

CHAPTER 206 - MALICIOUS MISCHIEF

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SECTION 206.005 "Graffiti" defined. As used in this chapter, "graffiti" means any unauthorized inscription, word, figure or design that is marked, etched, scratched, drawn, painted on or affixed to the public or private property, real or personal, of another, which defaces the property.

SECTION 206.010 Destruction or damage of property by unlawful assembly. Whenever any persons unlawfully assembled pull down, damage or destroy any dwelling house or other building, or any shop, steamboat, vessel or other property, they severally are guilty of a **Category D** offense. In addition to any other penalty, the court shall order the person to pay restitution.

SECTION 206.015 Destruction or damage of crops, gardens, trees or shrubs. Every person who willfully and maliciously:

1. Cuts down, destroys or injures, other than by burning, any wood, timber, grain, grass or crop, standing or growing, or which has been cut down and is lying upon the lands of another, or of the State;
2. Cuts down, lops, girdles or otherwise injures or destroys, other than by burning, a fruit, shade or ornamental tree standing on the land of another, or of the State, or in any road or street; or

3. Cuts down, destroys or in any way injures, other than by burning, any shrub, tree, vine or garden produce grown or growing within any orchard, garden, vineyard or yard, or any framework or erection therein, is guilty of a category D offense. In addition to any other penalty, the court shall order the person to pay restitution.

SECTION 206.040 Entering property with intention to damage or destroy property.

Every person who willfully and maliciously enters, without the consent of the owner or occupant, any real property of another under circumstances not amounting to a burglary, with intent to take, injure or destroy any real or personal property there situated, is guilty of a **Category C offense**.

SECTION 206.125 Damage of property used for religious or educational purposes, for burial or memorializing dead or as community center; damage of property contained therein; restitution.

1. Unless a greater penalty is provided by law, a person who knowingly vandalizes, places graffiti on, defaces or otherwise damages:

- (a) Any church, synagogue or other building, structure or place used for religious worship or other religious purpose;
- (b) Any cemetery, mortuary or other facility used for the purpose of burial or memorializing the dead;
- (c) Any school, educational facility or community center;
- (d) The grounds adjacent to, and owned or rented by, any institution, facility, building, structure or place described in paragraph (a), (b) or (c); or
- (e) Any personal property contained in any institution, facility, building, structure or place described in paragraph (a), (b) or (c),

is guilty of a **Category B offense**. In addition to any other penalty, the court shall order the person to pay restitution for the damage.

2. A person who is paid money for restitution pursuant to subsection 1 shall use the money to repair or restore the property that was damaged.

SECTION 206.140 Nuisance in building; trespass upon grounds; disturbing assembly. Every person who:

- 1. Commits any nuisance in any building, public or private;
- 2. Commits any trespass upon the grounds attached thereto, or any fixtures placed thereon, or any enclosure or sidewalk about the building; or
- 3. In any manner interferes with or disturbs those peaceably assembled within the building, shall be guilty of a **Category D offense**. In addition to any other penalty, the court shall order the person to pay restitution.

SECTION 206.150 Killing, maiming, disfiguring or poisoning animal of another person; killing estray or livestock.

1. Except as otherwise provided in subsections 2 and 3, any person who willfully and maliciously kills, maims or disfigures any animal belonging to another, or exposes any poison or noxious substance with intent that it should be taken by the animal is guilty of a **Category A offense**.

2. Except as otherwise provided in SECTION 205.220, a person who willfully and maliciously kills an estray or one or more head of livestock, without the authority to do so, is guilty of a category A offense.

3. The provisions of subsection 1 do not apply to any law enforcement officer or authorized personnel who kills a dog pursuant to SECTION 575.020. In addition to any other penalty, the court shall order the person to pay restitution.

4. As used in this section:

- (a) "Estray" means any livestock running at large upon public or private

lands on this reservation, whose owner is unknown in the section where the animal is found.

(b) "Livestock" has the meaning ascribed to it in SECTION 205.219.

SECTION 206.160 Leading or driving horse away without authority. Every person who shall willfully and maliciously:

1. Untie, unfasten or liberate, without authority, the horse or team of another; or

2. Lead, ride or drive away, without authority, the horse or team of another from the place where left by the owner or person in charge thereof, Ê shall be guilty of a **Category C offense**.

SECTION 206.200 Posting of bills, signs or posters unlawful. Any person who shall willfully, unlawfully or maliciously:

1. Without the consent of the owner, agent or occupant of the premises or property herein mentioned, deface, disfigure or cover up any fruit tree or ornamental tree, fence, wall, house, shop or building, the property of another, by pasting upon, or in any way fastening thereto, any printed bill, signboard, show poster or other device whatsoever;

2. Without a written permit from the board of county commissioners in the county wherein such written permit may be issued, deface, disfigure or cover up by pasting upon, or in any way fastening thereto, any printed bill, signboard, show poster or other device whatsoever upon any public building, monument, gravestone, ornamental tree or other object or property under the supervision and control of the board of county commissioners of the respective counties in this state, or under the supervision and control of any municipal government, or of any association or society whatsoever; or

3. Place upon or affix to any real property, or any rock, tree, wall, fence or other structure thereupon, without the consent of the owner thereof, any word, character or device designed to advertise any article, business, profession, exhibition, matter or event, shall be guilty of a **Category C offense**.

SECTION 206.220 Removal, alteration or destruction of monuments or landmarks designating boundaries.

1. Except as otherwise provided in subsection 2, every person who willfully or maliciously:

(a) Removes any monument of stone, wood or other durable material erected, or post or stake fixed or driven in the ground, for the purpose of designating the corner, or any other point, in the boundary of this reservation or any political subdivision of the tribe, or any lot or tract of land, or any mining claim or claims;

(b) Alters the marks upon any tree, post or other monument made for the purpose of designating any point, course or line, in any such boundary; or

(c) Cuts down or removes any tree upon which any such marks are made for that purpose, with the intent to destroy such marks, is guilty of a **Category D offense**. In addition to any other penalty, the court shall order the person to pay restitution.

