



SOKAOGON CHIPPEWA COMMUNITY CODES

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CHAPTER 1
TRIBAL GOVERNANCE

1.1 COMMUNITY TRIBAL COURT

1.1.1 Creation of the Court. There is hereby established the Sokaogon Chippewa Community Tribal Court.

1.1.2 Jurisdiction of the Sokaogon Chippewa Community Tribal Court. The Tribal Court shall have jurisdiction over.

- A. All actions in which the provisions of the Indian Child Welfare Act of 1978, 24 U.S.C. 1901, et seq., are applicable.
- B. All matters which the Tribal Council of the Sokaogon Chippewa Community, Mole Lake Band invests, by appropriate ordinance, the Court with Jurisdiction.
- C. All actions brought under the provisions of this Code.

1.1.3 Composition of the Sokaogon Chippewa Community Tribal Court.

- A. Judges. The Tribal Court shall consist of one (1) trial judge, one alternate trial judge, and three appellate judges,
- B. Selection of judges.
 - (1) The judges of the Tribal Court shall be selected by a majoring vote of the Sokaogon Chippewa Community Tribal Council at a meeting in which a quorum is present.
 - (2) No person shall be eligible for selection as a judge unless he or she.
 - (a) Is at least twenty-one (21) years of age;
 - (b) Is of good moral character and integrity;
 - (c) Was never convicted of an offense termed a felony by the laws of the State of Wisconsin or of the United States;
 - (d) Has not been convicted within the last twelve (12) months of an offense termed a misdemeanor under the laws of the Sokaogon Chippewa Community, the United States, or the State of Wisconsin;
 - (e) Is capable of preparing papers and conducting hearings incident to the office of judge, and
 - (f) Has demonstrated knowledge of the Sokaogon Chippewa Community Tribal Code and Ordinances and understanding of federal and State laws.
- C. Terms of office. Each judge shall hold office for a period of three (3) years, unless sooner removed for cause, or by reason of resignation, death, or incapacitation. A judge shall be eligible for reappointment.

1.1.4 Disqualification and Removal of Judges.

- A. Disqualification.
 - (1) The trial judge shall be disqualified to sit on any case in which he or she has any direct interest, is or has been a pre-trial witness, or is so related to a party as to render it improper for him or her to preside at the trial proceedings. Upon disqualification, the alternate trial judge shall sit on the case.

(2) An appellate judge shall be disqualified to hear the appeal in any case, in which he has any direct interest, or has been a witness at trial, or is so related to a party to render it improper for him or her to hear the appeal. Upon disqualification, the position of appellate judge will be filled for the purpose of hearing the particular case by the other judge of the Court of Appeals.

B. Removal of judge.

(1) A judge may be suspended from office upon written charges brought for his or her removal, which recite good cause. A hearing shall be provided before the Sokaogon Chippewa Community Tribal Council within ten (10) days of the judge's receipt of written notice of the charges, at which time the judge shall be provided with the opportunity to respond to the charges against him, including the presentation of the testimony of witnesses in his or her behalf. A judge may be removed only for good cause shown at the hearing, and only upon a vote taken by secret ballot of a two-thirds (2/3) majority of the Tribal Council.

(2) Upon the resignation, death or physical or mental incapacitation of a judge, the Sokaogon Chippewa Community Tribal Council shall appoint an individual the remainder of such judge's term of office.

1.1.5 Appointment of Clerks.

A. The Sokaogon Chippewa Community Tribal Council shall appoint such Clerks of Court as may be required, upon such terms and conditions as are determined by the Council.

B. Duties. The clerk shall render assistance to the Court, to tribal enforcement personnel, and to all other persons having business with the Court in drafting complaints, subpoenas, warrants, notices of appeal, and other Court documents. The clerk shall attend and keep written records of all proceedings of the Court, and is authorized to administer oaths to witnesses and to collect fees, fines, forfeitures, costs and other monies. The clerk shall be bonded: in any amount fixed by the Tribal Council, and shall transmit any and all monies received to the Tribal Treasurer.

1.1.6 Tribal Prosecutor. A Tribal Prosecutor shall be appointed by the Sokaogon Chippewa Community Tribal Council for such term and upon such conditions, as determined by the Council. The Prosecutor shall represent the Sokaogon Chippewa Community Band of Mole Lake before the Court in all appropriate proceedings.

1.1.7 Rules of Court. The time and place of Court sessions, and all rules of Court procedure not prescribed by this Code, shall be established by rules of man adopted by the judges on the Tribal Court, subject to the approval of the Tribal Council.

1.1.8 Traditional Peacemaking Court. General Provisions:

A. Purpose & Construction.

(1) These rules are meant to provide formal support, structure and enforcement to Traditional Chippewa methods of resolving disputes through mediation and the use of traditional ways.

(2) These rules shall be interpreted liberally and informally with the goal of providing a fair, informal, inexpensive and traditional means of resolving disputes. The rules shall be used and applied in as close accordance with Chippewa tradition and custom as possible.

B. Establishment. The Traditional Peacemaking Court of Sokaogon Chippewa Community is hereby established as a branch of the Tribal Court.

C. Composition. The Traditional Peacemaking Court of Sokaogon Chippewa Community shall be comprised of one or more Tribal Judge who shall serve as a Peacemaker and be principally responsible for the administration and management of Peacemaking meeting, separate from their duties as a Judge for the Tribal Court. Peacemakers shall be appointed by the Tribal Court for regular terms of service of no less than six (6) months. Within one month of appointment each member of Peacemaking Court shall provide certification to the Tribal Court Clerk that they have received training in Peacemaking or Mediation.

D. Subject Matter Jurisdiction.

(1) Referral: A judge of the Tribal Court may refer any case to the Traditional Peacemaking Court where the matter in dispute is within the jurisdiction of the Tribal Court according to its jurisdictional requirements.

(2) Original Jurisdiction:

(a) The Traditional Peacemaking Court shall have original jurisdiction over a dispute if all parties involved agree to peacemaking and request to appear before the Traditional Peacemaking Court.

(b) If provided for by statute a case may begin in the Traditional Peacemaking Court.

E. Personal Jurisdiction. The Traditional Peacemaking Court does not have the power to compel persons within the jurisdiction to appear and participate in Peacemaking, unless provided so by another ordinance or statute.

F. Powers of the Peacemaking Court

(1) While serving in their official capacity Peacemakers shall have the same immunities as Tribal Court judges.

(2) Peacemakers shall have the power to:

(a) Mediate disputes among persons involved in the Traditional Peacemaking Court;

(b) Use Tribal religious or other traditional ways of mediation and community problem-solving;

(c) Instruct or counsel individuals on the traditional tribal teachings or values relevant to their problem or conduct;

(d) Involve third parties whose skills, abilities, knowledge, or experience may be helpful in creating a voluntary resolution of the dispute;

(e) Involve third parties not listed in the original complaint or action who have an interest in the dispute and whose support will be needed to successfully implement any peacemaking agreement;

(f) Encourage persons involved in a dispute, affected by it or in any way connected with it to meet to discuss the problem being worked on and to participate in all necessary peacemaking efforts;

(g) Use any reasonable means to obtain the peaceful, cooperative and voluntary resolution of a dispute subject to peacemaking. No force, violence or the violation of rights secured to individuals by Tribal law or custom will be permitted.

