

CHAPTER 39 – GENERAL ORDINANCES

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CHAPTER 39 -- GENERAL ORDINANCES

39.1 SECTION 1: ALCOHOL BEVERAGES; RESTRICTION RELATING TO UNDERAGE PERSONS.

39.1.1 No person may procure for, sell, dispense or give away any alcohol beverages to any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age. Any person who furnishes alcohol to an underage person is presumed to know the age of the underage person.

39.1.2 No adult may knowingly permit or fail to take action to prevent the illegal consumption of alcohol beverages by an underage person on the premises owned by the adult or under the adult's control. Any person who furnishes alcohol to an underage person is presumed to know the age of the underage person.

39.1.3 A person who commits a violation of this section is subject to a penalty of:

- (a) Not more than \$500.00 for a first offense.
- (b) Not less than \$200.00 nor more than \$500.00 for any person who has a previous conviction under this section.
- (c) In addition to any monetary penalty the Court may impose other sanctions including, but not limited to community service, a prohibition of purchasing off-sale alcohol within the Red Cliff Indian Reservation, and/or be barred from any establishment that serves alcoholic beverages within the Red Cliff Reservation.

39.2 SECTION 2: OPEN CONTAINER

39.2.1 No person may possess an open container of alcohol in the following places:

- (a) On any road within the boundaries of the Red Cliff Reservation.
- (b) On any school premises.
- (c) Alcohol beverages may be possessed or consumed on any of the above named places if specifically permitted in writing by the Red Cliff Tribal Council.

39.2.2 PENALTY

- (a) Any person convicted of violating this section two shall be assessed a monetary penalty not to exceed \$250.00.

- b) In addition to any monetary penalty the Court may impose other sanctions including but not limited to A.O.D.A. assessment, community service, and/or a prohibition against purchasing off-sale alcohol within the boundaries of the Red Cliff Reservation.

39.3 **SECTION 3: PARTIES TO A VIOLATION**

39.3.1 No person may be a party to any violation of the Red Cliff Code of Laws.

39.3.2 Whoever is concerned in the commission of any violation of the Red Cliff Code of Laws shall be deemed a principal and may be charged with the party to a violation although he or she did not correctly commit it and although the person who directly committed it has not been convicted of the violation.

39.3.3 A person is concerned in the commission of the violation if the person:

- (a) Directly commits the violations;
- (b) Aids or abets the violation;
- (c) Is a party to a conspiracy with another or commit or conceal any violation, or advises, hires, or counsels or otherwise procures another to commit or conceal any violation of the Red Cliff Code of Laws.

39.4 **SECTION 4: WINTER PARKING**

39.4.1 **PURPOSE**

The purpose of this ordinance is to provide for the safe removal of snow from the streets of Red Cliff and the safe travel of those using the streets of Red Cliff during the snow season.

39.4.2 **PARKING**

During the period of November 15 to April 15, or when an accumulation of more than 2 inches of snow has fallen, no person shall

- (a) Park on any roadway by the Red Cliff Road Maintenance Department or the Town of Russell Maintenance Department between the hours of 10:00 P.M. and 6:00 A.M.
- (b) Park on any roadway maintained by the Red Cliff Road Maintenance Department or the Town of Russell Road Maintenance Department when 2 or more inches of snow has fallen.

39.4.3 **ENFORCEMENT**

The Red Cliff Warden's, the Red Cliff Police Department, Red Cliff Road Maintenance Department, and the Town of Russell Road Maintenance Department are authorized to enforce this ordinance.

39.4.4

PENALTY

- (a) For the first offense in one season the penalty not less than \$10.00 no more than \$50.00.
- (b) For the second and subsequent offense not less than \$25.00 and no more than \$100.00.
- (c) Such other penalty the Court deems just and proper.
- (d) Any vehicle found in violation of this ordinance may be towed, at the owner's expenses, if one or more of the following conditions exist:
 - The vehicle inhibits the free passage of other vehicles.
 - The vehicle impairs the safe removal of snow from the roadway.

39.5

SECTION 5: SEVERABILITY

39.5.1

If a Court of competent jurisdiction rules that any provision of this ordinance is invalid, the remaining provisions shall not be affected thereby and shall remain in force and effect. (sec. 39.4-39.5.1 (12/28/98A))

39.6

SECTION 6: DISORDERLY CONDUCT

39.6.1

No person within the boundaries of the Red Cliff Reservation shall engage in violent, abusive, indecent, profane, boisterous, unreasonable loud or otherwise disorderly conduct under circumstances that tend to cause or provoke a disturbance.

