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MASHANTUCKET PEQUOT TRIBAL LAWS ANNOTATED

TITLE 1. JUDICIARY

CHAPTER 1. MASHANTUCKET PEQUOT TRIBAL COURT

1 M.P.T.L. ch. 1 § 1

§ 1. Mashantucket Pequot Tribal Court

There is hereby established the Mashantucket Pequot Tribal Court which shall be comprised of the trial court and the Court of Appeals.

1 M.P.T.L. ch. 1 § 2

§ 2. Jurisdiction

a. The tribal court shall have subject matter jurisdiction over civil causes of action and criminal matters as expressly conferred upon it by the Tribal Council through enactment of tribal laws.

b. The tribal court shall have jurisdiction over the Tribe and tribal enterprises only where the Tribal Council has expressly and unequivocally waived its sovereign immunity from suit either in tribal law or in connection with a particular transaction or event.

c. The tribal court shall not exercise jurisdiction over any action arising from a contract, approved by the Tribal Council, to which the Tribe is a party or by which it is bound if such contract contains an express provision prohibiting the exercise of jurisdiction by the tribal court over actions arising from such contract, whether approved prior to or subsequent to the enactment of this law, provided that the tribal court shall have jurisdiction to enforce an agreement to arbitrate or an arbitration award relating to such contract if the contract provides for such action.

1 M.P.T.L. ch. 1 § 3

§ 3. Court of Appeals

Any final order or decision of the trial court may be appealed to the Court of Appeals. Decisions of the Court of Appeals are final.

1 M.P.T.L. ch. 1 § 4

§ 4. Decisions

a. In all criminal and child welfare matters, the judge shall render its decisions, including findings of fact and conclusions of law within 30 days of any trial or any final oral argument or submission of final written arguments on any motion. If warranted, the judge shall also issue an award.

b. In all other matters, the judge shall render its decisions, including findings of fact and conclusions of law within 45 days of any trial or any final oral argument or submission of final written arguments on any motion, except that the deadline in these matters may be extended up to a total of 60 days where all parties have consented in writing to the extension.

CHAPTER 2. COURT ADMINISTRATION

1 M.P.T.L. ch. 2 § 1

§ 1. Judges

a. Judges of the tribal court shall be appointed by the Tribal Council to serve a term of three years. Judges of the tribal court shall have the following qualifications: highest moral and ethical character; licensed to practice law in the highest court of any state of the United States; at least five years experience as a practicing attorney and/or judge; and significant experience and knowledge in federal Indian and tribal law. The Tribal Council may waive any of the above qualifications in exceptional circumstances.

b. Duties of Judges

Judges shall (1) faithfully uphold the Constitution and Laws of the Tribe; (2) hear and decide all claims properly brought before the court in a judicious, impartial, and efficient manner; and (3) seek continued legal and judicial education, particularly in federal Indian law.

c. The compensation of the judges shall be established by the Tribal Council, and once set, shall not be reduced during the length of the appointment. Judges shall not be entitled to participate in any employee bonus compensation plan.

d. The Tribal Council finds that for the impartial and effective administration of justice, the continued independence of the judiciary is indispensable. It is in the interest of the Tribe to foster the dignity and integrity of the judiciary, and to these ends, it is desirable to establish appropriate procedures for the maintenance of judicial discipline, recognizing that the making of unpopular or erroneous decisions is not a sufficient ground for judicial discipline or a finding of a want of judicial integrity. Judges shall be subject to suspension or removal from office for (1) conduct prejudicial to the impartial and effective administration of justice which brings the judicial

office in disrepute; (2) violation of any canon of judicial ethics; (3) failure to perform the duties of the office; (4) arrest and/or a final conviction of a felony or of a misdemeanor involving dishonesty or moral turpitude; (5) disbarment or suspension as an attorney at law; or (6) temperament which adversely affects the orderly carriage of justice.

e. Judges may be removed by a majority vote of the Tribal Council at a duly called meeting where such members are present and vote on the specific issue, provided that the Judicial Committee has first reviewed and investigated the matter giving rise to such removal action.

f. Judges shall be evaluated no less frequently than every three years.

1 M.P.T.L. ch. 2 § 2

§ 2. Chief Judge

a. The Tribal Council shall appoint a chief judge who, in addition to performing judicial duties in the trial court, shall be responsible for the administration of the tribal court, including the supervision of all court personnel, submission of all required reports, and performance of all other duties required by tribal law.

b. The chief judge shall develop an annual budget and submit it to the Tribal Council. The chief judge shall account for all monies expended by the tribal court. Unless the Tribal Council otherwise provides, the tribal court shall only expend funds authorized and appropriated by the Tribal Council.

c. The chief judge shall submit a schedule of fees that shall apply to actions filed in the tribal court to the Judicial Committee for its consideration, and such schedule of fees shall be effective 60 days from the date of submission, subject to the disapproval of the Judicial Committee which shall be exercised, if at all, within such 60 days.

d. The chief judge shall submit an annual report of the tribal court to the Tribal Council. The report shall include a description of the activities of the court, the number of cases by type of claim, number of cases filed, pending, and resolved in each court, a final report as noted herein, a description of the court's staffing and structure, and a summary of significant cases decided by the court.

e. The chief judge shall employ a court clerk and such other personnel that the chief judge deems necessary to administer the duties and responsibilities of the tribal court, provided that such employment shall be subject to the disapproval of the Tribal Council which shall be exercised, if at all, within 90 days of such commencement of employment.

1 M.P.T.L. ch. 2 § 3

§ 3. Admission to Practice

- a. Any attorney admitted to practice before the highest court of any state of the United States is eligible for admission to practice in the tribal court. Each applicant for admission shall submit an admission registration application approved by the chief judge.
- b. The tribal court may admit to practice on such terms and conditions as appear appropriate, a lay advocate who shall be a member of the Mashantucket Pequot Tribe or appointed legal or judicial staff members who shall agree to represent persons appearing before the tribal court.
- c. No person convicted of a felony may practice before the tribal court.

CHAPTER 3. OFFICE OF THE PROSECUTOR

1 M.P.T.L. ch. 3 § 1

§ 1. Definitions

- a. The Prosecutor/Special Tribal Advocate shall be appointed by the Tribal Council to serve either a part-time or full-time appointment for a term of three years.
- b. The Prosecutor/Special Tribal Advocate shall have the following qualifications: (1) highest moral and ethical character; (2) license to practice law in the state of Connecticut and in the Mashantucket Pequot tribal court; (3) at least five years experience as a practicing attorney and/or judge, preferably in a prosecutorial capacity; and (4) significant experience and knowledge in federal Indian and tribal law. The Tribal Council may waive any of the above qualifications in exceptional circumstances.
- c. The Prosecutor/Special Tribal Advocate shall: (1) faithfully uphold the Constitution and laws of the Tribe; (2) diligently present all criminal and child welfare matters, and any other matter as may be designated by tribal law before the tribal court; (3) represent the Tribe, upon the advice and consultation of the Office of Legal Counsel, in Indian child welfare matters in non-tribal forums; (4) present community education programs on subjects relative to the roles and responsibilities of the tribal prosecutor and tribal police; and (5) seek continued legal and judicial education, particularly in federal Indian law.
- d. The compensation of the Prosecutor/Special Tribal Advocate shall be established by the Tribal Council, and once set, shall not be reduced during the length of the appointment. The Prosecutor/Special Tribal Advocate shall not be entitled to participate in any employee bonus compensation plan.
- e. The Prosecutor/Special Tribal Advocate shall be evaluated no less frequently than every three years.

f. The Prosecutor/Special Tribal Advocate may be removed by a majority vote of the Tribal Council at a duly called meeting where such members are present and vote on the specific issue, provided that the Judicial Committee has first reviewed and investigated the matter giving rise to such removal action.

CHAPTER 4. PEACEMAKERS COUNCIL

1 M.P.T.L. ch. 4 § 1

§ 1. Purpose and Scope of Jurisdiction

a. This Law defines the jurisdiction of the Peacemakers as established in TCR102693-01. It also establishes the procedures to be followed by the Peacemakers when they attempt to mediate a conflict or resolve a grievance.

b. The Peacemakers shall have exclusive jurisdiction, except as provided in this Law or by other tribal law, to hear civil Mediation Requests involving Mashantucket Pequot Indians which occur on the Mashantucket Pequot Nation lands. The Peacemakers may, in their unrestricted discretion, exercise jurisdiction over other mediation requests which involve non-Indians arising on the tribal lands.

c. The Peacemakers may exercise jurisdiction to hear grievances by Mashantucket Pequot Tribal members who are employees of the Tribe provided that all tribal administrative appeals have been exhausted. Mashantucket Pequot Tribal Member Employees shall file Grievances pursuant to Section 13 of these regulations. This Law amends, as it applies to Mashantucket Pequot Tribal Member Employees, the appeal rights provided in TCR061694-03. Pursuant to this amendment, Mashantucket Pequot Tribal Member Employees have the option of filing their employment appeals either in tribal court or with the Peacemakers. Such election is final and irrevocable.

d. The Peacemakers may exercise jurisdiction to hear grievances by Mashantucket Pequot Tribal Members relating to program regulation/guidelines provided that all tribal administrative appeals have been exhausted.

e. Decisions of the Peacemakers are not subject to appeal to the Mashantucket Pequot Tribal Council or to the Mashantucket Pequot Tribal Court.

f. The Peacemakers shall have jurisdiction to hear any matter referred to it by resolution of the Mashantucket Pequot Tribal Council.

g. The Peacemakers shall not have jurisdiction to hear contract disputes between vendors and the Tribe or any tribal business. Disputes involving vendors, contractors or consultants shall, upon authorization of the Tribal Council, be heard in the Mashantucket Pequot Tribal Court.

h. The Peacemakers shall not have jurisdiction to hear any appeal from decisions of the Mashantucket Pequot Tribal Housing Authority, the Indian Health Services program or from any other tribally administered federal

program. The Peacemakers shall not have jurisdiction to hear any appeal from a final determination of the Incentive Review Team or any other tribally created administrative body specifically charged by the Tribal Council with authority to take final administrative action in a tribal program.

i. The Peacemakers shall not have jurisdiction to hear any appeal from any decision of the Mashantucket Pequot Tribal Council.

j. The Peacemakers shall not hear any appeal from any decision from the Mashantucket Pequot Tribal Court including, but not limited to, any appeal from a final decision of the Mashantucket Pequot Tribal Court of Appeals.

1 M.P.T.L. ch. 4 § 2

§ 2. Definitions

a. "Mashantucket Pequot Nation Lands" means all tribally owned lands and shall include lands acquired by the Tribe subsequent to the date of passage of this Law.

b. "Peacemakers" means that body of tribal members designated by vote of the tribal families, pursuant to authority of TCR102693-01 of the Mashantucket Pequot Tribal Council, to serve as a mediation facilitator. "Full Peacemakers" shall mean a quorum as defined in this Law, of the entire Peacemakers membership. "Assigned Peacemakers" shall mean the Peacemakers assigned to any particular dispute (including alternate).

c. "Tribal Court" means the Mashantucket Pequot Tribal Court.

d. "Jail Sentence" means a sentence requiring incarceration in any state, federal or tribal jail or in any jail with which the Tribe has an agreement to house persons convicted in Tribal Court. This term includes jail sentences which are suspended or for which probation is provided as an alternative. "Jail Sentence" shall also include any "house arrest" which may be ordered by the Tribal Court or by any state or federal Court.

e. "Tribe" means the Mashantucket Pequot Tribe, a federally recognized Tribe.

f. "Consensus Decision" means mutually shared agreement of the Peacemakers.

g. "Grievance" means a document filed by any Mashantucket Pequot Tribal Member Employee pursuant to any Personnel Policies and Procedures Employee Manual which may apply to Tribal employees. No grievances shall be filed with the Peacemakers until all tribal administrative appeals have been exhausted. Grievances shall also mean a document filed by a member of the Mashantucket Pequot Tribe which alleges that a tribal administrator has failed to properly apply tribal policies to their application for assistance or which alleges that a tribal administrator has failed to act within 30 days of receiving a request for assistance.

h. "Party" means any person who is directly affected by facts alleged in a

Mediation Request.

i. "Mashantucket Pequot Tribal Member Employee" means any enrolled member of the Mashantucket Pequot Tribe who is a Tribal Employee.

j. "Tribal Employee" means any member of the Mashantucket Pequot Tribe who is employed by any tribal entity.

k. "Mediation Request" means a written document filed by a person which sets forth the nature and parties involved in any inter-personal conflict that occurs on the nation lands.

l. "Injury" means any actual physical or mental harm that can be measured by monetary damages. "Injury" may also mean damage that may entitle a person to relief that the Peacemakers consider fair or equitable.

m. "Conflict of Interest" means any situation in which a Peacemaker is asked to mediate a matter in which a close family member is a party. A close family member shall mean a brother, sister, spouse, son, daughter, grandchild, grandparents, father or mother. Peacemakers shall disqualify themselves from deciding any matter in which they have a conflict of interest.

n. "Solution" means a written document which contains a statement of a civil conflict between Mashantucket Pequot tribal members or, at the discretion of the Peacemakers, other non-tribal members. The document shall also contain a statement describing the settlement or resolution to the defined civil conflict which is mutually agreed to by the parties. It shall be signed by the individuals involved in the civil conflict.

o. "Working Day" shall mean any day that the Mashantucket Pequot Tribal government office is open for business.

p. "Chair" shall mean the chairperson of the Peacemakers Grievance Council. In instances where the Chair is unable or is otherwise disqualified from participating in a Peacemakers proceeding, the Vice-Chair shall act in place of the Chair. In instances where both the Chair and the Vice-Chair is unable or is otherwise disqualified from participating in a Peacemakers proceeding the Peacemakers may, by consensus, appoint an acting Chair.