G. Limitation of Authority. Peacemakers shall only have the authority to use traditional and customary methods to mediate disputes and obtain the resolution of problems through agreement. Peacemakers shall not have the authority to decide a disputed matter unless all parties to the dispute agree to such authority in writing.

H. Agreements Enforceable as Tribal Court Judgments. Any agreement reached through Peacemaking shall have the effect of a court judgment when entered by the Tribal Court.

I. Duties of Peacemakers. Where Peacemaking sessions are conducted pursuant to a referral from Tribal Court, or by the request of all parties involved a member of the Traditional Peacemaking Court will informally contact the parties to the dispute and any other persons involved and make other necessary arrangements to conduct peacemaking sessions. The Traditional Peacemaking Court may conduct a reasonable number of sessions in an attempt to achieve peacemaking efforts using procedures and techniques which are accepted in the community. Where the parties involved accept or practice a given religious belief, discipline or teaching, the accepted methods and teaching of that religious way may be used.

J. Confidentiality and Reports to Tribal Court.

(1) Except as set forth below all proceedings of the Traditional Peacemaking Court shall be confidential, and all parties to Peacemaking and any other person or entity that may come before the Traditional Peacemaking Court shall agree not to disclose matters discussed before the Traditional Peacemaking Court except when necessary to preserve the life, liberty or safety of another.

(2) Any statement made during Peacemaking shall be considered privileged and shall not be used as evidence in any other proceeding.

(3) Where the Peacemaking sessions were pursuant to a referral from Tribal Court or where required by other ordinance, code, or statute, either at the conclusion of the Peacemaking or at such time as the Peacemaker finds there can be no resolution of the matter, the Traditional Peacemaking Court shall report the results of Peacemaking to the Court. The report must be in writing, and shall be maintained in the Court file.

1.1.9. Peacemaking Procedure.

A. Requests for Peacemaking. Any individual may ask the assistance of the Traditional Peacemaking Court by filing a written request with the Tribal Court Clerk or by contacting a member of the Traditional Peacemaking Court directly. The request may be informal and hand-written, and it may be made either on a form provided by the Tribal Court or in any writing which gives the court the following information:

(1) The name and address of the person who requests the use of the Peacemaker System;

(2) The names of the persons involved in the dispute (parties), and their mailing addresses and their place of residence;

(3) The reason the individual wants to use the Traditional Peacemaking Court and a short statement of the problem involved;

(4) The names and addresses of each person who should be contacted by the Traditional Peacemaking Court and involved in the peacemaking;

(5) Information showing the status of each of the individuals involved as either Indian or non-Indian and tribal affiliation and membership, if any; and

(6) A joint declaration by the parties that they consent to participating in the Peacemaking process.

B. Fees and Costs

(1) The parties who request Peacemaking, at the time of making the request to use the Traditional Peacemaking Court pay the sum of \$50.00, \$25.00 from each party, to the Tribal Court Clerk. The Clerk of Court shall use such fees exclusively for the Traditional Peacemaking Court.

(2) All parties in the Traditional Peacemaking Court shall be responsible for any actual expenses incurred in the matter including but not limited to: copying fees, costs of notices or publication, and any assessments or fees necessary to resolution of the matter. Such costs shall not include hourly wages for Court staff. The final Peacemaking Agreement shall determine how such costs are distributed amongst the parties.

1.1.10 Transfer of Cases From Tribal Court to the Traditional Peacemaking Court.

A. General Policy. Any civil or criminal actions in the Tribal Court, not listed in subsection (B) may be referred to the Peacemaking Court in accordance with this Part, where it is in the interests of justice to make such a transfer and where all parties agree to transfer.

B. Cases Not Eligible for Transfer. Cases involving violations of hunting or fishing ordinances, traffic violations, or Children in Need of Protective Services may not be transferred to the Traditional Peacemaking Court.

C. Requests and Objections.

(1) Any party can request transfer of their case to Traditional Peacemaking Court.

(2) Any party can by objection prevent transfer of their case to Traditional Peacemaking Court.

(3) The written consent of all parties must be obtained by the Tribal Court prior to transferring a case to the Traditional Peacemaking Court. Parties cannot withdraw their consent to transfer absent a showing by clear and convincing evidence in Tribal Court that their consent was obtained by fraud or undue influence.

(4) Non-parties can neither request nor prevent transfers to the Traditional Peacemaking Court, except in criminal matters where the non-party was the victim of the crime in question, in which case they shall be treated as a party for purposes of Peacemaking.

(5) When a case is referred pursuant to this section, the Tribal Court still maintains jurisdiction over the case. If the Peacemaking process does not produce an agreement or resolution, then Tribal Court proceedings may continue.

D. Civil Matters. Civil actions may be referred to Peacemaking Court with the written stipulation of all the parties to the action.

E. Mandatory Referral to Peacemaker System. Notwithstanding the consent provisions above if the Trial Judge assigned to any civil case decides that the parties would benefit from Peacemaking, the judge may order that the parties spend at least one (1) hour in a Peacemaking session with Peacemaking Court to see if the parties can resolve their case.

F. Criminal Matters. Any criminal matter within the Jurisdiction of the Sokaogon Chippewa Tribal Court may be transferred to the Peacemaking Court, upon consent of the parties, where:

(1) The case does not involve injury to person or property; or

(2) Where the victim to the alleged offense consents; or

(3) Where there is a plea or conviction of guilt and peacemaking would be an appropriate condition of probation for achieving harmony and reconciliation with the victim and the community.

G. Juvenile Matters. In accordance with the Sokaogon Chippewa Juvenile Code, and the Sokaogon Chippewa Educational Code, the Traditional Peacemaking Court may have original jurisdiction over Juvenile Delinquency and Educational Neglect cases, as outlined in those Codes. Should the parties fall to reach a Peacemaking Agreement, breach a Peacemaking Agreement, or if the parties elect to have their case transferred to the Tribal Court, the Tribal Court shall then have jurisdiction over the case in question.

H. Duties of Clerk of Tribal Court. The Clerk of Court will assist parties before the Traditional Peacemaking Court by providing information about the Traditional Peacemaking Court, assisting individuals in filling out requests, assisting the Peacemakers in making reports, and in giving whatever kind of assistance individuals may need to make the Traditional Peacemaking Court effective and to carry out the intent of these rules.

I. Notice to Begin Proceedings. Notice of Peacemaking shall be provided by the Clerk of Court, who shall send copies of the request and order to the named Parties by personal service or first class mail not less than ten days prior to the scheduled meeting of the Peacemaking Court.

1.1.11 Actions by the Tribal Court.

A. Judgments. Where the parties before the Traditional Peacemaking Court reach a final Peacemaking Agreement they may present a draft judgment to the Tribal Court for its consideration. The Court may enter judgment only when the following conditions have been met:

- (1) The Court has jurisdiction over the parties and the subject matter of the agreement;
- (2) All necessary parties have actual knowledge of the proposed judgment and have either agreed to it or have agreed to submit the question to the Peacemaking Court for a decision;
- (3) The judgment contains the complete agreement of the parties and contains sufficient information regarding the full agreement so a dispute as to the provisions of the judgment is not likely to arise in the future;
- (4) The purposed judgment is otherwise proper and enforceable by the Court.

