been posted, the Court shall direct an entry of such failure to be made in the record, enter an order for the forfeiture of the bail and/or bond, and issue a warrant for the arrest of the Defendant.

- (3) If, within ninety (90) days of a forfeiture order, the Defendant or the Defendant's surety, appears before the Court and presents clear and convincing evidence that Defendant's failure to appear or otherwise meet the conditions of release was not willful, the Court may direct the forfeiture of the bail to be discharged upon such terms as are just. If the forfeiture order is not discharged by the Court, the Court shall proceed with the forfeiture of bail as per Tribal Code.
- (4) Notice of an order of forfeiture shall be mailed to the Defendant and/or the Defendant's sureties at their last known address(es) within ten (10) working days of the date of the order.

Adopted 08/07/18, Resolu. 2018-375.

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.
 - (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) Awards of up to \$ 100,000 to any individual who provides original information that leads to the arrest and conviction of a person who kills, kidnaps, or injures a Spokane Tribal Police Officer. Such award shall be paid at the discretion of the Spokane Tribal Business Council upon recommendation by the Chief of Police and/or the Spokane Tribal Prosecutor.
 - (C) Training costs and/or equipment for the use of the Department of Public Safety. Proceeds shall not be used to pay for salaries.
 - (D) To defray costs associated with controlled substance/drugs and alcohol treatment services provided by the Tribe.
 - (E) Such other uses as the Tribal Business Council may determine from time to time
- (f) Forfeiture and Destruction of Controlled Substances.
 - (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.

Adopted 08/07/18, Resolu. 2018-375.

13-6 Marijuana Possession and Use

13-6.01 Marijuana Possession and Use.

- (a) The definitions of marijuana, marijuana concentrates, marijuana-infused products, useable marijuana, plant, qualifying patient, designated provider, authorization, recognition card, medical marijuana authorization database, health care professional, and housing unit as contained in RCW 69.50.101 and RCW 69.51A.010 are hereby incorporated by reference.

- (b) The possession, by a person twenty-one (21) years of age or older, of marijuana concentrates, marijuana-infused products, or useable marijuana in amounts that do not exceed those set forth in RCW 69.50.360(3) is not a violation of this chapter, or any other provision of Spokane Tribal Law, absent express prohibition under the Revised Spokane Law and Order Code, including those contained in this Chapter.

- (c) Beginning September 22, 2020, it will not constitute a violation of this Chapter or any other provision of Spokane tribal law, absent express prohibition to the contrary, for a qualifying patient or designated provider who has been entered into the medical marijuana authorization database and holds a valid recognition card to possess marijuana plants, marijuana concentrates, marijuana-infused products, or useable marijuana in a manner that does not exceed the limits set forth in RCW 69.51A.210, for the personal medical use of the qualifying patient. If a person is both a qualifying patient and a designated provider for another qualifying patient, the person may possess no more than twice the amounts described in RCW 69.51A.210 for the qualifying patient and designated provider, whether the plants, marijuana concentrates, marijuana-infused products, or useable marijuana are possessed individually or in combination between the qualifying patient and his or her designated provider.

- (d) Criminal penalties may be imposed on persons guilty of possession of marijuana plants, marijuana concentrates, marijuana-infused products, or useable marijuana as described below:
 - (1) Possession of more than the limits authorized under subsections (b) and (c) of this section is a crime.

 - (2) No person under the age of twenty-one (21) may possess marijuana in any amount unless he or she is a qualifying patient with a valid recognition card and possesses

only amounts consistent with his or her authorization and no more than the limits set forth in RCW 69.51A.210. A violation of this subsection by a person at least age eighteen (18) but less than twenty-one (21) is a crime, which is punishable by imprisonment of not more than ninety (90) days, or by a fine not to exceed one thousand dollars (\$1,000) or both. A violation of this subsection by a person under the age of eighteen (18) is punishable by one or more of the following:

- (i) zero to thirty (0-30) days of confinement;
 - (ii) zero to twelve (0-12) months of community supervision;
 - (iii) zero to one hundred fifty (0-150) hours of community restitution;
 - (iv) a fine not to exceed five hundred dollars (\$500); or
 - (v) a drug treatment alternative approved by the Spokane Tribal Court.
- (e) Unless otherwise authorized by resolution of the Spokane Tribe or tribal law, a person cannot use marijuana in any public place, or possess marijuana within public view. Public view includes, but is not limited to: carrying marijuana in an open shirt pocket, an open purse, on the body of a person visible to the public, etc. Public places include, but are not limited to: tribal schools, tribal parking lots, tribal governmental vehicles, tribally-owned open spaces, tribal businesses and enterprises, tribal governmental offices, and tribal medical clinics. Any violation of this subsection will constitute a civil infraction punishable by a fine not to exceed fifty dollars (\$50).