2. This section does not apply to a professional land surveyor who acts in accordance with SECTION 625.380.

3. As used in this section, the "value of the loss resulting therefrom" means the cost of restoring or replacing the marks or monuments which have been removed, altered or destroyed.

SECTION 206.260 Fraudulent and malicious destruction of writings. A person who fraudulently or maliciously tears, burns, effaces, cuts, or in any other way destroys, with the intent to defraud, prejudice or injure any person or body corporate:

1. Any deed, lease, bond, will, or any other sealed writing;
2. Any bank bill or note, check, warrant or certificate for the payment of money or other thing, or other security for the payment of money or the delivery of goods;
3. Any certificate or other public security of this state, the United States, or any state or territory for the payment of money;
4. Any receipt, acquittance, release, defeasance, discharge of any debt, suit or other demand;
5. Any transfer or assurance of money, stock, goods, chattels or other property;
6. Any letter of attorney or other power;
7. Any daybook or other book of account; or
8. Any agreement or contract is guilty of a **Category A offense**. In addition to any other penalty, the court shall order the person to pay restitution.

SECTION 206.270 Defacing proclamations and notices.

1. If any person shall intentionally deface, obliterate, tear down or destroy, in whole or in part, any copy or transcript, or extract from or of any law of the United States, or of this tribe, or any proclamation, advertisement or notification, set up at any place on this reservation by authority of any law of the United States, or of this tribe, or by order of any court, such person, on conviction, shall be fined not more than \$500.
2. This section shall not extend to defacing, tearing down, obliterating or destroying any law, proclamation, publication, notification, advertisement or order after the time for which the same was by law to remain set up shall have expired.

SECTION 206.280 Tampering with papers. Every person who shall willfully or maliciously and with intent to injure another destroy, alter, erase, obliterate or conceal any letter, telegraph message, book or record of account, or any writing or instrument by which any claim, privilege, right, obligation or authority, or any right or title to property, real or personal, is, or purports to be, or upon the happening of some future event may be evidenced, created, acknowledged, transferred, increased, diminished, encumbered, defeated, discharged or affected, shall be guilty of a **Category B offense**.

SECTION 206.290 Opening or publishing sealed letter or telegram. Every person who shall:

1. Willfully open or read, or cause to be read, any sealed letter, message or telegram, not addressed to himself, without being authorized so to do either by the writer of the same or by the person to whom it shall be addressed, is guilty of a **Category B offense**.
2. Maliciously publish the whole or any part of such letter, message or telegram, without the authority of the writer thereof or of the person to whom the same shall be addressed, knowing the same to have been so opened, is guilty of a **Category B offense**.

SECTION 206.300 False signals endangering cars, vessels or motors. A person who, in such a manner as might, if not discovered, endanger a vessel, railway engine, motor, train or car, shows, masks, extinguishes, alters or removes any light or signal, or exhibits any false light or signal, shall be punished:

1. Where physical injury or property damage results therefrom, for a **Category A offense.**

2. Otherwise, for a **Category B offense.**

SECTION 206.310 Injury to other property. Every person who shall willfully or maliciously destroy or injure any real or personal property of another, for the destruction or injury of which no special punishment is otherwise specially prescribed, shall be guilty of a **Category D offense.** In addition to any other penalty, the court shall order the person to pay restitution.

SECTION 206.320 Unlawful removal of petrified wood from posted or designated sites; duties of certain officers.

1. The Tribe may, by itself or by its designated representative, post or otherwise properly designate a site containing petrified wood deemed of sufficient importance to preserve in its natural state.

2. It is unlawful to disturb or remove any petrified wood from a designated site.

3. Any violation of this section is a **Category C offense.**

4. The Tribal Police shall enforce this section.

SECTION 206.330 Placing graffiti on or otherwise defacing property: Fines and penalties; parent or guardian responsible for fines and penalties if person violating section is under age of 18 years; suspension of driver's license.

1. Unless a greater criminal penalty is provided by a specific statute, a person who places graffiti on or otherwise defaces the public or private property, real or personal, of another, without the permission of the owner:

(a) Where the value of the loss is less than \$250, is guilty of a **Category C offense.**

(b) Where the value of the loss is \$250 or more but less than \$5,000, is guilty of a **Category B offense.**

(c) Where the value of the loss is \$5,000 or more or where the damage results in the impairment of public communication, transportation or police and fire protection, is guilty of a **Category A offense.**

2. If a person commits more than one offense pursuant to a scheme or continuing course of conduct, the value of all property damaged or destroyed by that person in the commission of those offenses may be aggregated for the purpose of determining the penalty prescribed in subsection 1.

3. A person who violates subsection 1 shall, in addition to any other fine or penalty imposed:

(a) For the first offense, perform not less than 50 hours, but not more than 99 hours, of community service.

(b) For the second offense, perform not less than 100 hours, but not more than 199 hours, of community service.

(c) For the third and each subsequent offense, perform not less than 200 hours of community service.

Ê The community service assigned pursuant to this subsection must, if possible, be related to the abatement of graffiti.

4. The parent or legal guardian of a person under the age of 18 years who violates this section is liable for all fines and penalties imposed against the person. If the parent or legal guardian is unable to pay the fine and penalties resulting from a violation of this section because of financial hardship, the

court may require the parent or legal guardian to perform community service.

8. As used in this section, "impairment" means the disruption of ordinary and incidental services, the temporary loss of use or the removal of the property from service for repair of damage.