B. Method of Presenting Proposed Judgment. The parties need not be represented by counsel, and the Court may make its written judgment following an informal oral conference with the parties.

C. Form of Judgment. All judgments must contain the following information:

- (1) The names and jurisdictional information with regard to each party (i.e. residence, consent to jurisdiction, etc.);
- (2) A statement of the fact that all necessary parties to the dispute have actual knowledge of it and that they have all agreed to the proposed judgment;
- (3) If the dispute was resolved by the agreement of all the parties that it would be submitted for the Peacemaker's decision, a statement of that fact;
- (4) A statement that the judgment is based upon Peacemaking Court;
- (5) A general description of the dispute; and
- (6) The actual judgment of the Tribal Court.

D. Enforcement of Judgment. A judgment of the Tribal Court upon a Peacemaking Agreement may be enforced as any other judgment of the Tribal Court may be enforced.

1.1.12 Conduct of Peacemakers.

A. General Standards. Peacemakers shall be bound by the Code of Judicial Ethics which apply to the Judges of the Sokaogon Chippewa Tribal Court insofar as such codes are consistent with the nature and purpose of the Peacemaker System. Peacemakers shall not participate in any matter in which they have a personal or financial interest, and they shall conduct themselves with honesty, integrity and in harmony with traditional and customary Tribal ways and in accordance with the guiding Peacemaker principles.

B. Complaints regarding Peacemakers. Complaints against Peacemakers shall be made to the Tribal Court in writing, and such complaints shall be treated as any complaint against a Judge.

1.2 THE SOKAOGON CHIPPEWA COMMUNITY COURT OF APPEALS

1.2.1 Creation of the Sokaogon Chippewa Community Court of Appeals. There shall be a Sokaogon Chippewa Community Court of Appeals consisting of a panel of three (3) judges. The panel shall hear appeals allowed by this Code.

1.2.2 Jurisdiction of the Court of Appeals.

A. Jurisdiction. The jurisdiction of the Court of Appeals shall be limited to review of final orders, sentences, and judgments of the trial Court. On appeal, each case shall be submitted upon the trial record, although the Court of Appeals may, upon proper motion being made, authorize the supplement of the record in order to facilitate the dispensing of justice.

B. Judgment. The Court of Appeals may increase or decrease any sentence in a criminal case; may affirm, modify, vacate, set aside or reverse any judgment, decree or order, or require such further proceedings as may be just in the circumstances.

1.2.3 Procedure for Appeal.

A. Right of appeal. Any party who is aggrieved by any order, sentence or judgment of the trial Court may appeal to the Court of Appeals in the manner prescribed by this Code and by any rules promulgated by the Court of Appeals.

B. Time for taking appeal. Appeal to the Court shall be taken not later than twenty (20) days after the entry of judgment or order appealed. After expiration of the period for timely, appeal, the Court of Appeals may, in its discretion, grant leave to appeal from any order or judgment upon the showing, supported by affidavit, that there is merit in the grounds for appeal and that the delay was not due to appellant's culpable negligence.

C. Service of claim of appeal; fees. Immediately, after an appeal has been filed with the Clerk of Court, a copy of the appeal shall be served by the appellant upon all other parties to the case. Simultaneously with the filing, a filing fee of \$25.00 shall be paid to the Clerk of Court, unless the appellant also files an affidavit of indigence as provided in S.C.C.C. § 1.3.4 in which cases no filing fee shall be required.

D. Form of appeal. The appeal shall state the name of the case, designating the parties in the same order as in the trial Court, stating the ruling which is being appealed, the date it was entered, and the grounds on which the appellant asserts it is in error. The appeal shall be dated and signed by the appellant or his attorney, with a business address plainly written under such signature. A copy of the judgment or order appealed from shall be attached, together with a transcript of the proceeding in the trial Court or any other record made by the Clerk of Court.

E. Bond. The appeal must also be accompanied by a bond, or cash in an amount satisfactory to the trial Court to guarantee payment or satisfaction of the judgment, including costs of the trial Court if that judgment is affirmed on appeal.

1.2.4 Effect of Judgments Pending Review. In any case in which an appeal is made in accordance with the rules of the Court of Appeals and this Code, the judgment or order of the trial shall be stayed pending the hearing of the appeal and the Court of Appeals' final determination of the matter.

1.3 RULES FOR ALL ACTIONS BEFORE THE TRIBAL COURT

1.3.1 General Provisions.

A. Witnesses.

(1) Subpoenas. The trial judge of the Tribal Court shall have the power to issue subpoenas for the attendance of witnesses either on his own motion or on the request of any of the parties to the case. Such subpoena may include direction to produce records and documents in the possession or under the control of the person named in the subpoena. The subpoena shall bear the signature of the judge issuing it.

(2) Service of Subpoena. Service of such subpoena shall be by a member of the Tribe appointed by the Court for that purpose, or by a member of the Tribe's law enforcement staff.

(3) Penalty for failure to comply with subpoena. Failure to obey such subpoena shall be considered willful contempt and shall subject the perpetrator to the Court's remedial powers, which are specified in this Chapter.

(4) Witness fees.

(a) Each witness answering a subpoena shall be entitled to compensation for his or her reasonable expenses actually incurred for meals, loss of wages, childcare, and transportation, at a maximum amount of \$50.00 for each day that a witness is required to be present in court. The fee shall be the responsibility of the party requesting the subpoena, unless such fee is held by the trial judge to constitute court costs.

(b) Witnesses who testify voluntarily shall be paid by the party calling them.

1.3.2 Records of Court. The trial Court and the Court of Appeals shall keep, for public inspection, unless specifically excepted by this Code, a record of all proceedings in the Tribal Court, showing: The title of the case; the names and addresses of the parties, attorneys, and witnesses; the substance of the complaint; the day of the hearing or trial, the name(s) of the judge; the findings of the Court and the judgment; and any other facts or circumstances deemed of importance to the case.

1.3.3 Practice Before the Court.

A. Admission to practice. No attorney or lay spokesman shall represent any person in an action before the Tribal Court unless such attorney or spokesman is duly admitted to practice before the Sokaogon Chippewa Community Tribal Court.

B. Procedure for admission.

(1) Any attorney wishing to practice before the Tribal Court shall file a written request for admission with the Clerk of Court, accompanied by a Certificate of Good Standing from the State Bar or Supreme Court of the State in which such attorney is duly licensed to practice law. Such request shall be accompanied by an admission fee of \$75.00.

(2) Any lay spokesman wishing to practice before the Tribal Court shall file a written request for admission with the Clerk of Court, accompanied by an affidavit reciting the qualification of such spokesman to represent another before the Court. Such request shall be accompanied by an admission fee of \$25.00.

C. Roster of attorneys. Upon the filing of the required documents and fee, the Clerk of Court shall enter the attorney or lay spokesman's name on the roster of those persons admitted to practice before the Sokaogon Chippewa Community Tribal Court. Such entry shall constitute certification to practice before the Court until such time as the attorney or lay spokesman shall file a notice of retirement, shall die or become incapacitated, or shall be suspended or disbarred from practice by the Sokaogon Chippewa Community Tribal Court.