Legislative History: Adopted 09/22/20, Resolu. 2020-411.

13-6.02 Marijuana Production, Processing, and Sale.

- (a) No person may plant, grow, produce, cultivate, or process marijuana in any form, including those defined in §13-6.01, within the boundaries of the Spokane Indian Reservation or on tribal lands, for personal or commercial use, absent an exception contained in this Chapter.
- (b) No person may sell marijuana, marijuana concentrates, marijuana-infused products, or useable marijuana within the boundaries of the Spokane Indian Reservation or on Spokane tribal lands, absent an exception expressly contained in this Chapter.
- (c) Any violation of this section is a crime.
- (d) The provisions contained in §13-4, §13-5.01, §13-6.01 §13-6.02 are not applicable to commercial marijuana activity authorized and conducted pursuant to Chapter 54 of the Spokane Law and Order Code.
- (e) The provisions contained in §13-4, §13-5.01, §13-6.01 and §13-6.02 are not applicable to persons or entities and the employees, agents, or vendors of any person or entity engaged in commercial marijuana activity authorized and conducted pursuant to Chapter 54 of the Spokane Law and Order Code.
- (f) Notwithstanding the provisions contained in §13-4, §13-5.01, §13-6.01 and §13-6.02, beginning September 22, 2020, a qualifying patient who is eighteen (18) years of age or older or a designated provider may grow, in his or her domicile, marijuana plants for the

personal medical use of the qualifying patient as follows:

- (1) Prior to growing any marijuana plants for medical use under subsections (2), (3), or (4), the qualifying patient or designated provider must file and maintain with the Spokane tribal police:
 - (i) a copy of the qualified patient's valid authorization;
 - (ii) except as to subsection (4), a copy of the qualified patient's and, if applicable, designated provider's valid recognition card;
 - (iii) the address of the domicile where the plants will be grown; and
 - (iv) the number of plants to be grown.
- (2) A qualifying patient or designated provider with a valid authorization from a health care professional that has been entered into the medical marijuana database and a valid recognition card may grow, in his or her domicile, up to six (6) plants for the personal medical use of the qualifying patient and possess up to eight (8) ounces of useable marijuana produced from his or her plants in his or her domicile. These amounts must be specified on the recognition card that is issued to the qualifying patient or designated provider.
- (3) If the health care professional determines that the medical needs of a qualifying patient exceed the amounts provided for in subsection (2) of this section, the health care professional must specify on the authorization that it is recommended that the patient be allowed to grow, in his or her domicile, up to fifteen (15) plants for the personal medical use of the patient. A patient so authorized may possess up to sixteen (16) ounces of useable marijuana in his or her domicile. The number of plants must be entered into the medical marijuana authorization database and specified on the recognition card that is issued to the qualifying patient or designated provider.
- (4) If a qualifying patient or designated provider with an authorization from a health care professional has not been entered into the medical marijuana authorization database, he or she may grow, in his or her domicile, up to four (4) plants for the personal medical use of the qualifying patient and possess up to six (6) ounces of useable marijuana in his or her domicile.
- (5) Notwithstanding any other provision of this chapter and even if multiple qualifying patients or designated providers reside in the same housing unit, no more than fifteen (15) plants may be grown or located in any one housing unit.
- (6) Notwithstanding any provision of this chapter, no marijuana plants may be grown in any U.S. Department of Housing and Urban Development ("HUD") housing unit, tribal rental property or any other property designated by Tribal Council.
- (7) Qualifying patients or designated providers may extract or separate the resin from marijuana using only the following noncombustible methods:
 - (i) heat, screens, presses, steam distillation, ice water, and other methods without employing combustible solvents or gases to create kief, hashish, or bubble hash;

- (ii) dairy butter, cooking oils or fats derived from natural sources, or other home cooking substances;
 - (iii) food grade glycerin and propylene glycol solvent-based extraction;
 - (iv) CO2 may be used if used in a closed loop system as referenced in WAC 314-55-104, or as amended.
- (8) Neither the production nor processing of marijuana or marijuana-infused products pursuant to this section nor the storage or growing of plants may occur if any portion of such activity can be readily seen by normal unaided vision or readily smelled from a public place or the private property of another housing unit.

Legislative History: Adopted 09/22/20, Resolu. 2020-411.