1 M.P.T.L. ch. 4 § 3

§ 3. Policy

a. It is the policy of the Mashantucket Pequot Tribe to provide a forum consisting of elders and other tribal members to hear civil mediation requests and grievances that arise on the Mashantucket Pequot Nation lands.

b. The Peacemakers shall assist in the development of solutions to conflicts that are not patterned upon state or federal civil courts but are more closely allied to the traditional mediation processes generally followed by Native American tribes. It is intended that this new decision making body will assist

in arriving at mediated solutions to conflicts within the tribal community and not necessarily determine who is at fault in any given situation. It is also intended that the Peacemakers will relieve the Tribal Council from the burden of ruling on complaints from tribal members concerning their treatment by the Tribe and from the burden of deciding appeals from employment grievances filed by Mashantucket Pequot Tribal Member Employees.

c. The Peacemakers may assist the parties in reaching alternative solutions to a conflict in such a manner as seems consistent with tribal values. They are not bound by prior decisions or by any prior tribal practice or procedure. They are encouraged to assist in developing innovative and alternative methods of dispute resolution.

d. All Mashantucket Pequot Tribal Member Employees shall have an absolute right to bring employment grievance appeals before the Peacemakers. No grievances shall be filed with the Peacemakers until all tribal administrative appeals have been exhausted. When deciding tribal member employee appeals, Peacemakers shall apply the policies and procedures which are applicable to the tribal member employee.

1 M.P.T.L. ch. 4 § 4

§ 4. Selection/Nomination Process

a. Each of the nine families historically recognized as forming the Mashantucket Pequot Tribe shall have the opportunity to designate two representatives to the Peacemakers. The nine historically recognized families are as follows:

- (1) Annie George
- (2) Elizabeth George
- (3) Mable George
- (4) John George
- (5) Alice Langevin
- (6) Bertha Williams
- (7) Henry George
- (8) Sara J. Williams
- (9) Anna Williams

b. Each family, by majority vote, shall select two representatives to the Peacemakers. Tribal members 19 years or older may participate in the selection of the designated Peacemaker. Tribal members who are selected as Peacemakers must be eighteen years of age or older at the time of selection. Of the two

Peacemakers selected by each family, one shall be age 55 or older at the time of selection provided, however, that both Peacemakers may be younger than 55 if there is no family member over the age of 55 available, willing or able to serve at the time of selection. Each family shall file a notice, in writing, with the chair of the Peacemakers notifying them of the family members selected to serve.

c. No person who has been convicted of a felony in state or federal court or who has been convicted of any offense in the Mashantucket Pequot Tribal Court which has resulted in the imposition of a jail sentence of 30 days or longer shall be eligible to serve as a Peacemaker provided, however, that persons who's felony conviction or other tribal offense occurred more than seven years prior to the date of selection are eligible to serve. Peacemakers may be selected who would be disqualified pursuant to the provisions of this Section if they have been pardoned by the Mashantucket Pequot Tribal Council at the time of selection.

d. All Peacemakers, prior to their seating, shall submit to screening for use of controlled substances. Peacemakers shall also consent to random drug screening at any time after their seating. Screening shall be initiated by the chair of the Peacemakers and carried out by the medical director of the Mashantucket Pequot Tribe. Use of prescribed medication by a doctor shall not constitute a violation of this provision.

e. Peacemakers shall serve until removed pursuant to Section 5 of this Law or until replaced pursuant to procedures decided upon by each family.

1 M.P.T.L. ch. 4 § 5

§ 5. Removal

a. Each family shall have discretion to remove a Peacemaker at any time and for any reason provided that 51% of those family members who are eligible voters cast a ballot in favor of removal.

b. Any Peacemaker may be removed for cause pursuant to consensus decision of the full Peacemakers.

c. A Peacemaker shall be removed for cause if:

(1) They breach any confidentiality of the Peacemakers.

(2) They refuse to submit to a drug test or fail a drug test required pursuant to the terms of this Law.

(3) They accrue more than three unexcused absences from regularly scheduled monthly meetings of the Peacemakers or if they accrue a total of six absences from regularly scheduled monthly meetings per calendar year.

(4) They are convicted of a felony in state or federal court or are convicted in Tribal Court of any offense which has resulted in the imposition of a jail

sentence.

1 M.P.T.L. ch. 4 § 6

§ 6. Confidentiality

a. Peacemakers shall sign a non-disclosure agreement concerning each Mediation Request or Grievance filed with the Peacemakers.

b. All proceedings of the Peacemakers shall be private. The parties to any proceeding may, however, mutually agree that named individuals may attend specific proceedings.

c. No documents shall be released by any employee or member of the Peacemakers to any person or governmental agency unless mutually agreed to in writing by the parties to any Mediation Request or Grievance. All employees who provide services to the Peacemakers shall sign a non-disclosure agreement.

d. No person who is a witness or who otherwise participates in a Peacemakers proceeding may disclose any information from any such proceeding. Prior to participating in any Peacemaker proceeding, all persons shall sign and verbally agree not to disclose any matter discussed during the peacemaking process. Failure of any party to sign a non-disclosure agreement and to verbally agree not to disclose information divests the Peacemakers of jurisdiction. Such matters shall be referred to Tribal Court by the Peacemakers.

e. Any Peacemaker who is found, by the full Peacemakers, to have violated any provision of this Section, may be fined up to \$500 for each offense and shall be removed as a Peacemaker. The Peacemakers shall have jurisdiction to determine, after a hearing, the appropriate level of any fine. Fines collected shall be donated to support the Mashantucket Pequot Safe House.

1 M.P.T.L. ch. 4 § 7

§ 7. Quorum

a. A quorum of the full Peacemakers shall be nine members provided that all members have been given at least five days notice of the meeting and at least eight different families are represented. In the event that the full Peacemakers determine that this quorum requirement is too great, then the full Peacemakers are authorized to reduce the number of representative families to five.

b. All decisions of the Peacemakers, unless otherwise noted in these regulations, shall be by consensus.

c. The vice-chair shall perform the duties of the chair in the absence of the chair or due to the disqualification of the chair because of conflict. In the event of the unavailability or absence of the vice-chair, the Peacemakers may, by consensus, appoint an acting chair.

1 M.P.T.L. ch. 4 § 8

§ 8. Procedure to File a Mediation

a. Any tribal member who requires assistance to resolve a civil conflict with another tribal member may file a Mediation Request. Mediation Requests shall be filed with the chair of the Peacemakers. The Peacemakers may, in their unrestricted discretion, exercise jurisdiction over civil conflicts involving non-tribal members (including those involving non-Indians) provided all parties to the conflict are agreeable. If there is no mutual agreement, the dispute shall be heard by the tribal court.

b. Mediation Requests shall be filed within 30 days of the date of the incident which gave rise to the conflict.

c. The Peacemakers shall provide a copy of the Mediation Request to all parties. Attached to the Mediation Request shall be a copy of this Law.

1 M.P.T.L. ch. 4 § 9

§ 9. Assignment of Peacemakers

a. The chair of the Peacemakers shall, within three days of receiving a Mediation Request, assign two Peacemakers and one alternate to each Mediation Request. Peacemakers shall be assigned in random order. Peacemakers who are assigned to a Mediation Request shall disqualify themselves if they have a conflict of interest as defined by this Law. Peacemakers may decline an assignment. In the event of the unavailability of an assigned Peacemaker, the alternate will thereafter serve as the assigned Peacemaker of that mediation. Parties may not disqualify any Peacemakers assigned to their mediation Request.

Peacemakers may be removed in any mediation or grievance at the discretion of the chair of the Peacemakers if they fail to meet the requirements of this Law.

The alternate assigned to the mediation or grievance shall serve in the event a Peacemaker is removed.

b. Any Peacemaker who, without good cause in the opinion of the full Peacemakers, has declined assignment in two consecutive cases, may be removed by the full Peacemakers.

1 M.P.T.L. ch. 4 § 10

§ 10. Peacemaking Mediation Process

a. Peacemakers shall, within five days of their appointment, contact each of the parties to the dispute. Peacemakers may contact witnesses and may interview such people as necessary, in the view of the assigned Peacemakers, to develop an understanding of the problem/conflict.

b. Peacemakers shall assist the parties to arrive at a solution of the problem/conflict. The solution shall describe, in writing, the terms and conditions of the agreement reached between the parties. Each party to the conflict shall sign the solution and shall agree that they will abide by all terms and conditions of the solution.

c. Peacemakers shall not decide fault or liability for damages.

d. Peacemakers have no authority to force or otherwise coerce the parties into a resolution of the Mediation Request.

e. Peacemakers who fail to comply with the requirements of this Section are subject to being removed from the assigned mediation to be the chair of the Peacemakers.

1 M.P.T.L. ch. 4 § 11

§ 11. Success of Peacemaking Mediation Process

a. When a solution to a conflict has been successfully reached with the assistance of the Peacemakers, a report shall be given to the full Peacemakers by the Peacemakers assigned to the conflict.

b. The Peacemakers assigned to the conflict shall, within 30 days of the signing of the solution, review the success of the solution with the parties. The Peacemakers may adjust the written solution by mutual agreement of all parties to the solution. A solution must be modified in writing and signed by each party. There shall be a review within 30 days of each modified solution.

c. Upon completion of the last 30 day review, and when all parties are satisfied, the assigned Peacemakers, in the presence of the parties, shall (except for the agreed solution), destroy all written records, documents or notes used in the mediation process.

d. Each party to the solution and each Peacemaker assigned to the Mediation Request, shall preserve a copy of the solution. All signed statements containing a solution shall be kept confidential by all parties and the Peacemakers.

1 M.P.T.L. ch. 4 § 12

§ 12. Failure of the Peacemakers Mediation Process

a. If any party that has signed a solution fails to abide by the solution, any party may request additional services from the Peacemakers originally assigned to the conflict. The Peacemakers may devise a revised solution with the consent of the parties.

b. If the Peacemakers determine that continued Peacemaking is futile or if the parties to a conflict refuse to reach an agreed solution, the Peacemakers

assigned to the conflict shall inform the full Peacemakers, at a regularly scheduled meeting of the full Peacemakers, of the difficulties in reaching agreement. The chair may assign different Peacemakers to the conflict if the Peacemakers decide that new Peacemakers may make a difference or the full Peacemakers may meet with the parties.

c. If the assigned Peacemakers or the full Peacemakers are unable to assist the parties in reaching an agreed solution, then the parties may pursue their dispute in tribal court. Any applicable statute of limitations shall commence running upon a determination that further Peacemaking attempts are futile or by a refusal of any party to participate in the Peacemaking process.

d. No statement or other evidence given during the Peacemaking process may be entered in evidence or otherwise considered in any subsequent tribal court proceeding. No Peacemaker shall be called to give evidence in any Tribal Court proceeding which involves any conflict to which they had been assigned.

1 M.P.T.L. ch. 4 § 13

§ 13. Procedure to File an Employee Grievance

a. Notwithstanding any other provision of tribal law including, but not limited to TCR061694-03, any tribal member who is a tribal employee may file an employee grievance with the Peacemakers. All applicable provisions of any Personnel Policies and Procedures Employee Manual shall be exhausted prior to filing an employment grievance with the Peacemakers. Grievances by Mashantucket Pequot Tribal Member Employees shall be filed within 30 days of a final decision pursuant to the applicable Personnel Policies and Procedure Manual.

b. Once an employee grievance has been filed with the Peacemakers, that election is final. An employee may not dismiss the grievance and attempt to go to tribal court with an appeal. Tribal member employee appeals to tribal court are, upon the filing of the appeal, also final.

c. Employee grievances shall be filed within 30 days of any final decision pursuant to the applicable Mashantucket Pequot Personnel Policies and Procedures Manual. Employee grievances shall be filed in the office of the chair of the Peacemakers.