1.3.4 Fees and Costs; Waiver or Suspension for Indigents.

A. Suspension of fees for persons receiving public assistance. Any natural person submitting to the Clerk of Court an affidavit that he or she is then receiving any form of public assistance, the payment of all fees and costs as to that person in the action, required to be paid by this Code or by Court rule, shall thereupon be suspended.

B. Waiver or suspension of fees for indigent persons. In instances where the person is not receiving public assistance, the Court shall order waiver of the payment of all fees and costs as to a person in the action, or shall order the suspension of the payment of those fees or costs until the conclusion of the litigation, upon that person submitting to the Court an ex parte affidavit stating facts showing that person's inability to pay those fees and costs because of indigence.

1.3.5 Conduct of Tribal Employees and Officers. No employee or officer of the Sokaogon Chippewa Community, Mole Lake Band shall obstruct, interfere with or control or attempt to interfere with or control the Court in any manner, directly or indirectly, or to influence or attempt to influence any Judge of the Court, either directly or indirectly.

1.3.6 Law Applicable to Civil Actions.

A. Laws applied. In all civil actions, the Tribal Court shall apply the applicable laws of the United States, any authorized regulations of the Department of the Interior which may be applicable, any ordinance of the Sokaogon Chippewa Community, Mole Lake Band, and any custom of the Chippewa Tribe not prohibited by the laws of the United States.

B. Tribal customs. Where doubt arises as to the customs and usages of the Chippewa Tribe, the Tribal Court shall request the advice of persons familiar with these customs and usages.

1.3.7 Costs.

A. Assessment. The Court may assess the accruing costs of the case against the party or parties against whom judgment is given. Such costs shall consist of the expenses for voluntary witnesses for whom either party is responsible under Section 1.3.1 (D), and any further incidental expenses connected with the procedure before the Court, as the Court may direct.

B. Enforcement. Costs, where allowed, shall be included as part of the final judgment and enforced in the same manner.

1.3.8 Proceedings Before the Tribal Court

A. Statement of Claim.

(1) Contents. The statement of claim, by which a proceeding is instituted in the trial Court, shall be in the form of an affidavit, the form of which will be provided by the Clerk of Court. The nature and the amount of the claim shall be stated in concise, non-technical language and shall give the date or dates when the claim arose,

(2) Signature. The affidavit shall be signed by:

- (a) The plaintiff, or his guardian, if the plaintiff is an individual;
- (b) Any partner, if the plaintiff is a partnership;
- (c) Any full-time employee having knowledge of the facts, if the plaintiff is a corporation; and
- (d) By the Tribal Prosecutor or tribal enforcement personnel, if the plaintiff is the Tribe.

B. Notice to defendant; answer.

(1) How served. Upon the filing of the statement of claim, the plaintiff shall cause a copy thereof to be served upon each defendant residing on the reservation, together with a notice prepared by the Clerk of Court to each defendant to appear and answer before the Court. It shall also be the plaintiff's responsibility to serve copies of the statement of claim and notice to each defendant not residing within the exterior boundaries of the reservation.

(2) Contents. The notice issued by the Clerk of Court shall inform the defendant that suit has been instituted against him in the Sokaogon Chippewa Community Tribal Court and specify that he must answer to the claim against him within the proper time period as specified herein, or have a default judgment entered against him.

(3) Answer. A defendant shall file his answer within twenty (20) days after service of the notice and copy of the statement of claim upon him on the reservation. When service is made on a defendant residing outside the reservation boundaries, the defendant shall have thirty (30) days within which to file his answer. The defendant must furnish the plaintiff with a copy of his answer.

(4) Notice not served. If it shall appear to the trial Court that the defendant did not personally obtain notice of the claim against him, the court shall dismiss the action.

(5) Trial date. Upon the filing of defendant's answer, or upon the expiration of the time period within which defendant must answer, the trial Court shall set a date for trial.

C. Settlement Form. The parties prior to the hearing may make a settlement upon such terms as they may agree. The settlement shall be in writing and signed by both parties. Upon filing with the Clerk of Court, the settlement shall be considered the judgment of the Tribal Court.

D. Conduct of trial.

(1) Appearance. If the parties appear, the judge shall conduct the trial in an informal manner so as to do substantial justice between the parties. Generally accepted rules of practice, procedure, pleading and evidence will be followed to the extent that substantial justice requires. A verbatim transcript of such proceedings need not be made, unless it is requested by one of the parties. The requesting party shall be responsible for the costs of preparing the verbatim transcript.

(2) Non-appearance. If a defendant fails to appear, Judgment may be entered by default where the claim is for a certain sum, or upon such proof by the plaintiff as the court may require, If the plaintiff fails to appear, the claim may be dismissed for want of prosecution, or the defendant may present his defense and obtain a judgment, or the case may be continued, as the court may direct. If all parties fail

to appear, the claim may be dismissed for want of prosecution, or the court may order such other disposition as justice may require.

E. Judgments; procedure.

- (1) Conclusiveness. All judgments of the Tribal Court shall be conclusive upon the plaintiff and defendant.
- (2) Entry. Judgment shall be entered in the judgment record at the time of the judge's pronouncement of his decision.
- (3) Effect. Entry of a judgment on the judgment record entitles the prevailing party to enforcement by the Tribal Court of its terms. A judgment for a sum certain may be enforced by writ of execution against property of the losing party that is located within the exterior boundaries of the Sokaogon Chippewa Community reservation.
- (4) Installment payments. Upon the request of the party against whom judgment is entered, which can be made orally at the time of the hearing or by petition, and after such inquiry as the judge deems proper, the judge may order for the payment of such judgment by installments, in such amounts and such times as the judge deems just and reasonable. Such order shall also provide for a stay of further proceedings to collect the judgment during said party's compliance with the order.
- (5) Stay of judgment. The filing of an appeal with the Sokaogon Chippewa Community Court of Appeals, pursuant to the requirements of Chapter II of this Code, shall prevent the enforcement of the judgment of the trial court when and if the notice of such appeal is filed with the Clerk of Court.

F. Court enforcement of judgment.

- (1) Failure to pay judgment. If the losing party fails to pay the judgment according to the terms and conditions thereof, and the time for appeal has expired, the Clerk of Court, upon application of the prevailing party, shall certify such judgment to the Tribal Court.
- (2) Power of the Court. Upon receipt of the certified judgment, the Tribal Court may issue a writ of execution, which shall command tribal enforcement personnel to collect the amount of judgment from the losing party. The Tribal Court may instead issue a subpoena to the losing party, ordering him to appear before the Court at a time and place specified and to testify under oath concerning his property, or any debts due or to become due to him, his place of employment, name of employer and the amount of wages received, and other pertinent matters that would enable the prevailing party to collect the judgment.
- (3) Writ of execution. Upon receipt of the writ of execution, the tribal enforcement personnel shall serve the writ upon the losing party, and post notice of the writ in the tribal office. Within thirty (30) days, the tribal enforcement personnel shall cause a sale of the losing party's personal property, located within the exterior boundaries of the Sokaogon Chippewa Community reservation, which shall have been in the custody of the enforcement personnel until such sale. The proceeds of the sale shall be returned to the Tribal Court within the thirty (30) days above prescribed. The Tribal Court shall follow the provisions in S.C.C.C § 1.4.29, concerning disposition of such property.
- (4) Stay of writ. The losing party may prevent the issuance of a writ of execution, or of judicial sale, by presenting to the Tribal Court sufficient proof that said party has made, or is willing to commence, payment of the judgment to the prevailing party. Upon such proof, the Tribal Court shall not issue a writ of execution, and, if one has been issued, shall rescind the order.