39.6.2

- (a) Any person who violates this section shall be subject to a civil forfeiture of not less than \$25.00 no more than \$500.00 for the first offense.
- (b) Any person who is convicted of more than one violation within a five (5) year period shall be subject to a civil forfeiture of not less than \$75.00 but not more than \$1000.00.
- (c) The Court may assess such other penalty it deems appropriate, to be determined on a case-by-case basis.

39.6.3

The Court may decline jurisdiction on a citation of this section into Tribal Court. In the event the Court declines jurisdiction, the Court shall direct the Red Cliff Police Department to cite the offending party into Bayfield County Court.

(08/07/00I)

39.6.4 It shall be Disorderly Conduct for any person to fail or refuse to follow directives from a Public Health Official or Health Official. Directives from a Public Health Official or Health Official shall include but are not limited to:

- (a) Failure to submit to testing; or
- (b) Failure to provide information for contact tracing.
- (c) Failure to follow any conditions or restrictions contained in an order for monitoring and quarantine issued pursuant to the authority of the Public Health Official or Health Official.
 - (1) For the purpose of this section the term “Public Health Official” or “Health Official” means that person within the tribal government designated with the primary responsibility of maintaining public health of the reservation and its residents. **(12-07-2020)**

39.6.5 It shall be Disorderly Conduct for any person to fail or refuse to follow any Stay at Home Order issued by the Tribal Council.

- (1) For the purpose of this section, “Stay at Home Order” means a formal resolution of the Tribal Council that mandates that persons not leave their residence for a specified period of time in response to a Public Health Emergency except within certain defined parameters as further detailed in the resolution itself.
- (2) For the purpose of this section, “Public Health Emergency” means a formal declaration by the Tribal Council in the form of a resolution that addresses the occurrence or imminent threat of an illness or health condition. **(12-07-2020)**

39.7 SECTION 7: POSSESSION OF MARIJUANA, DRUG PARAPHERNALIA, SYNTHETIC CANNABINOID

39.7.1 FINDINGS, PURPOSE AND INTENT

For the benefit of the public health, safety and welfare of the tribal membership and Red Cliff community, the Tribe hereby enacts uniform regulations governing the possession, use and sale of Marijuana, Drug Paraphernalia and Synthetic Cannabinoid within the boundaries of the Reservation.

39.7.2 POSSESSION OF MARIJUANA PROHIBITED

It is unlawful for any person to possess twenty-five (25)grams or less, any material, compound, mixture or preparation which contains any quantity of

marijuana, or its salts, isomers or salts of isomers.

39.7.3 POSSESSION OF MARIJUANA PENALTY

The penalty for violation of section 39.7.2 shall be a forfeiture of not less than one hundred dollars nor more than five thousand dollars.

39.7.4 SYNTHETIC CANNABINOID PROHIBITED

(a) Possession, use and sale are illegal.

It shall be illegal for any person to use, possess, purchase, attempt to purchase, sell, give or barter any material, compound, mixture, or preparation, chemical derivative of marijuana including but not limited to synthetic cannabinoids, JWH-018, JWH-073, JWH-200, JWH-081, JWH-250, HU-210; cannabicyclohexanol, CP 47, 497; or any similar structural analogs commonly found in, referred to, or marketed or sold under the names “K2”, “Spice”, “Genie”, “Yucatan Fire”, “fake” or “new or legal marijuana”, or by any other name, label or description.

39.7.5 SYNTHETIC CANNABINOID PENALTIES

Any person found guilty of violating section 39.7.4 shall be subject to the following forfeitures:

- (1) Possession/use. A forfeiture of not less than one hundred dollars nor more than five thousand dollars.
- (2) Sale. A forfeiture of five hundred dollars to five thousand dollars, exclusive of costs.

39.7.6 DRUG PARAPHERNALIA

“Drug paraphernalia” means all equipment, products and materials of any kind that are used, designed for use or primarily intended 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 or controlled substance analog.

- (1) For the purpose of this section paraphernalia shall include but is not limited to:
 - (a) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens

- (b) Bongs
- (c) Roach clips
- (d) Electric pipes
- (e) Scales and balances
- (f) Kits designed for manufacturing, compounding, converting, producing, processing or preparing controlled substances or controlled substance analogs.
- (g) Kits designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant that is a controlled substance or from with a controlled substance or controlled substance analog can be derived.
- (h) Containers and other objects used, designed for use or primarily intended for use in storing or concealing controlled substances or controlled substance analogs.

(2) For the purpose of this section paraphernalia shall not include:

- (a) Hypodermic syringe needles and other objects used or intended for use in injecting substances into the human body.
- (b) Any items, including pipes, papers and accessories that are designed for use or primarily intended for use with tobacco products.