1 M.P.T.L. ch. 4 § 14

§ 14. Procedures to File a Tribal Member Grievance

a. Any tribal member may file a grievance against any administrator of a tribal program. Grievances may be filed if, in the opinion of the tribal member, the Tribe has improperly administered a tribal benefits program and, as a direct result, the grieving tribal member has been harmed. Tribal member grievances shall be filed as soon as practical, but in no event, more than 30 days after a final determination by a tribal administrator. All tribal administrative

procedures shall be exhausted prior to filing a grievance. Grievances against tribal administrators that are based upon a failure to act upon an application for assistance shall be filed 30 days from the date the request for assistance was made. Emergency requests from Mashantucket Pequot tribal members who may need immediate action may be heard at the discretion of the Peacemakers. Tribal member grievances shall be filed in the office of the chair of the Peacemakers.

b. In the event that any tribal member is excluded by a supervisor, department head or other person with authority, from any tribal property, or in the event by virtue of an order or decision, a tribal member is suspended from receiving any tribal benefits or participating in any tribal program, the tribal member may file a grievance with the Peacemakers. Grievances may be filed as soon as practical, but in no event more than 30 days after the issuance of the order or decision. All tribal administrative procedures shall be exhausted prior to filing a grievance. Tribal member grievances under this Section shall be filed with the office of the chair of the Peacemakers. Tribal Council decisions shall not be subject to the Peacemakers appeal process, and tribal members shall continue to receive any pay or benefits until such time as the Peacemakers final decision is made. Peacemakers findings of any abuse of authority by those excluding a tribal member are to be referred to the Office of Chief of Staff for appropriate administrative action.

1 M.P.T.L. ch. 4 § 15

§ 15. Resolution of Grievances

a. The chair of the Peacemakers shall, within five days, supply a copy of the Grievance to the appropriate responding party.

b. The Chair of the Peacemakers shall, within five days, assign two Peacemakers and one alternate to the grievance. Peacemakers shall be assigned in random order. Peacemakers who are assigned to a Grievance shall disqualify themselves if they have a conflict of interest as defined by this Law. Peacemakers may decline an assignment. In the event of the unavailability of an assigned Peacemaker, the alternate may serve as an assigned Peacemaker. No party to a grievance may disqualify a Peacemaker. Peacemakers may be removed in any mediation or Grievance at the discretion of the chair of the Peacemakers if they fail to meet the requirements of this Law. The alternate assigned to the mediation or grievance shall serve in the event a Peacemaker is removed.

c. Peacemakers shall, within five days of their appointment, contact the parties to the Grievance. Peacemakers may contact witnesses and may interview such people as necessary, in the view of the assigned Peacemakers, to develop an understanding of the Grievance. Employees of the Tribe shall, at all times, cooperate with the Peacemakers. Peacemakers may go beyond the record available on appeal. Employees who are found to be in violation of this provision, may be civilly fined in an amount not to exceed \$500 for each such offense.

d. Wherever possible, Peacemakers shall attempt to mediate the problem and work out a solution that is acceptable to both parties to the Grievance. If a

solution is worked out, then that Solution shall be signed by both parties and filed with the office of the Peacemakers. The solution shall be reviewed in 30 days to ensure that all parties are still satisfied with the solution. Solutions may be modified by the written agreement of the parties and the Peacemakers.

e. In the event that no mutually acceptable solution is possible, Peacemakers shall render a decision within 90 days. Peacemakers shall apply the policies and procedures that apply to the employee. Peacemakers shall not rule on the fairness of the policy or procedure, but shall ensure that the policy or procedure was fairly applied. The Peacemakers shall, prior to releasing the decision, review the draft decision with the full Peacemakers. The full Peacemakers panel may comment on the proposed decision and, in light of the comments, the Peacemakers who have been assigned to the grievance may change the proposed draft.

f. Written decisions rendered by the Peacemakers assigned to the Grievance are final. There is no appeal to either the Mashantucket Pequot Court of Appeals or to the Tribal Council from a decision of the Peacemakers.

1 M.P.T.L. ch. 4 § 16

§ 16. Powers of Peacemakers

a. Peacemakers who have been assigned to any mediation request or grievance may issue a subpoena, upon approval of the chair, which subpoena commands any person who can be served within the Mashantucket Pequot tribal lands to attend a meeting with the Peacemakers. Such subpoena may require the production of documents or other evidence. Peacemakers may subpoena, upon approval of the chair of the Peacemakers, any work related document in the possession of any employee of the Tribe. Assigned Peacemakers may subpoena, upon approval of the chair of the Peacemakers, any tribal police officer and investigative reports provided that all such documents or interviews are kept confidential.

b. Subpoenas requiring the attendance of any person must be signed by the chair and at least one of the Peacemakers assigned to a conflict. Such subpoenas must provide the person subpoenaed with five days notice from the date the subpoena is served. The subpoena shall state generally the reason for the subpoena. No attorney or other representative may accompany the person subpoenaed to a hearing. Subpoenas shall generally describe the document to be subpoenaed. Tribal police shall serve subpoenas.

c. Any person who fails to comply with the requirements of a subpoena shall, for each such offense, be guilty of a civil offense that shall be punishable by a fine not to exceed \$500. Any Native American who is a resident of the reservation and who fails to comply with the requirements of a subpoena shall be guilty of a criminal violation and shall be incarcerated for a period of time not to exceed 30 days. Tribal Council members and tribal court judges or magistrates shall not be subject to subpoena. The Peacemakers shall, after hearing, determine and impose an appropriate penalty pursuant to the provisions of this Section.

1 M.P.T.L. ch. 4 § 17

§ 17. Protection of Peacemakers

Any person who intimidates, threatens, assaults or batters any Peacemaker, or who interferes with, or attempts to interfere with any Peacemaker during the course of the exercise of their duties, shall be guilty of a criminal violation for each such offense and shall be subject to a jail sentence of no less than 30 days and/or no more than one year in jail and/or a civil fine not to exceed \$1,000. The Mashantucket Pequot Tribal Court shall have jurisdiction to determine a violation of this Section and impose an appropriate penalty.

1 M.P.T.L. ch. 4 § 18

§ 18. Penalties

The Tribal Court shall have jurisdiction to determine whether the provisions of this Law have been violated.

1 M.P.T.L. ch. 4 § 19

§ 19. Severability

In the event any provision of this Law is found to be invalid or unenforceable for any reason, such determination shall not affect the remaining terms.

1 M.P.T.L. ch. 4 § 20

§ 20. Effective Date

This Law shall become effective as of the date of passage. Only events occurring subsequent to the effective date of this Law may be heard by the Peacemakers.

TITLE 2. CRIMINAL LAW

CHAPTER 1. TRIBAL CRIMINAL RULES AND PROCEDURES

2 M.P.T.L. ch. 1 § 1

§ 1. Rules and Procedures

This law shall be known as the Mashantucket Pequot Tribal Criminal Law.

§ 2. Definitions

The following definitions shall apply in this Law:

a. "Arrest" shall mean the taking of a person into custody by the tribal police in order that the person arrested may be held to answer for an alleged offense.

b. "Arrest Warrant" shall mean a document issued by a judge of the tribal court which directs the Tribal Police to arrest a designated person and take that person into custody for further proceedings.

c. "Defendant" shall mean any person who is charged with an offense in tribal court.

d. "Indian" shall mean the following:

(1) any person who is an enrolled member of an Indian tribe which is contained on the most current list of federally recognized tribes published in 65 Fed. Reg. 49 (March 13, 2000); or

(2) any person who is an enrolled member of any of the following Indian tribes:

(a) all tribes which have, on an historic basis, been recognized by the state of Connecticut;

(b) all tribes recognized by the Canadian government; or

(c) any person, under the age of 18, who is eligible for membership in a federally recognized Indian tribe or in any of the tribes listed in subsection (2) of this Section.

e. "Mashantucket Pequot Tribal Nation Lands" shall include the following:

(1) The Tribal Council shall require the tribal lands map to be kept and may amend such map from time to time; or

(2) all land over which, pursuant to federal law, a federally recognized Indian tribe is entitled to exercise jurisdiction.

f. "Offense" shall mean any act which is a violation of tribal criminal law. Until such time as the Mashantucket Pequot Tribal Council enacts its own criminal laws, the criminal laws of the state of Connecticut shall serve as Tribal criminal law. (TCR112091-01). In the event of conflict between State law adopted pursuant to TCR112091-01 and other tribal law, the provisions of other tribal law shall govern.

g. "Probable Cause" shall mean more than a mere belief or suspicion and shall be composed of underlying facts and circumstances which would warrant a prudent

person to believe that an offense has occurred. Probable cause shall be determined in a practical and common sense fashion. The tribal court may be guided by, but shall not be bound by, the decisions of any federal or state courts which address the meaning of "Probable Cause".

h. "Summons" shall mean a document directing the persons named and described therein to appear before the tribal court on a specified date. Summonses may be issued by a judge of the tribal court. Summonses may also be issued by the tribal police pursuant to a delegation of authority from the tribal court.

i. "Tribal Elders" shall mean those enrolled members of the Tribe who are age 55 or older.

j. "Tribal Law" shall mean all tribal laws, the tribal Constitution, and the decisional authority of the tribal court.

k. "Tribal Police" shall mean the Mashantucket Pequot tribal police force or any sworn officer of that force.

2 M.P.T.L. ch. 1 § 3

§ 3. Juvenile Offenders

a. Until such time as the Tribal Council enacts its own juvenile code the juvenile code of the state of Connecticut is hereby adopted and shall serve as tribal law. In the event of conflict between this Law and the juvenile code of the state of Connecticut, the provisions of this Law shall govern.

b. Defendants under the age of 18 shall be considered juvenile offenders.

c. The tribal court shall have exclusive jurisdiction over juvenile offenders.

d. Juvenile offender proceedings shall be confidential and closed to the public. Records of such proceedings shall be sealed.

2 M.P.T.L. ch. 1 § 4

§ 4. Contempt Powers

a. Indians cited by the tribal court for contempt of court shall be subject to immediate arrest. Indians cited for contempt of court are entitled to a hearing in tribal court prior to any finding of contempt. Indians found in contempt of court may be fined up to \$500 and/or sentenced to imprisonment for up to six months for each such finding of contempt.

b. Non-Indians found in contempt of court may, after a hearing by the tribal court, be fined up to \$500 for each finding of contempt and shall be subject to an emergency exclusion order.

2 M.P.T.L. ch. 1 § 5

§ 5. Procedure and Evidence; Neetskehheau-Pomushaonk Program

Judges are authorized to develop rules of criminal procedure and evidence that are consistent with this law and with other tribal law. The proposed rules of criminal procedure and evidence shall be effective upon submission to and approval by the Tribal Council. Until such time as tribal criminal rules of procedure and evidence are effective, the tribal court shall use the *Superior Court Rules of Criminal Procedure and Rules of Evidence* applicable in the state of Connecticut. The tribal court may be guided but shall not be bound by decisions of the courts of the State, which interpret the Connecticut *Superior Court Rules of Criminal Procedure and Rules of Evidence*.

In the event of conflict between the state rules of criminal procedure and evidence and tribal law, the provisions of tribal law shall govern.

The chief judge may establish a separate criminal docket, entitled "Neetskehheau-Pomushaonk" (Healing Journey) for the hearing of criminal matters in which a defendant is a drug-dependent or alcohol-dependent person or is charged with the commission of an offense while under the influence of drugs or alcohol. A drug or alcohol-dependent person is one who has a clinically maladaptive pattern of drug or alcohol use that causes significant functional impairment as defined in the most recent edition of the *Diagnostic and Statistical Manual of Mental Disorders* of the American Psychiatric Association.

The program shall be available to those offenders who could benefit from placement in a substance abuse treatment program.