(5) Property exempt from execution. The following property shall be exempt from levy and sale under any execution:

(a) All household goods, furniture, utensils, books and appliances, not exceeding \$1,000.00 in value;

(b) All wearing apparel of every person in the judgment debtor's household, and provisions and fuel for comfortable subsistence of each householder and his family for six (6) months;

(c) The tools, implements, materials, stock apparatus, or other things needed by the judgment debtor to carry on his profession, trade, occupation, or business in which he is principally engaged, not exceeding \$1,000.00 in value;

(d) A dwelling home and appurtenances thereto, owned in fee and occupied by the judgment debtor, not exceeding \$6,000.00 in value. This exemption does not apply to any mortgage on the homestead which is recorded at the Agency Office of the Bureau of Indian Affairs;

(e) The dwelling home of a family, after the death of the owner thereof, from the payment of his or her debts during the minority of his or her children.

1.3.9 Fees. A fee of \$20.00 shall be charged and collected for the filing of the affidavit for the commencement of any action, unless a different sum is specified by a particular ordinance of the Sokaogon Chippewa Community Tribal Council or by another Chapter of this Code. A fee of \$2.00 shall be charged for each defendant to whom a copy of the affidavit is mailed or served by the Clerk. A fee of \$10.00 shall be charged and collected for the issuance of a writ of execution.

1.3.10 Jurisdiction of the Tribal Court.

A. The person or organizational entity entitled to any premises located within the exterior boundaries of the Sokaogon Chippewa Community reservation may recover possession thereof by summary proceedings in the following cases:

(1) When a person holds over any premises, after failing or refusing to pay rent due under the lease or agreement by which he holds, within seven days of a written demand for possession for nonpayment of rent due;

(2) When a person in possession willfully or negligently causes a serious or continuing health hazard to exist on the premises, or causes extensive and continuing physical injury to the premises which was discovered by the party seeking possession not earlier than ninety (90) days before the institution of proceeding under this section, or refuses for seven (7) days after a written demand to undertake the repair of the premises;

(3) When the person in possession has acted or failed to act in a manner which a written lease or agreement with the party seeking possession; or causes his right to continued possession to be forfeited under the terms of a written lease or agreement with the party seeking possession; or

(4) When the person in possession occupies public housing whose tenancy or agreement has been terminated for just cause as provided by the lawful rules of the local housing commission or by federal law or regulation.

B. Summary proceedings under this section are the exclusive of one seeking possession of any leased or rented premises. Any person who makes entry into or on such premises to evict a tenant without the above proceedings may subject himself to criminal penalties.

1.3.11 Demand for Possession or Payment. A demand for possession or payment shall be in writing, addressed to the person in possession and shall give the address or other brief description of the

premises. The reasons for the demand and the time to take remedial action shall be clearly stated. When nonpayment of rent or other sums due under the lease is claimed, the amount due at the time of the demand shall be stated. The demand and shall be dated and signed by the person or corporation entitled to possession.

1.3.12 Complaint. The complaint shall be in the form of an affidavit, the form for which will be provided by the Clerk of Court. It shall include, where applicable, the amount of unpaid rent or other money due and remaining unpaid as of the date of the affidavit, and the date the same become due, the rental rate and the rental period, and specific reference to local housing commission rules, or to federal law, which establish the basis for just cause for terminating a tenancy in housing operated by the Tribe. In addition, the affidavit shall have attached thereto a copy of the demand for possession or payment. The affidavit shall be signed by the plaintiff or his guardian, if the plaintiff is an individual or by any full-time employee having knowledge of the facts, if the plaintiff is a corporation.

1.3.13 Notice.

A. How served. Upon filing of the affidavit, the Clerk shall cause a copy thereof to be served upon each defendant, together with a notice to appear and answer before the trial judge of the Tribal Court.

B. Contents.

(1) The notice shall inform the defendant when and where to appear, that he is to bring with him all books, papers, and witnesses needed to establish his defense and that failure to appear will result in judgment against him for the relief asked for in the affidavit.

(2) The plaintiff also shall be notified by the Clerk of Tribal Court to appear at the time and place specified, and to have with him his books, papers, and witnesses necessary to prove his claim, and that if he fails to appear, the complaint will be dismissed.

C. Time of notice. The date for the appearance of the defendant provided in the notice shall be within five (5) days of the date of the notice.

1.3.14 Defenses. A judgment for possession of the premises for an alleged termination of the tenancy shall not be entered against the defendant if any of the following is established:

A. That the rent allegedly due and payable has been paid to the plaintiff by the defendant prior to or at the hearing;

B. That the alleged termination was intended primarily as a penalty for the defendant's attempt to secure or enforce rights under the lease or agreement; or

C. That the alleged termination was of a tenancy in housing operated by the Tribe, and was terminated without cause.

1.3.15 Conduct of Trial

A. Appearance. If the parties appear, the judge shall conduct the trial in an informal manner so as to do substantial justice between the parties. There need not be made a verbatim transcript of the proceedings.

B. If the defendant fails to appear, judgment for the plaintiff shall be entered by default. If the plaintiff fails to appear, the complaint shall be dismissed.

1.3.16 Counterclaims; Claims for Money Judgment. If either party has a claim for a money judgment, the trial judge may grant such party leave to file such claim and to hear evidence concerning

it at the hearing, if the interests of justice are served thereby. The rules of Subsection 2 of this Chapter apply to any such claim so filed.

1.3.17 Judgment for Plaintiff. If the judge finds that the plaintiff is entitled to possession of the premises, judgment shall be entered in the judgment record in accordance with that finding, and may be enforced by a writ of restitution as provided herein. If it is found that the plaintiff is entitled to possession of the premises, due to nonpayment of any money due him under the tenancy, the judge shall determine the amount due or in arrears at the time of hearing and shall cause it to be stated in the judgment. The statement in the judgment for possession shall only be for the purpose of prescribing the amount, which, together with costs, shall be paid to preclude issuance of a writ of restitution.

1.3.18 Writ of Restitution. A writ of restitution may be issued, commanding tribal law enforcement personnel to cause the plaintiff to be restored and put in full possession of the premises if the following conditions are met to the judge's satisfaction.

A. The tenant, willfully or negligently, is causing a serious and continuing health hazard to exist on the premises or is causing extensive and continued injury to the premises and is neglecting or refusing to deliver possession after demand or to substantially repair the premises, or

B. The defendant has failed to comply with the judgment, or to undertake compliance, within ten (10) days after entry of a judgment under S.C.C.C. §1.3.22.

1.3.19 Judgment for Defendant. If the plaintiff fails to prosecute his complaint, or if upon hearing the plaintiff is found not entitled to possession of the premises, judgment shall be rendered to defendant for his costs.

1.3.20 Fees.

A. Filing fee. When the complaint is for recovery of possession only, the fee for filing an affidavit shall be \$15.00. When a claim for money judgment is joined, the plaintiff shall pay a supplemental filing fee of \$10.00.