39.7.7 POSSESSION OF DRUG PARAPHERNALIA

The penalty for a violation of section 39.7.6 shall be a forfeiture of not less than one hundred dollars nor more than five thousand dollars.

39.8 **SECTION 8: MISCELLANEOUS PROPERTY OFFENSES**

39.8.1 **THEFT**

Whoever intentionally takes and carries away, uses, transfers, conceals, or retains possession of movable property of another without the other's consent and with intent to deprive the owner permanently of possession of such property with a value of less than \$2,500.00 may be found guilty of theft.

39.8.2 PENALTY FOR THEFT

Any person found guilty of theft shall be subject to the following:

- (1) A forfeiture of not less than one hundred dollars nor more than five thousand dollars.
- (2) In addition to a monetary penalty a judge may order a violator to pay restitution.

39.8.3 RETAIL THEFT

A person may be found guilty of retail theft if he or she does any of the following without the merchant's consent and with intent to deprive the merchant permanently of possession or the full purchase price of the merchandise or property and the value of the merchandise does not exceed \$500.00:

- (a) Intentionally alters indicia of price or value of merchandise held for resale by a merchant or property of a merchant.
- (b) Intentionally takes and carries away merchandise held for resale by a merchant or property of a merchant.
- (c) Intentionally conceals merchandise held for resale by a merchant or property of a merchant.
- (d) Intentionally retains possession of merchandise held for resale by a merchant or property of a merchant.
- (e) While anywhere in the merchant's store, intentionally removes a theft detection device from merchandise held for resale by a merchant or property of a merchant.
- (f) Uses, or possesses with intent to use, a theft detection shielding device to shield merchandise held for resale by a merchant or property of merchant from being detected by an electronic or magnetic theft alarm sensor.
- (g) Uses, or possesses with intent to use, a theft detection device remover to remove a theft detection device from merchandise held for resale by a merchant or property of a merchant

39.8.4 PENALTY FOR RETAIL THEFT

Any person found guilty of retail theft shall be subject to the following:

- (1) A forfeiture of not less than one hundred dollars nor more than five thousand dollars.
- (2) In addition to a monetary penalty a judge may order a violator to pay restitution.

39.8.5 DETAINING A SUSPECT OF RETAIL

A merchant or service provider or a merchant's or service provider's adult employee who has reasonable cause for believing that a person has violated this section in his or her presence may detain, within or at the merchant's or service provider's place of business where the suspected violation took place, the person in a reasonable manner for a reasonable length of time to deliver the person to a law enforcement officer, or to his or her parent or guardian in the case of a minor. The detained person must be promptly informed of the purpose for the detention and be permitted to make phone calls, but he or she shall not be interrogated or searched against his or her will before the arrival of a law enforcement officer who may conduct a lawful interrogation of the accused person. The merchant or service provider or a merchant's or service provider's adult employee may release the detained person before the arrival of a law enforcement officer or parent or guardian. Any merchant or service provider or a merchant's or service provider's adult employee who acts in good faith in any act authorized under this section is immune from civil or criminal liability for those acts.

39.8.6 RECEIVING STOLEN PROPERTY

A person may be found guilty of receiving stolen property if he or she knowingly or intentionally receives or conceals stolen property if the value of the property does not exceed \$2,500.00.

- (a) Any person found guilty of receiving stolen property shall be subject to a forfeiture of not less than one hundred dollars nor more than five thousand dollars.

39.8.7 LITTERING PROHIBITED

No person shall throw any glass, rubbish, waste or filth upon the streets, highways, public parks or any body of water within the boundaries of the Reservation or upon any private property not owned by him or her.

- (a) Any person found guilty of littering shall be subject to a forfeiture of not less than one hundred dollars nor more than five thousand dollars.

39.8.8 LOITERING ON POSTED PROPERTY

It shall be unlawful for any person to congregate, loiter, wander, stroll or stand

upon any property within the boundaries of the Reservation which has been posted with a notice stating “No Loitering”, “Patrons Only”, or other notice indicating that said property is not designated for such purpose. This section shall include loitering in parked motor vehicles.

- (a) Any person found guilty of loitering shall be subject to a forfeiture of not less than one hundred dollars nor more than five thousand dollars.

39.8.9 GRAFFITI

The Lake Superior Band of Chippewa finds that graffiti is vandalism that destroys property and contributes to social disorder, crime and other illegal activities including vandalism, theft, and degradation of buildings and decay of neighborhoods.