2 M.P.T.L. ch. 1 § 6

§ 6. Complaints

a. A complaint shall be a written statement of the essential facts constituting probable cause to believe that an offense by an Indian has occurred. Complaints shall be made under oath and presented to a judge of the tribal court. Complaints may be signed by any person, the tribal prosecutor, or a tribal police officer.

b. The tribal court shall adopt forms for complaints. Originals of complaints shall be filed with the tribal court, designated by number and retained by the tribal clerk. The tribal court clerk shall keep a record of the issuance and disposition of each complaint. Whenever practicable, a copy of the complaint shall be served upon the defendant at the time of execution of an arrest warrant or summons.

c. Complaints may be reviewed by a judge of the tribal court even when the judge is located off the Mashantucket Pequot Tribal Nation Lands. In all instances, complaints shall be deemed "filed" after judicial review.

d. Except as provided in this subsection, the essential facts alleged in a complaint and constituting probable cause to believe that an offense by an

Indian has occurred shall be derived from the complainant's personal knowledge. If the complainant is a tribal police officer, the essential facts may be composed of any of the following criteria or a combination thereof:

- (1) The officer's personal knowledge; or
- (2) Except as provided herein, information received from another officer of the tribal police who has probable cause to believe that an offense has occurred and that a particular person has committed such offense; or
- (3) Information that is otherwise received by the officer establishing probable cause to believe that an offense has occurred and that a particular person has committed such offense.

2 M.P.T.L. ch. 1 § 7

§ 7. Authority to Issue Arrest Warrants and Summonses

- a. Subject to the provisions of Section 8 of this Law, it is the policy of the Tribe to issue summonses in lieu of arrest warrants whenever possible.
- b. Judges of the tribal court are authorized to issue arrest warrants and summonses pursuant to the provisions of this Law.
- c. Judges may issue arrest warrants or summonses if, based upon the complaint or such other information that may support the complaint, they are satisfied that there is probable cause to believe that an offense has occurred and that the accused person committed the offense.
- d. Officers of the tribal police shall have authority to directly issue summonses in certain minor matters and offenses. Minor matters and offenses shall be specifically designated by the tribal court.
- e. Arrest warrants and summonses may be issued by judges from locations off the nation lands but shall be executed by the tribal police within the nation lands.

2 M.P.T.L. ch. 1 § 8

§ 8. Procedures for the Issuance of Arrest

- a. Warrants or Summonses. Except as provided for in Section 10 of this Law, all applications for arrest warrants and summonses must be approved by a tribal prosecutor before submission to a judge of the tribal court.
- b. Except as provided in Section 10 of this Law, judges shall issue summonses rather than arrest warrants unless a judge finds that any of the following conditions exist:
 - (1) the accused is charged with any offense that, in addition to being a

violation of tribal law, also constitutes a violation of any federal criminal statutes;

(2) the person has previously failed to respond to a Summons;

(3) the tribal police have reason to believe that the person poses a threat to the safety of persons or property located on the nation lands;

(4) there is one or more outstanding arrest warrant for the person;

(5) the prosecution of the offense or offenses for which the person to be arrested or the prosecution of any other offense or offenses would be jeopardized by immediate release of the person;

(6) the person cannot provide satisfactory evidence of personal identification;
or

(7) a tribal police officer has reason to believe the person will not appear in response to a summons.

If the judge finds that one or more of the aforementioned conditions exist, the judge may issue an arrest warrant.

2 M.P.T.L. ch. 1 § 9

§ 9. Identification Procedures Upon Issuance of Summons

In cases where a summons has been issued by the tribal court in lieu of an arrest warrant, the defendant shall undergo all post arrest identification procedures on the return date of the summons. In the event that the defendant does not appear on the return date or refuses to submit to the post arrest identification procedures, the tribal court may, on its own, or at the request of a tribal prosecutor, order the issuance of an arrest warrant.

2 M.P.T.L. ch. 1 § 10

§ 10. Summonses in Minor Offenses

a. Subject to the provisions of Section 14(d) of this Law, the tribal court shall authorize the tribal police to issue summonses in cases involving minor offenses. The tribal court shall determine which matters shall be considered minor offenses. Such determination shall be effective upon approval of the Tribal Council.

b. The tribal court shall prescribe written summons forms for minor offenses. Such forms shall contain the information needed for a complaint. Such forms shall be submitted to the court but need not have the prior approval of the tribal prosecutor. Service of this type of summons may be in person or by mail.

2 M.P.T.L. ch. 1 § 11

§ 11. Failure of Defendant to Appear after Summons

If a defendant who has been duly summoned fails to appear or if there is reasonable cause to believe that the defendant will fail to appear, an arrest warrant shall issue.

2 M.P.T.L. ch. 1 § 12

§ 12. Arrest Warrants and Summons/Form and Content

a. In addition to the necessary information contained in the supporting complaint, all arrest warrants and summonses shall contain the following information:

- (1) name, description and address, if known, of the person arrested or summoned;
- (2) date of issuance of the warrant or summons;
- (3) citation of the offense charged;
- (4) except as provided in Section 10, the signature of the issuing Judge; and
- (5) a number which corresponds to the number assigned to the supporting complaint;

b. More than one arrest warrant or summons may issue on the same complaint.

2 M.P.T.L. ch. 1 § 13

§ 13. Execution of Arrest Warrants

Upon execution of an arrest warrant, the tribal police shall:

- a. Provide a copy of the arrest warrant and supporting complaint to the defendant as soon as practicable; and
- b. Advise the defendant of all rights and privileges pursuant to the 20 M.P.T.L., Civil Rights Code.

2 M.P.T.L. ch. 1 § 14

§ 14. Authority and Procedures to Arrest without a Warrant

a. Tribal Police are authorized to make arrests without previously securing an

arrest warrant upon satisfaction of the following criteria:

(1) person commits an offense in the presence of any officer of the Tribal Police; or

(2) probable cause exists to believe that an offense has been committed and that the accused committed such offense.

b. As soon as practicable, but in all cases prior to arraignment as provided in Section 16 of this Law, the Tribal Prosecutor shall file a complaint consistent with the requirements set forth in Section 6 of this Law.

c. As soon as practicable, but in all cases within 24 hours from the time a person is arrested with or without a warrant, or detained, the arrested person shall be entitled to a bail determination as provided in Section 24 of this Law. In the case of an arrest authorized by warrant, no bail or condition of release set by the Court or contained in said warrant may be modified except by further order of the Court.

d. As soon as practicable, but in all cases within 72 hours from the time a person is arrested without a warrant, or detained, the arrested person shall be entitled to a determination whether probable cause has been demonstrated that an offense was committed and that the defendant committed such offense. A Judge may make such a finding from the complaint, relevant police reports, or other relevant evidence. If the Judge concludes that probable cause has not been demonstrated, the defendant must be released on the defendant's own recognizance pending further proceedings. Probable cause determinations may be made and issued from locations either on or off Nation Lands and may be conveyed by telephone, facsimile or otherwise.

e. The Tribal Police Department shall promptly provide all necessary information relevant to the determination of probable cause to a Judge upon request.

f. In cases involving minor offenses, as defined by the Tribal Court pursuant to this Law, and provided that the circumstances demonstrate that the criteria in Section 14(a) have been satisfied, the Tribal Police are authorized to arrest and detain a person. In the event a summons is not issued the complaint procedures set forth in Section 6 and the post arrest procedures set forth in Section 14(b) and (c) shall apply. If the arrested subject is a non-Indian, the provisions of Section 15 shall control.

2 M.P.T.L. ch. 1 § 15

§ 15. Arrest or Detention of Non-Indians

a. Persons arrested or detained for a violation of tribal law and who, upon further investigation, are revealed to be non-Indian, shall be expeditiously transferred to the custody or control of the appropriate state or federal authorities.

b. In matters involving the arrest or detention of non-Indians and pending transfer to the appropriate federal or state law enforcement authorities, the tribal police may advise such persons of the Constitutional rights enunciated in the decision of the United States Supreme Court in *Miranda vs. Arizona*, 384 U.S. 468 (1966).

2 M.P.T.L. ch. 1 § 16

§ 16. Arraignment

Defendants shall be arraigned before the Tribal Court following the execution of an arrest warrant or upon their initial appearance in response to a summons or following an arrest and detention of a person pursuant to Section 14 of this Law. The date and time of arraignment in all matters shall not be more than 14 days after the date of the arrest or detention.

All references to gender used in this section include the other genders, the singular includes the plural, and the plural includes the singular.

a. After a defendant has been arrested with or without a warrant and pursuant to the authority in Sections 7 and 14 of this Law, the defendant shall be arraigned before a Judge of the Tribal Court.

b. At arraignment, the Judge shall inform the defendant:

(1) of the alleged offense with which he is charged and the Judge shall provide the defendant with a copy of any applicable complaint and warrant if they have not previously been furnished to him. The Judge shall advise the defendant that he can enter a plea of guilty, not guilty or nolo contendere to the charge(s); and

(2) that he has a right not to make a statement to the charge and that any statement made may be used against him at trial; and

(3) that he has a right to retain counsel pursuant to the provisions of this Law; and

(4) that he is entitled to the protection afforded under the Tribe's Civil Rights Law; and

(5) that he may be entitled to a trial by jury pursuant to the provisions of this Law; and

(6) that he may be eligible for entry into the Pre-Trial Intervention program [hereinafter PTI]. The Judge shall also inform the defendant of the name and telephone number of the PTI program director, and shall further direct that the defendant be provided with an application for PTI which shall be submitted pursuant to the provisions and guidelines of the PTI program.

c. If a defendant refuses to enter a plea to a charge or stands mute, the Judge shall enter a not guilty plea to the Complaint.

d. The Judge may also review and, if appropriate, modify any bail determination made pursuant to Section 24 of this Law.

e. If a defendant is not represented by counsel, no plea of guilty to offenses charged can be accepted by the Tribal Court unless and until the Judge is satisfied that:

(1) the defendant understands his right to be represented by either a retained or Court appointed counsel;

(2) the defendant knowingly and intelligently has waived such right to be represented by counsel;

(3) there is a factual basis for the plea and that the plea is made voluntarily and not as the result of threats, coercion, or of any promise not disclosed on the record;

(4) the defendant understands the nature of the charge and the consequences of the plea;

(5) the defendant understands that the Tribal Court may accept a plea of guilty and, upon a showing of good cause, order that such plea not be admissible as evidence in any civil proceeding; and

(6) the defendant understands that if a plea of guilty is refused, no admission made by the defendant shall be admissible in evidence against him at trial.

f. If a defendant is represented by counsel, a plea of guilty may be accepted by the Tribal Court if the Judge concludes that both the defendant and his counsel fully understand the charges and evidence and that the criteria set forth in subsection (e)(1)-(6) above are otherwise satisfied. In the interests of justice, a Judge may grant defendants a reasonable time and opportunity to consult with counsel before the acceptance of a guilty plea.

g. After the entry of a not guilty plea, the Judge shall inform the defendant of a date for a pre-trial hearing.

2 M.P.T.L. ch. 1 § 17

§ 17. Search and Seizure Warrants—Authority

a. Judges, whether located on or off the nation lands, are authorized to issue search and seizure warrants which authorize the tribal police to search a described area, vehicle or person and to seize property.

b. Search and seizure warrants may authorize the tribal police to search any area, vehicle or person and/or to seize any property within the nation lands.

c. Notwithstanding (a) and (b) of this Section, a search and/or seizure without a search warrant is authorized provided it does not violate the provisions of

the Tribe's Civil Rights Law.