B. Fee for writ of restitution. A fee of \$5.00 shall be charged for each writ of restitution or execution issued.

1.4 CIVIL REMEDIAL FORFEITURE PROCEEDINGS

1.4.1 Purpose. The purpose of this Section is to provide for civil remedial forfeitures of money penalties and property for violation of tribal regulatory ordinances. The remedial measures of this Chapter are civil in nature and are designed and intended to encourage compliance with tribal regulatory ordinances and to compensate the Tribe for damage to the peace, security, welfare, or resources of the Sokaogon Chippewa Community reservation. Said measures are not designed or intended to punish persons for breach of tribal regulatory ordinances.

1.4.2 Party Plaintiff. Any proceeding instituted in Tribal Court under this Chapter shall be brought in the name of the Sokaogon Chippewa Community, Mole Lake Band, as plaintiff.

1.4.3 Persons Subject to this Chapter. Any person who is concerned in the commission of a violation remediable under this Article is a principal and may be adjudged to have committed the violation although such person did not directly commit it and although the person who did directly do so has not been subjected to the remedial provisions of this Article. A person is concerned in the commission of a violation if such person:

A. Directly commits the violation;

- B. Aids and abets the commission of the violation; or
- C. Is party to a conspiracy with one or more others to commit the violation or advises, hires, counsels, or otherwise procures another to commit the violation.

1.4.4 Additional Remedies. The civil remedial forfeiture remedies governed by this Chapter are not mutually exclusive remedies of the Tribe for violation of its ordinances. Nothing in this Chapter shall restrict or curtail the right of the Tribe to prosecute or seek the criminal prosecution of any defendant or owner or to institute a civil action for damages in any court against a defendant or owner. In addition to the civil remedies provided in this Chapter, the Tribal Court may order a defendant or owner to perform or refrain from performing such acts as may be necessary fully to protect the Tribe, its members, its property, or its natural resources. The Tribal Court may order abatement of a nuisance, restoration of a natural resource, or other appropriate action designed to eliminate or minimize damage caused by a defendant or owner.

1.4.5 Civil Remedial Money Penalties.

- A. Tribal ordinances affected. Whenever any ordinance of the Sokaogon Chippewa Community shall provide for a civil remedial money penalty for the breach of such ordinance by any person, the Tribe shall proceed against such person according to the procedures set forth in this Part. The provisions of the other Chapters of this Code shall apply to proceedings instituted pursuant to this Part, to the extent not inconsistent herewith.
- B. Institution of proceedings; citation. Proceedings for the recovery of a civil remedial money penalty shall be instituted by the issuance of a citation by an enforcing officer. Whenever said officer has reason to believe that a person subject to tribal authority has committed a breach of a tribal ordinance, which provides for a civil remedial money penalty, such officer shall issue a citation to such person, and file a copy with the Tribal Court.
- C. Notice to alleged violator; jurisdiction. The issuance of a citation by an enforcing officer in connection with a breach of a tribal ordinance is sufficient notice to the alleged violator that he is charged with a breach, and is adequate process to give the Tribal Court jurisdiction over the person allegedly violating the ordinance upon the filing of such citation with the Court.
- D. Citation contents. The citation shall contain a complaint, a case history, and a report of court action on the case. It must appear on the face of the citation that there is a reasonable basis to believe that a breach of an ordinance has been committed and that the person charged (defendant) has committed the breach. The citation form shall contain the following:
 - (1) The name of the person to whom the citation was issued, together with the person's age and address, if available;
 - (2) The tribal permit or license number of the defendant, if applicable;
 - (3) The name and tribal department of the issuing officer;
 - (4) The breach alleged, the time and place of occurrence, a statement that the defendant committed the breach, the ordinance provision charged, and a description of the breach in language which can be easily understood;
 - (5) The maximum civil remedial money penalty for which the defendant might be found liable;
 - (6) A date, time, and place for the Tribal Court appearance, and a notice to appear;
 - (7) Provision for a deposit and stipulation of default in lieu of court appearance;

- (8) Notice that if the defendant fails to appear at the time fixed in the citation, what he will be defaulted and judgment entered against him in an amount up to the maximum penalty;
- (9) Notice that if the defendant makes a deposit and stipulation of default, judgment will be entered against him in the amount of the deposit; and
- (10) Any other pertinent information.

1.4.6 Stipulation of Default; Deposit.

A. When made. A defendant to whom a citation is issued, or to whom a Notice of Appear is issued under Section 1.1.1 of this Chapter, may make a deposit and stipulation of default in lieu of a Court appearance at any time prior to the date set for his appearance before the Tribal Court.

B. Amount of deposit. The amount of the deposit shall be determined by an enforcing officer at the time of issuance of the citation, but shall not exceed the maximum penalty established in the Ordinance charged.

C. Effect of stipulation of default. By signing the stipulation of default, the defendant consents to the entry of judgment against him for a penalty not to exceed the amount of the deposit.

D. Acceptance of the deposit and stipulation. The Clerk of Tribal Court or the enforcing officer issuing the citation shall accept the deposit and stipulation or default and shall prepare a receipt showing the purpose for which the deposit was made, which shall be transmitted to the defendant. In the event that acceptance of the deposit and stipulation is made by an enforcing officer, said officer shall file the stipulation of default and a copy of the receipt with the Clerk of the Tribal Court.

1.4.7 Burden of Proof. In all actions under this Part, the Tribe shall have the burden of showing by a preponderance of the evidence that the defendant breached the Ordinance charged in the citation or, where applicable, the complaint. The Tribe shall not however, be required to show that the defendant intended to breach the Ordinance charged.

1.4.8 Default. Upon the failure of the defendant to appear on the date indicated on the citation or the Notice to Appear, whichever is issued, an entry of default shall be made by the Clerk of the Tribal Court and the Tribal Court may proceed with the hearing and enter judgment pursuant to this Part.

1.4.9 Judgment. If, after the presentation of all the evidence, the defendant is found by the trial judge to have breached the Ordinance charged by a preponderance of the evidence, the Tribal Court shall enter judgment against the defendant and in favor of the Tribe for a monetary amount not in excess of the maximum civil remedial money penalty provided for said breach or, in cases in which a deposit and stipulation of default has been made by the defendant, for an amount not in excess of the amount of deposit. If the judgment is for an amount less than the amount of deposit, the balance shall be returned forthwith to the defendant.

1.4.10 Enforcement of Judgment. All civil remedies are available to enforce the judgment of the Tribal Court, including the power of civil contempt. A judgment shall be a lien upon any available property of the defendant, which is located with the Sokaogon Chippewa Community Reservation or within the jurisdiction of the Tribal Court. When necessary, this Tribe may bring suit in any court on the judgment against the defendant or his property located beyond the jurisdiction of the Tribal Court.

1.4.11 Monies Tendered to the Tribal Court. Deposits and money paid on judgments rendered pursuant to this Part shall be tendered to the Clerk of Tribal Court. Within twenty (20) days after judgment on a deposit or receipt of funds in payment of a judgment, the Clerk shall tender such sums to the Treasurer of the Sokaogon Chippewa Community Tribal Council.

1.4.12 Civil Remedial Forfeiture of Property.

A. Tribal ordinances affected. Whenever any ordinance of the Sokaogon Chippewa Community shall provide for the civil remedial forfeiture of any property for the breach of such ordinance by any person, the Tribe shall proceed against the property according to the procedures set forth in this Part. The provision of other Chapters of this Code shall apply to proceedings to the extent not inconsistent herewith.