- (1) For the purpose of this section “Graffiti” means any inscription, work, figure, drawing, symbol, design, or other marking which is scratched, etched, drawn, or painted with spray paint, liquid paint, ink, chalk, dye, or other similar permanent or semi-permanent substance, on public or private property, without the prior express permission or consent of the property owner.
- (2) No person shall affix graffiti upon any property, whether private or public, without the prior express permission or consent of the property owner.

39.8.10 PENALTIES

Any person convicted of violating the provisions of section 39.8.9 of this chapter is subject to the following:

- (a) A forfeiture of not less than one hundred dollars nor more than five thousand dollars.
- (b) In addition to a monetary penalty a judge may order a violator be liable for the costs of removing or covering such graffiti.
- (c) The parent(s) or guardian of an unemancipated minor child who affixes graffiti may be held liable for the cost of removing or covering said graffiti in accordance with section 39.9 of this chapter.

39.9 SECTION 9: PARENTAL RESPONSIBILITY

39.9.1 PARENTAL RESPONSIBILITY FOR THE ACTS OF A MINOR CHILD

A parent or legal guardian of an unemancipated minor residing with such parent or legal guardian shall be presumed, in the absence of evidence to the contrary, to

have failed to exercise proper parental responsibility, and the minor shall be deemed to have committed the violations along with the knowledge and consent of the parent or guardian, in violation of this chapter. It is the purpose and intent of this section to insure for the sake of the child and of the community, that parent(s) and guardian(s) make reasonable efforts to positively influence and monitor the behavior choices of their minor children.

- (1) For the purpose of this section, unless otherwise defined:
 - (a) A Child means a person under the age of seventeen years.
 - (b) Consent is defined as the expressed or implied agreement of the parent(s) or guardian(s) with the acts or behavior of the child if, based on “knowledge” as defined above, the parent cannot provide evidence of specific efforts made by them, him/her, to mitigate or to sanction against the negative behavior of the child.
 - (c) Knowledge is defined as any information the parent(s) or guardian(s) could derive from their proper and expected role(s) in relationship to their child or information provided by other persons in authority to the child that would cause the parent(s) to be able to anticipate those acts or behaviors of the child which are the subject of the violations.
 - (d) Parent or Guardian means a biological or adoptive parent, a legal guardian or a person who has legal custody of a minor child. Parent or legal guardian does not include an agency who has legal custody, nor any person whose parental rights have been terminated.
- (2) It shall be a defense to the offense of failure to exercise parental responsibility if the parent(s) or guardian(s) can provide specific evidence of on-going participation in or recent completion of parenting classes, family therapy, group counseling or AODA counseling which includes the parent(s), guardian(s) or family. It shall also be a defense to the offense of failure to exercise parental responsibility if the parent(s) or guardian(s) reported the act(s) to the appropriate authorities.

39.9.2

PENALTY

Any person convicted of failure to exercise parental responsibility is subject to the following:

- (a) A forfeiture of not less than one hundred dollars nor more than five thousand dollars.

- (b) In addition to a monetary penalty a judge may order the parent(s) or guardian(s) of an unemancipated minor child may be held liable for the cost of replacing or repairing damaged or destroyed property or any other costs associated with such acts.
- (c) Nothing herein shall prohibit the referral of a tribal child to the Red Cliff Indian Child Welfare office for the filing of a child welfare petition under Chapter 26 of the Red Cliff Code of Laws.

39.10 **SECTION 10: NOMINAL TRIBAL OWNERSHIP INTEREST IN NONMEMBER OWNED RESERVATION LANDS.**

- 39.10.1 It shall be unlawful for a Red Cliff tribal member to cause an ownership document to be filed with an agency of record, including but not limited to the County Register of Deeds, that establishes a nominal interest in a nonmember-owned parcel within the Red Cliff reservation boundary solely for the purpose of enabling the nonmember to avoid state property taxes. It shall be a defense to this section that the member has contributed investment capital, equity or other value to the real estate that fairly reflects the tribal member percentage ownership interest. Violations of this section shall be subject to a fine or forfeiture not to exceed five thousand dollars, as well as other remedies as determined by the Court. Each day that a document is on file with the agency of record shall be considered a separate violation. **(2/21/23)**
- 39.10.2 Filings occurring prior to September 6, 2022 are not subject to the restriction contained in sec. 39.10.1. With respect to filings occurring after September 6, 2022, the burden of proof shall be on the Defendant to show that the purported ownership interest was obtained for value as to any ownership interest less than five percent (5%). **(2/21/23)**
- 39.10.3 Violations of this section shall be subject to a fine or forfeiture not to exceed five thousand dollars, as well as other remedies as determined by the Court. Each day that a document is on file with an agency of record shall be considered a separate violation. **(2/21/23)**