2 M.P.T.L. ch. 1 § 18

§ 18. Search and Seizure Warrants—Procedure and Execution

a. Search and seizure warrants shall be in writing and signed by the issuing judge.

b. Search and seizure warrants shall be issued only upon application by the tribal police after approval by the tribal prosecutor. Applications for a search and seizure warrant shall contain a showing of probable cause. Probable cause shall be shown by a written or oral statement made by a person under oath or affirmation and submitted to a judge. The requisite showing for probable cause shall include a specific showing that the property sought to be searched for and seized includes any documents, books, papers, or other tangible items which were or are being:

(1) obtained in violation of tribal law; or

(2) obtained in violation of a law of any other jurisdiction; or

(3) possessed, controlled, designed, or intended for use with an offense, which have been used in connection with any offense; or

(4) which constitute evidence of an offense.

c. Search and seizure warrants shall describe with particularity the area, vehicle or person to be searched and the property to be seized. Search and seizure warrants shall direct the tribal police to search for and to seize evidence within the described area, vehicle or person.

d. The tribal police serving search and seizure warrants shall utilize only the degree of force necessary to effectuate the seizure of evidence and to ensure the safety of the tribal police and the public.

e. The tribal police officer serving search and seizure warrants shall also endorse upon the copy of the warrant served the serving officer's name, title and the place, date and time of service. The tribal police shall return a copy of the served warrant to the court clerk stating the name of the case, if applicable, and the name of the person served and the place, date and time of service. The tribal police officer serving the warrant shall subscribe his or her name on the return copy.

f. Search warrants shall be executed during daylight hours unless the underlying application sets forth circumstances which establish good cause for execution at any other time.

g. All search warrants shall be executed within 14 days of issuance; if not executed during that period, the warrant is void and may not be executed without a new application being filed with the tribal court.

h. The tribal police serving and executing search and seizure warrants shall make an inventory of all seized property. The tribal police shall leave a copy of the inventory with persons from whom property is seized. The tribal police shall file a copy of the inventory with the court clerk within seven days of execution.

i. Within 14 days of the execution of search and seizure warrants, the tribal court shall, upon request of a purported owner of seized property, hold a hearing to determine the disposition of any property seized from said owner. Whenever practical, the judge that issued the search and seizure warrant shall be assigned to the disposition hearing.

j. At a disposition hearing, judges may dispose of seized property as follows:

(1) Upon satisfactory proof of ownership the seized property shall be delivered by the tribal police immediately to the legal owner, unless the property is contraband, is to be used as evidence in a pending case, or was used in connection with the commission of an offense;

(2) Property confiscated as contraband shall be destroyed or otherwise disposed of as ordered by the tribal court;

(3) Except as provided herein, property seized as evidence in a pending case shall be returned to the owner after judgment in that case;

(4) Except as provided herein, property seized which has been used in connection with the commission of an offense shall be disposed of as ordered by the tribal court;

(5) In those situations where seized property is retained as evidence or was used in connection with the commission of an offense, a non-defendant purported property owner may apply to the tribal court for return of the property pursuant to the provisions of this Law; and

(6) If a non-defendant purported property owner satisfactorily demonstrates proof of ownership of the property, and further demonstrates that continued denial of use or possession of the seized property would result in demonstrable harm, the tribal court may order the return of the seized property provided that a suitable alternative such as photography and/or other documentation may be substituted for evidential purposes in future proceedings. In such situation, a defendant in a matter where evidence of the seized property is relevant, shall be given notice and an opportunity to object to the release of and substitution of such property. The tribal court, upon receiving notice of such an objection, shall then schedule a hearing to determine if any demonstrable and credible prejudice results from the release of and substitution for such property. The burden to establish such prejudice by clear and convincing evidence shall be on the defendant. If the defendant fails to establish this burden, the property may be returned to its owner consistent with the Rules of Evidence to be developed by the tribal court.

k. Judges are authorized to prohibit the introduction or use at trial of any

evidence seized in violation of this Law. Persons alleging that they have been aggrieved by an unlawful search and seizure, and having reasonable grounds to believe that the evidence obtained may be used against him or her in a criminal proceeding, may apply to the tribal court for an order suppressing the tribal prosecutor's use of such evidence. The form and time for such motion shall be prescribed by the tribal court.

1. Search and seizure cases decided under federal or state law may guide but shall not control the decisions of the tribal court when considering the validity of a search and seizure warrant or the admissibility of evidence at trial.

2 M.P.T.L. ch. 1 § 19

§ 19. Sealing and Confidentiality

Upon application by the tribal prosecutor or any defendant, the tribal court is authorized to order that the following documents be sealed and held confidential until further order of the court:

- a. complaints, or
- b. applications for arrest warrants or summonses or search warrants, or
- c. arrest warrants, summonses and search warrants, or
- d. any other document or exhibit submitted in support of the foregoing.

2 M.P.T.L. ch. 1 § 20

§ 20. Discovery

Subject to the provisions of Section 19 of this Law, within 30 days of arraignment, and pending the adoption of formal rules of discovery by the tribal court, defendants shall be entitled to inspect, review, or copy any of the following materials which are within the possession, custody, or control of the tribal prosecutor:

- a. All complaints charging the defendant with an offense;
- b. police reports relevant to the charged offenses;
- c. written statements of the defendant and witnesses;
- d. any record of prior conviction(s) of the defendant;
- e. search warrants, affidavits and any supporting documents; and
- f. any other documents upon which the tribal prosecutor intends to rely upon in prosecuting the matter.

§ 21. Trial by Jury or by the Court

a. Trial by jury or by the court

(1) All trials of offenses shall be tried by the court without a jury unless the defendant requests a trial by jury within 30 days of arraignment.

(2) A defendant is entitled to a jury trial where imprisonment is a possible penalty for the offense charged.

(3) Juries shall be composed of six jurors with one alternate.

(4) In a case tried without a jury, the judge shall make a general finding of guilty or not guilty.

b. Eligibility for Jury Duty. Any enrolled member of the Mashantucket Pequot Tribal Nation, between the ages of 21 and 70, who has not been convicted in any jurisdiction of a felony within the five years preceding the date that the jury trial request is made, and who resides on the Mashantucket Pequot Tribal Nation lands or within 50 miles of the tribal lands, shall be eligible to be a juror.

Judges, other officers or employees of the court, Tribal Council members, and tribal police officers shall not be eligible to be jurors while thus employed or appointed.

c. Jury List. Annually, the tribal clerk shall provide to the court clerk a listing of enrolled tribal members, between the ages of 21 and 70, who are residents of the Nation's lands or reside within 50 miles of the Nation's Lands, and their mailing addresses.

§ 22. Trial by Jury Procedure

a. No more than 60 days prior to trial the court clerk shall select by lot or some other means of random, impartial selection, not less than 35 persons from the list of eligible jurors to receive a selection letter and questionnaire which shall be returned to the tribal court.

b. From the above list of potential jurors, the court clerk shall select, by lot or some other means of random, impartial selection, and summon a panel of not less than 21 persons to appear and be available to serve as jurors.

c. Each person, duly chosen and summoned, who fails to appear shall have committed a contempt of court and the court may require payment of a fine in the amount not less than \$500 and not more than \$2,500. The court may excuse the juror from the payment of the fine thereof for good cause shown.

d. If a sufficient number of the prospective jurors summoned do not appear, or if for any reason there is not a sufficient number of persons to make up the panel, the court may order such number of persons who qualify for jury service to be summoned as may be necessary, and any person so summoned who makes default of appearance without sufficient cause shall have committed a contempt of court requiring payment of a fine in the amount not less than \$500 and not more than \$2,500. The court may excuse the juror from the payment of the fine thereof for good cause shown.

e. Prospective jurors shall be excused from sitting if they are related to the defendant or to a victim in the case by blood or marriage within the second degree, or to any person likely to be called as a witness for or against the defendant, or to any person who resides in the same household as the defendant, stands in the relationship of guardian or ward, is a surety or guarantor of any bond or undertaking of the defendant or likely witness, or with the person alleged to be injured by the offense charged, or has personal knowledge of the subject of the trial beyond that which is generally held by the members of the Tribe and which may influence the juror's decisions as a juror or has a state of mind, knowledge, or belief in reference to the facts and circumstances of the trial, or to any party, or to the counsel for any party.

f. Six qualified jurors shall be selected from the jury panel. To reach a finding of guilty or not guilty, five of six jurors must vote in favor of the finding.

g. An alternate juror shall be selected in addition to the six jurors who shall replace a juror who, prior to the time the jury retires to consider its verdict, becomes or is found, in the discretion of the trial judge, to be unable or disqualified to perform his/her duties. An alternate juror shall be dismissed prior to the jury retiring to deliberate if the juror has not first been called to replace a regular juror who has become for any reason unable or disqualified to serve.

h. Power to Excuse Jurors. A judge may excuse a person notified and/or summoned to appear as a juror on account of sickness, disability, extreme hardship or other good cause shown upon the request for such excusal by the person notified and/or summoned.

i. Compensation of Jurors.

(1) Each person who is called and reports for jury selection shall be entitled to mileage at the prevailing rate paid by the Mashantucket Pequot Tribe ("mileage") and to a fee of \$25 for participation in the jury selection process.

(2) Each person selected for jury service and who is not a regular full time employee of the Mashantucket Pequot Tribal Nation or a full time student, shall be entitled to mileage and a fee of \$100 for each full or partial day of jury service. In the event that trial is conducted on the same day as jury selection then the selection fee shall be added to the first day service fee.

j. Examination of Jurors.

(1) The court shall conduct voir dire and shall determine that all prospective jurors are of sound mind and have not prejudged the case to be heard by them. The court shall also determine that all prospective jurors are physically capable of sitting and considering the evidence and argument presented for trial. Prior to the date of trial, the prosecutor, the defendant or the defendant's counsel, may submit written questions to the court to be asked of prospective jurors. During voir dire, neither the prosecutor nor the defendant, or the defendant's counsel shall be permitted to question any prospective juror.

(2) Challenges regarding prospective jurors may be taken as follows:

(a) Each side shall be entitled to two peremptory challenges.

(b) Either side may challenge any juror for cause.

(c) An alternate juror shall be treated as a regular juror for purposes of challenges.

(3) The prosecutor first, and afterward the defendant, shall complete his/her challenges for cause. They may then, in turn, in the same order, have the right to challenge one juror each, until each shall have exhausted their peremptory challenges as provided herein.

(4) Upon completion of the challenge process, the court clerk shall select, by lot or some other means of random, impartial selection, seven members from the remaining panel and the jury shall be seated.

(5) Jury Foreperson. The judge in any trial by jury shall select the foreperson for each jury.

k. Oath of Jury. The jury shall be sworn to well and truly try the matters submitted to them in the case before them, and to give a true verdict, according to the law and the evidence.

l. Jury Trial Procedure. The tribal court shall develop Rules of Court that shall govern the jury trial process.

2 M.P.T.L. ch. 1 § 23

§ 23. Right to Attorney

a. Defendants who are demonstrably indigent are entitled to an attorney at the Tribe's expense.

b. Defendants who are tribal members and who are or may be eligible for a distribution under the Tribe's incentive program or other tribal per capita payment plan shall not be considered indigent for purposes of this Law.

c. Defendants who are tribal members and who are or may be eligible for a

distribution under the Tribe's incentive program or other tribal per capita payment plan shall, at their request, have an attorney appointed by a judge from a list of approved attorneys established by the tribal court. Such appointments shall be paid for by the Tribe, provided that the cost of any attorney appointed and paid for by the Tribe shall be deducted from any future tribal distribution or payment to tribal members.

d. Consistent with the provisions of this Law, the tribal court may develop rules regarding the provision of attorneys which shall be effective upon approval by the Tribal Council.

2 M.P.T.L. ch. 1 § 24

§ 24. Bail and Release

a. The Mashantucket Pequot Tribal Council declares that it is the policy of the Tribe to require the minimum amount of bail, surety, or bond that is reasonably calculated to ensure the presence of any defendant in any future Tribal Court proceeding.

b. Except in cases of arrest pursuant to a warrant in which the Tribal Court has set bail, the Tribal Police are authorized to set bail upon such terms and conditions as are consistent with Tribal policy as stated in subsection (a) of this Section and which, in their discretion, will ensure the presence of the defendant in Tribal Court when required. Said bail determination shall be made by the ranking Tribal Police Officer on duty at the time of arrest. **The Tribal Police shall determine bail based upon the Bail Guidelines attached to this law. The Tribal Court has reviewed and recommends adoption of the Bail Guidelines attached to this law.** Upon request of the defendant, a Judge shall review and, if appropriate, modify any bail determination made by the Tribal Police at the next regularly scheduled court session.

c. Judges may require bail upon such terms and conditions as are consistent with Tribal policy as stated in subsection (a) of this Section and which, in their discretion, will ensure the presence of the defendant in Tribal Court when required.

d. Determinations of Judges and the Tribal Police regarding bail may be based upon but shall not be limited to the seriousness of the offense charged and the background, residence, employment and family status of the defendant. Bail determinations may be made and issued from locations either on or off Nation Lands and may be conveyed by telephone, facsimile or otherwise.

e. The Tribal Police Department shall promptly provide all necessary information relevant to the determination of bail to a Judge upon request.

f. The Tribal Prosecutor shall provide a report to the Tribal Court at any bail hearing. Such report shall contain all information relevant to the issue of bail as may be available to the Tribal Prosecutor concerning the defendant to be bailed. Such report shall include but not be limited to:

(1) record of prior arrest;

(2) arrest reports;

(3) the defendant's marital status, residence, employment and such other information as would assist the Tribal Court in making a bail determination.

g. The Tribal Court shall prescribe bail information forms.

h. Judges are authorized to order the release of defendants on their own recognizance and may impose terms or conditions appropriate to such release.

i. Judges are authorized to revoke the release of defendants and order them committed to jail if, at any time, a Judge determines that the terms and conditions of release will not reasonably ensure the presence of defendants in Tribal Court or if any terms or conditions of release have been violated.

j. Judges are authorized to appoint the Tribal Police to monitor the compliance of defendants with bail or release terms or conditions. The Tribal Police Department is authorized to accept payments for bail, or surety agreements, or execute promises to appear.