B. Institution of proceedings, complaint. Proceedings for the civil remedial forfeiture of property shall be instituted by the filing of a complaint in rem against the property in Tribal Court by an enforcing officer. A complaint shall be filed whenever such officer has a reasonable basis to believe that a tribal ordinance has been breached and that the property is forfeitable under tribal ordinance.

C. Contents of complaint. It must appear on the face of the complaint that there is a reasonable basis to believe that a tribal ordinance has been breached and that the property is forfeitable under said tribal ordinance. The complaint shall contain the following:

- (1) A description of the property against which proceedings are instituted;
- (2) The ordinance provision allegedly breached;
- (3) A description of the breach in language which can be easily understood;
- (4) The name, address, and other pertinent information about the owner of the property, if known, or a statement that the owner of the property is unknown;
- (5) A request for an order from the Tribal Court to seize the property; and
- (6) The name and signature of the complaining enforcing officer.

D. Service of complaint.

(1) Owner of property known. If the owner of the property is identified in the complaint, the complaint and notice to appear at a hearing on an order to seize shall be served on the owner as provided in section 309 of this Code.

(2) Owner of property unknown. If the owner of the property is not identified in the complaint or his present whereabouts are unknown and so recited in the complaint, service shall be made by posting the complaint and notice to appear in the central tribal office and by publication once in a newspaper of general circulation in Forest County. An affidavit of publication and posting shall be filed with the Tribal Court.

E. Seizure of property without order.

(1) Conditions necessary, Property may be seized by an enforcing office prior to the filing of a complaint and issuance of an order to seize if one or more of the following circumstances exist:

- (a) A tribal ordinance authorizes the immediate seizure of the property;
- (b) The property seized presents a danger to persons, property, or a natural resource of the Sokaogon Chippewa reservation; or
- (c) The enforcing officer has a reasonable basis to believe that without immediate seizure, the property will be removed from the jurisdiction of the Tribal Court.

(2) Receipt. A receipt describing the property seized shall be issued to the person in possession of the property at the time of seizure, if such person is present.

F. Seizure of property with order.

- (1) Property subject to seizure. All property alleged to be subject to civil remedial forfeiture may be seized pursuant to an order to seize issued by the Tribal Court.
- (2) Custody of property. Any and all property seized, either under subsection A above, or under S.C.C.C § 1.4.19, shall be held by the Tribal Court pending disposition of the Complaint or until a bond has been posted with the Tribal Court.

G. Bond for property seized.

- (1) Amount of bond. The Tribal Court may release the property to the owner upon the posting of a bond with the Court in the amount and under the conditions which the trial judge determines it necessary to protect the interests of the Sokaogon Chippewa Community, Mole Lake Band. In no event shall the amount of the bond be set at an amount in excess of the fair market value of the property seized.
- (2) Posting of bond; effect. Upon the posting of a proper bond, the property shall be returned to the owner. The bond shall be available to be levied against if the owner does not return the property to the custody of the Tribal Court in proper condition or if the Tribal Court determines after trial that the property is forfeited.

H. Hearing; time.

- (1) Seizure of property without order. When property has been seized prior to the issuance of an order to seize, a hearing on the order to seize shall be held within five (5) working days after said seizure. If the hearing is not held within that time, the property seized shall be immediately returned to its owner, if known.
- (2) Hearing on request for order. The hearing on the order to seize, requesting in the complaint filed with the Tribal Court, shall be heard within thirty (30) days of the filing of the complaint. The date scheduled for hearing shall be included in the Notice of Appear issued to the owner under the provisions of S.C.C.C. § 1.3.9.

I. Hearing Procedure.

- (1) Burden of proof. At the hearing on the order to seize, the Tribe shall have the burden of showing that there is a reasonable basis to believe that:
 - (a) The property is subject to civil remedial forfeiture; and
 - (b) The property is within the jurisdiction of the Tribal Court.
- (2) Evidence; how presented. The parties may present evidence through the testimony of witnesses. Affidavits will be accepted in lieu of testimony if, in the trial judge's discretion, it is determined that the interests of justice would be best served thereby.

J. Order to seize.

- (1) Issuance. If, after the hearing, the trial judge finds that there is a reasonable basis to believe that the property is subject to civil remedial forfeiture under the tribal ordinance alleged in the complaint, and that the property is within the jurisdiction of the Tribal Court, he shall issue an order to seize, directing an enforcing officer to seize the property and hold it pending disposition of the complaint.
- (2) Denial of request to issue order. If, after hearing, the trial Judge finds that there is not a reasonable basis to believe that the property is subject to civil remedial forfeiture under the tribal

ordinance alleged, or that the property is within the jurisdiction of the Tribal Court, he shall dismiss the complaint and, if property was seized prior to the hearing, order the property immediately released.

K. Contents of an order to seize. An order to seize shall contain the following:

- (1) Description of the property subject to the order;
- (2) Date of filing of a proper complaint for forfeiture, and the name and department of the complaining officer;
- (3) A finding that the property is within the jurisdiction of the Tribal Court;
- (4) A finding that there is a reasonable basis to believe that the property is subject to a civil remedial forfeiture, a brief factual narration of the grounds for the finding, and citation to the ordinance allegedly breached;
- (5) Notice of the date, time, and place of trial; and
- (6) Notice that the property may be released by the posting of a proper bond.

L. Service of order to seize. The order to seize shall be served as provided in S.C.C.C. § 1.4.18.

M. Existence of security interests in seized property. The enforcing officer shall make a reasonable effort prior to the hearing on the order to seize to ascertain whether a perfected security interest exists in the property, and if one does exist, shall give notice to the secured party of any hearing in the case, and shall give the secured party a minimum of fifteen (15) days notice of the time and place of any sale conducted pursuant to S.C.C.C. § 1.4.29.

N. Trial.

- (1) Burden of proof. At trial, the Tribe shall have the burden of showing by a preponderance of the evidence that the property is forfeitable under the ordinance charged.
- (2) Failure to meet burden. If the Tribe fails to meet this burden, the Tribal Court shall dissolve the order to seize, enter judgment awarding title to the property to the owner, and order the immediate release of the property or discharge of the bond, whichever is appropriate.
- (3) Effect of meeting burden. If the Tribe shows that the property is forfeitable, the Tribal Court shall dissolve the order to seize, enter judgment awarding title to the property to the Sokaogon Chippewa Community, Mole Lake Band, and place the property in the hands of the Tribe for disposition or, if bond was posted, order the bond forfeited to the Tribe.

O. Sale of forfeited property

- (1) Time. Within thirty (30) days after entry of a judgment forfeiting property to the Tribe, but in no event less than fifteen (15) days after entry, the Tribe shall sell the property at the highest obtainable price.
- (2) Disposition of proceeds. The net proceeds of such sale, after deducting sale expenses, shall be remitted to the Treasurer of the Sokaogon Chippewa Community, Mole Lake Band, who shall place such sums in the Tribe's general account.
- (3) Existence of security interest. If there exists a perfected security interest in the forfeited property, and the breach which occasioned the forfeiture was not committed with the knowledge, consent, or connivance of the secured party, there shall also be deducted from the proceeds of sale the amount due under the security agreement, and such amount shall be paid to the secured party. In the

event a sufficient amount does not remain for such purpose after deducting other sale expenses, any amount remaining shall be paid over.