BAIL GUIDELINES

These guidelines shall serve as a guide for the setting of bail pursuant to Mashantucket Pequot Tribal Law and the MPTN Penal Code.

The guideline amounts in Schedule A shall be used to determine the base bail amount for any individual defendant. Mitigating factors shall be applied to the base bail amount from Schedule B and Aggravating and Enhancing factors shall be applied from Schedule C in order to determine the adjusted bail amount. The purpose of bail, as provided by Tribal law, is to assure that the defendant appears in court when scheduled. Bail shall not be used as a punitive measure.

Schedule A

<u>Offense Charged</u>	<u>Presumptive Bail</u>
Capital Murder	No Bail
Murder	No Bail
Class A Felonies	\$50,000
Class B Felonies	\$25,000
Class C Felonies	\$10,000
Class D Felonies	\$ 5,000

Class A Misdemeanors \$ 2,500
Class B Misdemeanors \$ 1,500
Class C Misdemeanors \$ 500

Choose the single most serious charge and establish the base bail.

Bail shall be in the form of cash only. MPTN Tribal Police are authorized to accept cash in an amount not to exceed Two Thousand Five Hundred Dollars (\$2,500) as bail monies. All bail in excess of Two Thousand Five Hundred Dollars (\$2,500) shall be submitted to an account specified by the MPTN Tribal Police. Upon proof of deposit of the monies, bail shall be considered posted.

Schedule B (Mitigating Factors)

<u>Factor</u>	<u>Effect on Bail</u>
1. Defendant resides on the Reservation or in a tribally owned home reduction of base bail	85%
2. Defendant has no prior criminal record	50% reduction of base bail
3. Defendant owns a home within 25 miles of the Reservation reduction of base bail	75%
4. Defendant has lived in the same location, being within 25 miles of the Reservation for more than three years	50% reduction of base bail
5. Defendant has family (children, wife, parents) living within 25 miles of the Reservation	50% reduction of base bail
6. Defendant is employed within 25 miles of Reservation	25% reduction of base bail
7. If the Defendant has no prior convictions and is credited with any of the above factors, and is charged with a misdemeanor, then Defendant may be	

released on a promise to appear (i.e. without bail requirements)

Choose the single mitigating factor that results in the greatest reduction in the base bail.

Schedule C

(Aggravating Factors)

Factor

Effect on Bail

1. Defendant has been issued a citation for failure to appear in Tribal Court Triple Base Bail

2. Defendant has been convicted for failure to appear in any state court Triple Base Bail

3. Defendant has been issued a citation for contempt of Tribal Court Double Base Bail

4. Defendant has been convicted of Contempt of Court in any State or Federal Court Double Base Bail

Choose the single aggravating factor that results in the greatest increase in the base bail.

Example:

1. Defendant is charged with a Class A felony under Tribal Law. The base bail is \$2,500. Defendant has a wife and child and owns a home within twenty-five miles of the Reservation. The largest mitigating factor is home ownership. If there are no aggravating factors then the base bail is reduced by 75% for an adjusted bail of \$625 (75% of \$2,500 <EQUAL> \$1,875; \$2,500 - \$1,875 <EQUAL> \$625).

2. Same example except that the Defendant has been cited for failure to appear in Tribal Court. In that instance triple the base bail then apply the reduction. $3 \times \$2,500$ <EQUAL> \$7,500. Apply the reduction of base bail of \$1,875 as previously determined. Adjusted bail is \$5,625. Note that since the Tribal Police cannot accept cash in an amount greater than \$2,500 the Defendant will not be able to be released until the Adjusted Bail amount is deposited in the specified MPTN account.

2 M.P.T.L. ch. 1 § 25

§ 25. Probation

a. Consistent with tribal policy, judges are authorized to sentence persons convicted of an offense to probation in lieu of jail provided the offense does not provide for mandatory incarceration.

b. It is the policy of the Tribe to assign conditions to any probation. Probation conditions shall be imposed to assist persons convicted to address personal problems that may have contributed to a conviction. Conditions may include but shall not be limited to drug and/or alcohol abuse counseling, counseling to address abuse of a spouse or such other problems as, in the opinion of the court, require remedial action. It is also the policy of the Tribe to require those who have been found guilty of injuring others to provide restitution as a condition of probation or to perform community service as deemed appropriate by a tribal judge.

c. Judges shall assign a probation officer to ensure that the conditions of probation are being met. Judges shall appoint tribal probation officers to serve on an as needed basis. The qualifications and terms of employment for probation officers shall be established by the tribal court and shall be subject to approval by the Tribal Council.

d. Tribal probation officers and other persons may file complaints with the tribal prosecutor for alleged violations of probation. The tribal prosecutor may apply for an arrest warrant for persons alleged to be in violation of probation. After arrest or upon notice of an alleged violation of probation, whichever is later, a probation revocation hearing shall be held.

e. After a hearing and upon a finding that a violation of probation has occurred, judges are authorized to revoke probation or impose additional conditions of probation.

2 M.P.T.L. ch. 1 § 26

§ 26. Subpoenas and Service of Papers

a. Judges are authorized to issue subpoenas directing the attendance of witnesses, jurors, or such other persons as may be necessary for trial or other proceedings as well as for the production of documentary and physical evidence.

b. Subpoenas shall be issued upon the judge's own motion or at the written request of the prosecutor or defendant.

c. Subpoenas shall be in writing and shall be signed by the Judge issuing them.

d. Subpoenas shall be served by the tribal police within the Nation Lands. The tribal police serving subpoenas shall endorse upon the copy of the subpoena served the officer's name, title and the place, date and time of service. The tribal police shall also return a copy of the served subpoena to the court clerk stating the name of the case, the name of the person served, and the place, date and time of service. The serving tribal police officer shall

subscribe their name to the return copy.

2 M.P.T.L. ch. 1 § 27

§ 27. Sentences

Persons convicted in tribal court may be sentenced up to the maximum extent provided under the Tribe's Civil Rights Law, for each such offense. Judges imposing jail sentences on persons convicted in tribal court, may be guided by but shall not be bound by, sentencing provisions and guidelines of Connecticut state law.

2 M.P.T.L. ch. 1 § 28

§ 28. Appeals

a. Persons convicted in tribal court of any offense may appeal to the Mashantucket Pequot Court of Appeals.

b. Executions of judgments or appealable orders of the tribal court entered under this Law may be stayed, pending appeal, upon written application to and at the discretion of any judge of the Mashantucket Pequot Court of Appeals.

2 M.P.T.L. ch. 1 § 29

§ 29. Attachment Prohibition

Neither execution nor attachment shall issue against the Tribe in any suit for injury or proceedings initiated under this Law.

2 M.P.T.L. ch. 1 § 30

§ 30. Severability

If any part of this Law is invalidated by the tribal court all valid parts that are severable from the invalid part remain in effect. If any part of this Law is invalid in one or more of its applications, that part remains in effect in all valid applications that are severable from the invalid applications.

2 M.P.T.L. ch. 1 § 31

§ 31. Miscellaneous

a. In construing this Law, the present tense includes the past and future tenses, and the future tense includes the present tense.

b. When reference is made to any portion of this Law, the reference shall apply to all amendments made hereafter.

c. In the event of any conflict between this Law and other tribal laws, this Law shall control. To the extent that this Law is inconsistent with any provisions of the substantive or procedural laws of the state of Connecticut which may have been adopted by reference by this Law or any other law of the Tribe, the provisions of this Law shall govern.

d. Section headings shall be used only for reference to format and not in construing this Law.

2 M.P.T.L. ch. 1 § 32

§ 32. Designation of Minor Matters

The following are minor matters and offenses:

a. A violation as defined by the language of Section 53a-27 of the Connecticut General Statutes as may be amended from time to time.

b. Any offense which is designated as an infraction by the language of the Connecticut General Statutes, as they may be amended from time to time.

2 M.P.T.L. ch. 1 Chart

CHART OF CRIMINAL JURISDICTION IN INDIAN COUNTRY BY PARTIES AND CRIMES

This chart does not reflect federal crimes applicable to all persons in all places, such as theft from the mails or treason.

CRIMES BY PARTIES JURISDICTION STATUTORY AUTHORITY LINES

- a. Crimes by Indians against Indians:
 - i. "Major" crimes. Federal or tribal (concurrent) 18 U.S.C.A. Sec. 1153
 - ii. Other crimes. Tribal (exclusive)
- b. Crimes by Indians against non-Indians:
 - i. "Major" crimes. Federal or tribal (concurrent) 18 U.S.C.A. Sec. 1153
 - ii. Other crimes. Federal or tribal (concurrent) 18 U.S.C.A. Sec. 1152
- c. Crimes by Indians without victims: Tribal (exclusive)

d. Crimes by non-Indians against Indians: Federal (exclusive)
18 U.S.C.A. Sec. 1152

e. Crimes by non-Indians against non-Indians: State (exclusive)

f. Crimes by non-Indians without Victims: State (exclusive)

Source: William C. Canby, Jr. *American Indian Law 3d.* (West Publishing)

CHAPTER 2. OFFENSES AGAINST THE TRIBE LAW AND ORDER CODE

2 M.P.T.L. ch. 2 § 1

§ 1. Offenses Against the Tribe

The following are declared to be offenses against the law of the Mashantucket Pequot Tribe which shall be punishable in the courts of the Mashantucket Pequot Tribe by imprisonment for a term of not more than one year and a fine of not more than \$5,000 or both:

a. Mashantucket Pequot Criminal Laws. The Mashantucket Pequot Tribe hereby adopts as tribal law the criminal laws of the state of Connecticut, and all other actions, activities, and conduct determined to be criminal or prohibited pursuant to tribal law.

b. Violation of Tribal Gaming Law. The commission of any act as defined by Section 9 of the Mashantucket Pequot Tribal Gaming Law, 3 M.P.T.L. ch. 1, is a criminal offense of the Mashantucket Pequot Tribe.

c. Violations of Tribal Liquor Law: The sale of any intoxicating liquor within the Mashantucket Pequot Reservation, including the lands now or hereafter held in trust for the Tribe by the United States or held by the Tribe subject to a restriction against alienation imposed by the laws of the United States, except in conformity to the requirements of the Mashantucket Pequot Tribal Liquor law, 17 M.P.T.L., is declared to be a criminal offense against the law of the Mashantucket Pequot Tribe.

2 M.P.T.L. ch. 2 § 2

§ 2. Tribal Police Department

The Mashantucket Pequot Tribal Police Department is hereby established as the law enforcement agency of the Mashantucket Pequot Tribe, to have and exercise all of the sovereign law enforcement powers of the Mashantucket Pequot Tribe within the Mashantucket Pequot Reservation, including all lands now or hereinafter held in trust for the Tribe by the United States or held by the Tribe subject to restriction against alienation imposed by the laws of the United States. The Mashantucket Pequot Tribal Police Officers shall be subject

to and shall satisfy the requirements set forth in the Federal Register for Bureau of Indian Affairs law enforcement programs, including without limitation each of the training requirements thereof, and such regulations are hereby adopted as the law of the Tribe.

2 M.P.T.L. ch. 2 § 3

§ 3. Power of Police Officers

Mashantucket Pequot Tribal Police Officers shall have the following powers:

- a. the power to carry firearms;
- b. the power to execute or serve warrants, summonses, or other orders relating to crime committed on the Mashantucket Pequot Reservation;
- c. the power to arrest, including arrest without warrant if the offense is committed in the presence of the officer or the offense is a felony and the officer has reasonable ground to believe that the person to be arrested has committed, or is committing, the felony;
- d. the power to make inquiries of any person, and administer to, or take from any person an oath, affirmation, or affidavit, concerning any matter relevant to the enforcement or carrying out of any law applicable within the Mashantucket Pequot Reservation.
- e. The power to serve summonses and subpoenas in civil cases within the boundaries of the Mashantucket Pequot Reservation.

2 M.P.T.L. ch. 2 § 4

§ 4. Chief of Police

The Mashantucket Pequot Tribal Police Department shall be under the direction and management of a chief of police, who shall be appointed by and serve at the pleasure of the Mashantucket Pequot Tribal Council. The chief of police shall have the authority, acting on behalf of the Tribe:

- a. to establish an annual budget for the police department subject to the approval of the Tribal Council;
- b. to employ, train and supervise such additional police officers and supporting personnel as may be authorized by the budget of the department, and to exercise the authority to discipline and terminate such officers and personnel in accordance with the employment policies established by the department;
- c. to enter into agreements and arrangements with other federal, state, municipal, and tribal law enforcement agencies to provide, receive and exchange information, assistance, training and other forms of cooperation appropriate to

carry out the functions of the department and to promote public order and public safety;

d. to exercise overall management responsibility for the department and its officers in accordance with the professional standards appropriate to law enforcement agencies.

2 M.P.T.L. ch. 2 § 5

§ 5. Other Powers

The Mashantucket Pequot Tribal Police shall exercise all of the responsibilities of the tribal law enforcement agency as defined by the Final Mashantucket Pequot Gaming Procedures, 56 Fed. Reg. 24996 (May 31, 1991).

2 M.P.T.L. ch. 2 § 6

§ 6. Limited Immunity and Indemnification of Tribal Law Enforcement Officers

The chief of police and other law enforcement officers are officers of the Mashantucket Pequot Tribe and shall be immune from suit or other liability when exercising the duties and powers of their respective offices within the scope of their authority. The chief of police and other law enforcement officers shall be indemnified and held harmless by the Mashantucket Pequot Tribe for any claim of damages for which they may be held personally accountable for actions which they may take in the course of their official duties so long as such actions were made within the scope of their authority and taken in good faith in the belief that such actions were lawful.

CHAPTER 3. ELDERS PROTECTION

2 M.P.T.L. ch. 3 § 1

§ 1. Jurisdiction

The Mashantucket Pequot Tribe (the "Tribe") is a federally recognized Indian tribe and, in order to more fully exercise their inherent tribal sovereignty, has taken jurisdiction over criminal matters that arise on the Mashantucket Pequot Reservation.

2 M.P.T.L. ch. 3 § 2

§ 2. Role of Tribal Elders

The Tribe has provided that tribal elders shall participate in the criminal justice system by serving on a tribally established Pre-Trial Intervention

Program (herein PTI) and that they shall also serve as jurors in criminal trials.

2 M.P.T.L. ch. 3 § 3

§ 3. Protection from Intimidation

It is essential that the elders be protected from intimidation or the threat of actual physical violence as a result of or relating to their service as either member of the PTI program or as jurors in criminal trials.

2 M.P.T.L. ch. 3 § 4

§ 4. Prohibition Against Jury Tampering

a. No person shall influence or attempt to influence any elder participating in a jury trial or any official proceeding to or for which such juror has been drawn, summonsed or sworn. No person shall, outside of the usual PTI program procedures, influence or attempt to influence any elder participating in a PTI proceeding.

b. No person shall assault or batter or otherwise physically harm any juror or commissioner in the PTI program in retaliation for or in connection with any action taken by such juror or PTI commissioner during the course of their duties.

2 M.P.T.L. ch. 3 § 5

§ 5. Penalties

Whoever is convicted under the provisions of this Law shall be guilty of interfering with a tribal official in the course of their duty and, in addition to any other offense that may be provided for in 2 M.P.T.L ch. 1 shall be punished by incarceration for up to a year in jail and/or a fine of \$5,000.

CHAPTER 4. TRIBAL GOVERNMENT PROTECTION

2 M.P.T.L. ch. 4 § 1

§ 1. Protection of Tribal Council

It is essential that Tribal Council members be protected from intimidation or the threat of actual physical violence. Whoever threatens the life of, assaults, batters or otherwise physically harms or attempts to harm any member of the Mashantucket Pequot Tribal Council, shall be guilty of a criminal offense. In a prosecution of an offense under this law, the tribal prosecutor

need not prove that the defendant knew that the victim of the offense was a member of the Mashantucket Pequot Tribal Council.

a. Whoever is convicted under the provisions of this law shall be guilty of interfering with a member of the Tribal Council and shall be punished by incarceration by up to one year in jail and/or a fine of \$5,000

b. Anyone convicted under the provisions of this law shall be incarcerated for a minimum of 30 days.

c. Persons accused of violating the provisions of this law are not eligible to participate in the Pre-Trial Intervention Program.

d. Anyone convicted under the provisions of this law may, upon further action of the Tribal Council, be subject to removal from the Mashantucket Pequot tribal membership rolls and, upon removal, will forfeit all tribal rights and benefits.

2 M.P.T.L. ch. 4 § 2

§ 2. Prohibition on the Assault or Intimidation of Officers of the Tribal Government

The Tribal Council has previously provided that it is essential that certain officers of the tribal government, such as the Tribal Council, the Peacemakers Council, and the tribal court, be protected from intimidation or threat of actual physical violence as a result of or relating to their services on behalf of the tribal government; and

The Tribal Council believes it is necessary to formally extend this protection to all officers of the tribal government, including members of the Tribal Council's standing committees and teams.

a. No person shall unduly influence or attempt to influence any officer of the Mashantucket Pequot tribal government with respect to their duties and responsibilities as officers of the government.

b. No person shall threaten, assault, or batter, or otherwise physically harm any officer of the Mashantucket Pequot tribal government in retaliation for or in connection with any action taken or proposed action to be taken by such officer of the government during the course of their duties.

c. Violations of these provisions may be punishable to the maximum extent provided by law.

CHAPTER 5. CHILD NEGLECT AND ABUSE REPORTING

ENACTMENT OF THE CHILD PROTECTION AND FAMILY PRESERVATION LAW

2 M.P.T.L. ch. 5 § 1

§ 1. Mandated Reporters and Penalties

a. Any person who is a physician, surgeon, dentist, podiatrist, chiropractor, dental hygienist, optometrist, medical examiner, emergency medical technician, paramedic, or health care provider, teacher, school counselor, instructional aide, teacher's aide, teacher's assistant, or bus driver or monitor employed by the Tribe, administrative officer, supervisor of child welfare and attendance, or truancy officer of any tribal school, child day care worker, headstart teacher, public assistance worker, worker in a group home or residential or day care facility, or social worker, psychiatrist, psychologist, or psychological assistant, licensed or unlicensed marriage, family, or child counselor, person employed in the mental health profession, or law enforcement officer, probation officer, worker in a juvenile rehabilitation or detention facility, or person employed in an agency who is responsible for enforcing statutes and judicial orders, or any person who supervises or has control over children or who has regular contact with children, who knows, or has reasonable suspicion that a child was neglected or abused, or that actions are being taken, or are going to be taken, that would reasonably be expected to result in the neglect or abuse of a child, shall immediately report such neglect or abuse to the Tribe's child protective services or law enforcement service, or both.

b. Any person who fails to immediately report such neglect or abuse to the child protective services or law enforcement service shall be fined and imprisoned as provided by tribal law.

2 M.P.T.L. ch. 5 § 2

§ 2. Definitions

The terms used in this Law are further defined by the Child Protection and Family Preservation Act and shall be deemed incorporated herein by reference.

2 M.P.T.L. ch. 5 § 3

§ 3. Immunity of Liability for Good Faith Reporting

Any person making a report of suspected child neglect or abuse which is based upon their reasonable belief and which is made in good faith shall be immune from civil or criminal liability for making such report and, if employed by the Tribe, shall not be subject to discipline, suspension, or termination.

CHAPTER 6. PRE-TRIAL INTERVENTION PROGRAM

2 M.P.T.L. ch. 6 § 1

§ 1. Policies

In order to provide an alternative to custodial sentencing which emphasizes rehabilitation rather than retribution and in recognition of the reality that penal consequences alone do not effectively deter future criminal activity, the Tribal Council hereby creates the Mashantucket Pequot Pre-trial Intervention Program ("PTI"). This program has among its purposes the following:

- a. To provide defendants with opportunities to avoid ordinary prosecution by receiving early rehabilitative services when such services can reasonably be expected to deter future criminal behavior by the defendant, and when there is an apparent causal connection between the offense charged and the rehabilitative need, without which cause both the alleged offense and the need to prosecute might not have occurred.
- b. To provide for meaningful tribal community participation in the criminal justice system through the establishment of a commission of tribal elders who shall assist in formulating a rehabilitative plan for each PTI applicant which will serve to balance tribal concerns with unlawful behavior with the need to deter and rehabilitate such offenders.
- c. To provide an alternative to prosecution for defendants who might be harmed by the imposition of criminal sanctions as presently administered, when such an alternative can be expected to serve as sufficient sanctions to deter criminal conduct.
- d. To provide a mechanism for permitting the least burdensome form of prosecution possible for defendants charged with "victimless" offenses.
- e. To deter future criminal or disorderly behavior by a defendant/participant in PTI.

2 M.P.T.L. ch. 6 § 2

§ 2. Tribal PTI Commission

a. Establishment. The Tribal Council hereby authorizes the Mashantucket Pequot Elders Council to appoint three elders to serve on a "Tribal Elders Rehabilitation Commission" (hereinafter the "PTI Commission"). The Commission shall provide oversight for, and input from, the tribal community in the evaluation and implementation of rehabilitative activities for applicants for the PTI program. Elders assigned to the PTI Commission shall serve on a case by case basis during their assigned tenure.

b. Terms and Compensation. The Tribal Council shall designate one such elder as the chairman of the PTI Commission. All members shall serve for a one year term. Attendance at a meeting by at least two members of the PTI Commission shall constitute a quorum. Elders assigned to the PTI Commission shall be entitled to compensation at the rate of \$150 per day (or a pro rata portion thereof) for their service.

c. Qualification of Elders. Elders appointed to the PTI Commission shall be physically capable of meeting and discussing the facts and criteria regarding each PTI applicant. Appointed elders must abstain from participation in any PTI Commission activity if:

(1) they have prejudged the matter; or

(2) if they are the son, daughter, father, mother, brother, sister, granddaughter, grandson of the applicant or any victim of the alleged offense; or

(3) the elder is a witness, victim or otherwise had some direct personal involvement in the alleged offense.

d. PTI Commission Responsibilities. The duties and responsibilities of a member of the PTI Commission shall include:

(1) attendance at meetings of the PTI Commission as scheduled by the chairman;

(2) review of applications for PTI diversion of defendants charged with offenses against tribal law;

(3) review of recommendations of the PTI Program director regarding a rehabilitative plan for the applicant; and

(4) the supplementation of such recommendation consistent with the rehabilitative goals and objective of the Tribe measured against the need to promote a secure and stable community.

e. Standards. In determining an appropriate rehabilitative plan for a PTI applicant, the PTI Commission may utilize the criteria set forth in the PTI Law and Guidelines, but the PTI Commission may also utilize their experience and knowledge of tribal customs and standards of acceptable conduct in formulating their recommendations to achieve an applicant's rehabilitation.

2 M.P.T.L. ch. 6 § 3

§ 3. Pre-trial Intervention Program

a. Establishment. The Tribal Council further authorized the establishment of the position of PTI program director whose compensation shall be set by the Tribal Council, and whose duties shall include the following:

(1) establish appropriate forms and applications for applicants to the PTI

program;

(2) maintain all records of the PTI program;

(3) review and investigate information submitted by PTI applicants;

(4) make determinations for PTI acceptance or denial consistent with this PTI Law and the attendant guidelines;

(5) maintain the PTI Registry;

(6) interact with the Tribal PTI Commission in their review of PTI applications and applicant performance of PTI duties;

(7) interact with the Tribal Council and office of the tribal prosecutor in the review of PTI applications; and

(8) maintain records of PTI performance by persons accepted for enrollment.

b. Procedures. The PTI program shall utilize the following operational system:

(1) The chief judge of the tribal court shall designate a judge to act on all matters pertaining to the PTI program;

(2) In order to facilitate the operation of the PTI program, the tribal court shall adopt guidelines that are consistent with the spirit, intent and terms of this Law. Such guidelines shall prescribe the method and criteria for filing PTI applications pursuant to this Law. No interpretations of such guidelines shall be inconsistent with the terms of this Law;

(3) If a defendant's application for PTI is approved by the program director and consented to by the tribal prosecutor, prior to the submission to the tribal court, the program director shall notify the tribal PTI Commission of such preliminary acceptance. The program director shall then recommend to the tribal PTI Commission, a course of rehabilitative activity for each accepted defendant. Such rehabilitative activity may include, but is not limited to, the following:

(a) drug/alcohol abuse evaluation in order to determine if the defendant is appropriate for the program. Defendants determined to be substance abusers will not be eligible for the PTI Program, but may be eligible for the Healing Journey Program.

(b) community service consistent with PTI Guidelines to be established by the tribal court;

(c) reasonable restitution or other remedial action to victims of the defendant's criminal offenses including the tribal community as a whole; and

(d) any other rehabilitative directive that fairly balances the harm to the victim(s) with the goal of rehabilitation.

(4) After the tribal PTI Commission's receipt and review of the program director's recommendations, the following procedure shall occur:

(a) The tribal PTI Commission shall then schedule a meeting with the PTI program director and the applicant. At the meeting, the defendant's charges and recommended PTI rehabilitative activities shall be discussed. The tribal PTI Commission shall first determine if the program director's recommended rehabilitative plan is sufficient to achieve the Tribe's goals for rehabilitation. The tribal PTI Commission may, on its own motion, supplement or modify the recommended treatment, duties and/or responsibilities assigned to applicant.