P. Sale of perishable property. Any perishable property seized pursuant to this Part may be sold by an enforcing officer at the highest available price, and the proceeds of the sale shall be tendered to the Tribal Court to await such disposition of the proceeds, as the Tribal Court shall direct.

1.5 CONSERVATION CODE OF OFFENSES

1.5.1 Conservation Division. While proceeding under this Chapter, the Tribal Court shall be termed the Conservation Division of the Tribal Court.

1.5.2 Jurisdiction of the Conservation Division. The Conservation Division of the Tribal Court shall have jurisdiction concerning acts or omissions prohibited by the Conservation Code and its implementing regulations.

1.5.3 Law Applicable to Conservation Division. In proceeding under the Chapter, the Conservation Division of the Tribal Court shall apply the provisions of the Conservation Code of the Sokaogon Chippewa Community, Mole Lake Band, and its implementing regulations, promulgated by the regulatory body designated by the Tribal Council.

1.5.4 Institution of Proceedings in the Conservation Division.

A. Conservation Complaint. Any person who personally observes an act or omission prohibited by the Conservation Code or its implementing regulations shall file a signed Conservation Complaint with the Clerk of Conservation Division of the Tribal Court which shall set forth plainly the facts which allegedly give rise to a violation of the Conservation Code and its implementing regulations.

B. Citation. Authorized enforcement personnel, as defined in Article 1, Section 1(e) of the Conservation Code, may issue a citation, pursuant to Section 1.4 Subsection I to a person subject to tribal authority who is found to be violating the Conservation Code or its implementing regulations. A copy of such citation shall be filed with the Conservation Division.

1.5.5 Notice to Appear. Upon the filing of a Conservation Complaint, the Conservation Division shall cause a copy thereof to be served upon the alleged violator, together with a Notice to appear and answer before the Division of the Tribal Court within five (5) days of his receipt of said notice. The Notice may be served in person or by registered mail, with a return receipt.

1.5.6 Appearance Before the Conservation Division

A. Answer. At the time of the alleged violator's appearance before the Conservation Division, he shall answer the Conservation Complaint by indicating his intent to contest or not to contest the allegations contained in said Complaint, The alleged violator shall answer the Citation in the manner provided in S.C.C.C. § 1.4 Subsection I.

B. No Contest Answer. If the alleged violator answers "No Contest" the Conservation Division shall then announce its decision as to the penalty to be imposed pursuant to S.C.C.C. § 1.5.10.

C. Contest of complaint. If the alleged violator indicates his desire to contest the allegations contained in the Complaint, the Conservation Division shall then inform him of a date for hearing before the Judge, said date being set to allow sufficient time for him to prepare his defense.

1.5.7 Default. The provisions of this Code in S.C.C.C. §§ 1.3 and 1.4 concerning default shall apply to proceedings before the Conservation Division.

1.5.8 Rights of Alleged Violator. The alleged violator shall have the right, in any proceeding, before, the Conservation Division, to defend himself in person, through a lay advocate, or by counsel at his own expense; to meet the witnesses against him face to face; to have compulsory process served to obtain witnesses in his behalf, and to speedy public hearing.

1.5.9 Order of Hearing Procedure. In all proceedings before the Conservation Division, whether instituted by the filing of a Conservation Complaint or by the filing of a citation, the following procedure shall be followed:

A. Evidence of Tribe. The hearing shall be opened with the evidence in support of the charge of violation presented by the Tribal Prosecutor appearing on behalf of the Sokaogon Chippewa Community, Mole Lake Band. The alleged violator or his legal representative shall have the right to question any witness called to testify by the Tribal Prosecutor.

B. Alleged violator's evidence. The alleged violator, his lay advocate, or his attorney, may then offer evidence in support of his case, The Tribal Prosecutor shall have the right to question any witness called to testify for the alleged violator.

C. Decision of the Conservation Division Judge. After all the evidence has been presented, the Judge shall make his decision as to whether or not the evidence has shown, clearly and convincingly, that a violation of the Conservation Code or its implementing regulations occurred, and that the person charged did perpetrate the violation.

1.5.10 Judgment of the Conservation Division. In addition to the powers to effect judgment conferred on the Tribal Court by other provisions of this Code, the Court may make the following judgments upon finding a violation has occurred.

A. Money judgment. The Conservation Division may enter judgment against the defendant and in favor of the Sokaogon Chippewa Community, Mole Lake Band, for a monetary amount not to exceed \$500.00 and not less than \$20.00. Court costs may also be assessed against the defendant.

B. License revocation. In addition to any monetary judgment the Conservation Division may, in its discretion, revoke the hunting, fishing, trapping or wild rice license of any defendant, when such adjudicated violator has been duly licensed by the Tribe.

1.5.11 Appeal of Decision.

A. Procedure. A defendant found to have violated the provisions of the Conservation Code or of its implementing regulations may appeal that determination to the Court of Appeals under the procedures detailed in Chapter II of the Code.

B. Status pending appeal. During the pendency of the defendant's appeal the determination of the Conservation Division and the penalty imposed as a result thereof shall be in full force and effect. Upon receipt of notice of the defendant's appeal, however, the Conservations Division shall keep secure any property of defendant, which was transferred to the Division in carrying out its judgment.

1.6 TRIBAL MEMBERSHIP

1.6.1 Admission to the Sokaogon Chippewa Community by Adoption.

A. Any person of one-fourth (1/4) or more Indian blood who desires to be adopted as a member of the Sokaogon Chippewa Community shall make application personally or by his or her parent or guardian, to the Sokaogon Chippewa Council. The application shall be in such form and shall contain such information as may be desired by the Council. The Council shall conduct such investigation of

tribal status, degree of Indian blood, and other qualifications of the applicant as the Council may deem necessary in determining the disposition to be made of the application. A copy of such applications for adoption as may be approved by the Council shall be forwarded to the Superintendent of the Great Lakes Indian Agency, so that proper records may be maintained in that office.

B. Any child of a parent by adoption whose other parent is a member of the Community by birth shall be entitled to membership under Section I (b) of the Constitution of the Sokaogon Chippewa Community, that is, it will not be necessary for him to make application for adoption.

C. Each applicant for adoption into the Sokaogon Chippewa Community must file with the Council a written statement relinquishing any claim to membership in any other band or tribe.

D. Any individual adopted as a member of the Sokaogon Chippewa Community shall be eligible to vote and hold office in accordance with the Constitution of the Sokaogon Chippewa Community and otherwise shall have all the privileges and benefits accorded to members of the Sokaogon Chippewa Community under Section. I of Article III of the Constitution and By-Laws of the Sokaogon Chippewa Community insofar as said privileges and benefits do not conflict with any provision of the Constitution and By-Laws and the Charter of said Community or the laws and regulations of the United States Government.

E. Adoptions into membership shall become effective only upon approval by the requisite vote of the adult members of the community as provided in Section 2 of Article III of the Constitution of the Community.

History:

Enacted - unknown.

7/20/11 adopted, ratified and codified by Resolution #720A2011 and as amended by Resolution #825A2011 on August 25, 2011.