(b) After a thorough discussion of the rehabilitative plan, the PTI applicant shall indicate his acceptance or rejection, in writing, of the terms and conditions of said plan. If the applicant accepts the PTI requirements of the plan, the program director shall transmit to the tribal court, the PTI program's recommendation for the applicant's acceptance and written confirmation of the tribal prosecutor's consent thereto. The program director shall also transmit the recommended rehabilitative action plan submitted to the PTI program and the tribal PTI Commission. If the court approves the applicant's PTI enrollment, the tribal court shall accept the rehabilitative recommendations and may modify or supplement such recommendations only if their implementation would constitute a clear abuse of the goals and objectives of the PTI program.

(c) If the applicant rejects the proposed rehabilitative plan, the applicant shall be ineligible for continued PTI consideration and a recommendation shall be made to the tribal court consistent with 2 M.P.T.L. ch. 6, § 3(b)(6)(c). If the applicant initially accepts the rehabilitative program and thereafter refuses to satisfy the established criteria, the applicant shall also be subject to the termination pursuant to 2 M.P.T.L. ch. 6, § 3(b)(6)(c).

(5) Where a defendant charged with a criminal offense has been accepted by the program the designated judge may, on recommendation of the PTI program director, and with the consent of the tribal prosecutor and the defendant, postpone all further proceedings against said defendant on such charges for a period not to exceed one year.

(6) At the conclusion of such one year period, the designated judge shall make one of the following dispositions:

(a) On recommendation of the PTI program director and with the consent of the tribal prosecutor and the defendant, dismiss the complaint against the defendant, such dismissal to be designated and titled "complaint dismissed-PTI successfully completed";

(b) On recommendation of the PTI program director and with the consent of the tribal prosecutor and the defendant, further postpone all proceedings against such defendant on such charges for an additional period not to exceed one year;

(c) On the written recommendation of the PTI program director, or the tribal prosecutor, or on the court's own motion, order the prosecution of the

defendant to proceed in the ordinary course. Where a recommendation for such an order is made by the PTI program director or by the tribal prosecutor, such person shall, before submitting such recommendation to the designated judge, provide the defendant or their attorney with a copy of such recommendation, shall advise the defendant of their opportunity to be heard thereon and the designated judge shall afford the defendant such a hearing;

(d) During the conduct of hearings subsequent to an order returning the defendant to prosecution in the ordinary course, no PTI program records, PTI investigative reports, or any statements made by the defendant to the PTI program staff, the PTI Commission, or any person designated to provide supervisory or rehabilitative treatment, shall be admissible in evidence against such defendant. No such hearing with respect to such defendant shall be conducted by the designated judge who issues the order returning the defendant to prosecution in the ordinary course;

(e) No PTI program records, PTI investigative reports of statements made by the defendant to the PTI program staff, the PTI Commission, or to any person designated to provide supervisory or rehabilitative treatment, shall be disclosed at any time to the prosecutor, nor shall any such statement of disclosure be admitted as evidence in any civil or criminal proceeding against the participant, provided that the program director shall not be prevented from informing the prosecutor, or the court, upon request or otherwise, whether the participant is satisfactorily responding to supervisory treatment;

(f) Where proceedings have been postponed against a defendant for a second period of one year as provided in PTI law section 3(b)(6)(b); at the conclusion of such additional period not to exceed one year, the designated judge may not postpone the proceeding but shall make a disposition in accordance with the PTI law section 3(b)(6)(a) or section 3(b)(6)(c). The aggregate of postponement periods under this Rule shall not exceed two years;

(g) The PTI program director in conjunction with the tribal clerk, shall establish and maintain a PTI registry for the purpose of determining applications, enrollments and the degree of completion thereof by a defendant in the PTI program. The PTI registry shall contain such information and material as directed by the tribal court;

(h) When a program director or tribal prosecutor, either individually or jointly reject an application for participation in the PTI program, the defendant shall have a right to appeal from such enrollment denial to the designated judge. The burden to establish eligibility shall be on the defendant. In addition thereto, the defendant also must show that the PTI enrollment denial by either the program director and/or tribal prosecutor was an arbitrary and capricious action. If such a showing is made, the judge may order the enrollment of the defendant into the PTI program. If such showing is not made, the defendant shall be prosecuted in the ordinary course;

Where a defendant has been approved for enrollment by both the PTI program director and the tribal prosecutor, the designated judge shall have authority to reject the defendant's enrollment if the interests of justice so requires. A decision by the designated judge to disregard the recommendations for

enrollment and so exclude the defendant from the PTI process shall not be reviewable upon appeal.

CHAPTER 7. TRIBAL PRE-TRIAL INTERVENTION PROGRAM GUIDELINES

2 M.P.T.L. ch. 7 Guid. 1

Guideline 1. Eligibility

Eligibility for PTI is broad enough to include all defendants who demonstrate sufficient effort to effect necessary behavioral change and show that future criminal behavior will not occur. Any defendant accused of an offense shall be eligible for admission into a PTI program. When the application indicates factors which would ordinarily lead to exclusion under the guidelines established hereinafter, the applicant nevertheless shall have the opportunity to present to the program director and through him to the prosecutor, any facts or materials demonstrating his amenability to the rehabilitative process, showing compelling reasons justifying his admission, and establishing that a decision against enrollment would be arbitrary and unreasonable.

2 M.P.T.L. ch. 7 Guid. 2

Guideline 2. Application Criteria

a. In evaluating a defendant's application for participation in the PTI program, consideration shall be given to the criteria set forth below:

- (1) the nature of the offense;
- (2) the facts of the case;
- (3) the motivation and age of the defendant;
- (4) the desire of the complainant or victim to forego prosecution;
- (5) the existence of personal problems and character traits which may be related to the applicant's crime and for which services are unavailable within the criminal justice system, or which may be provided more effectively through supervisory treatment and the probability that the causes of criminal behavior can be controlled by proper treatment;
- (6) the likelihood that the applicant's crime is related to a condition or situation that would be conducive to a change through his participation in supervisory treatment;
- (7) the needs and interests of the victim, Tribe and society;
- (8) the extent to which the applicant's crime constitutes part of a continuing pattern of anti-social behavior;

(9) the applicant's records of criminal and penal violations and the extent to which he may present a substantial danger to others;

(10) whether or not the crime is of an assaultive or violent nature, whether in the criminal act itself or in the possible injurious consequences of such behavior;

(11) consideration of whether or not prosecution would exacerbate the social problem that led to the applicant's criminal act;

(12) the history of the use of physical violence toward others;

(13) whether or not the crime is of such nature that the value of supervisory treatment would be outweighed by the Tribe's need for prosecution;

(14) whether or not the applicant's involvement with other people in the crime charged or in other crime is such that the interest of the Tribe would be best served by processing his case through traditional criminal justice system procedures;

(15) whether or not applicant's participant in PTI will adversely affect the prosecution of a co-defendant; and

(16) whether or not the harm done to society by abandoning criminal prosecution would outweigh the benefits to society from channeling an offender into a supervisory treatment program.

b. In addition, the following shall be considered together thereto, with other relevant circumstances:

(1) Age—PTI is designed to deal only with adult defendants who, in accordance with tribal law, are those persons above the age of 18;

(2) Residence—The Mashantucket Pequot PTI program is designed to deal with the problem of crime in tribal lands;

(3) Jurisdiction—Only defendants charged with criminal offenses in the Mashantucket Pequot Tribal Criminal Court may be enrolled in the PTI program;

(4) Minor Violations—Defendants should not be eligible for enrollment if the likely disposition would result in a suspended sentence without probation or a fine. Those charged with animal control law, health code, motor vehicle and other similar violations are not eligible;

(5) Prior Record of Conviction—While the PTI program is not limited to "first offenders", defendants who have been previously convicted of a criminal offense should ordinarily be excluded. Such defendants who have at any prior time been convicted of a violent crime or who irrespective of the type of the crime have completed a term of probation, incarceration or parole within five years prior to the date of application for diversion shall ordinarily not be considered for enrollment in PTI except on joint application by the defendant and the

prosecutor. Defendants charged with more than one offense may be considered for enrollment;

(6) Parolees and Probationers—Defendants who at the time of arrest, are probationers or parolees, should be considered for enrollment only after consultation with the probation officer, and only after they have agreed that revocation of probation or parole need not be recommended or after the tribal court has made the decision not to revoke probation or parole;

(7) Defendants Previously Diverted—Supervisory treatment may occur only once with respect to any defendant who has previously been enrolled in a program of PTI. All applications for enrollment in the PTI program must proceed in accordance with the PTI Law and the rules of the tribal court, and these guidelines after reference to the PTI registry established pursuant to the Law.

No order to expunge or seal records of arrest after dismissal of a complaint shall bar the retention of material and information in the PTI registry for the purposes of determining a defendant's prior applications to, enrollments in, and the degree of completion of a PTI program or for statistical reports.

(8) Assessment of the Nature of the Offense—Any defendant charged with an offense not deemed minor is eligible for enrollment in a PTI program, but the nature of the offense is a factor to be considered in reviewing the application. If the crime was:

(a) part of organized criminal activity; or

(b) part of a continuing criminal business or enterprise; or

(c) deliberately committed with violence or threat of violence against another person; or

(d) a breach of the tribal or public trust where admission to a PTI program would depreciate the seriousness of a defendant's crime, the defendant's application should generally be rejected;

(9) Co-Defendants—The impact of diversion on the prosecution of co-defendants is a factor to be considered;

(10) Restitution and Community Service—A restitution or community service requirement, or both, may be included as part of an individual's service plan when such a requirement promises to aid the rehabilitation of the offender. Any such requirement and its terms shall be judicially determined at the time of enrollment following recommendation by the program director and/or tribal PTI Commission, and with consent by the prosecutor. Evidence of the restitution condition is not admissible against a defendant in any subsequent civil or criminal proceeding. Admission to the program shall not be denied solely on the basis of anticipated inability to meet a restitution requirement.

Where appropriate to further rehabilitation, a symbolic or partial restitution requirement may be included in the service.

Guideline 3. Plea

Enrollment in the PTI program should be conditioned upon neither informal admission nor entry of a plea of guilty. Enrollment of defendants who maintain their innocence should be permitted unless the defendants' attitude would render PTI ineffective.

2 M.P.T.L. ch. 7 Guid. 4

Guideline 4. Confidentiality

Effective operation of the PTI program requires that a relationship of confidence and trust be initiated and maintained between the participating defendant and the PTI staff and the tribal PTI Commission. No information, therefore, obtained as a result of a defendant's application to or participation in a PTI Program should be used in a subsequent proceeding against a defendant to his/her disadvantage.

2 M.P.T.L. ch. 7 Guid. 5

Guideline 5. Application Procedures

a. Application for PTI shall be made as soon as possible after commencement of proceedings but where a complaint is filed, not later than 14 days after original plea to the complaint. All applications for the PTI program should be processed in the order of their filing. The applicant shall file the original application with the clerk of the court and a copy with the PTI program director.

b. The PTI program director shall complete evaluation of the application and make recommendations thereon within 14 days after a copy of the application has been filed; notice thereof shall be given by the PTI program director to the prosecutor, the defendant, defendant's counsel and the designated tribal court judge.

c. If the PTI program director recommends approval of the PTI application, then the prosecutor shall complete his review within 10 days after receipt of such notice from the PTI program director; and within said time period, the prosecutor shall give notice of his decision to consent or not to consent to the PTI application to the PTI program director, the defendant, defendant's counsel and the designated tribal court judge.

d. If the application is approved by the PTI program director and consented to by the prosecutor, such combined action shall constitute preliminary acceptance and the PTI program director shall notify the tribal PTI Commission of such preliminary acceptance. The program director shall then forward specific recommendations for rehabilitative activity to the tribal PTI Commission within 14 days of the preliminary acceptance.

e. The tribal PTI Commission shall review the PTI program director's

recommendations and shall schedule and hold a meeting with the PTI program director, the defendant, and, if requested, the defendant's attorney, within 14 days of its receipt of preliminary acceptance. At such meeting, the tribal PTI Commission shall review the defendant's charges and the recommendations of the PTI program director, including the specific recommendations for rehabilitative activity; such review shall be made in conjunction with the criteria set forth in Guideline 2. The tribal PTI Commission may, at such meeting, ask the defendant such questions as it deems appropriate to assist it in deciding whether to recommend application approval and in determining rehabilitative activities.

f. The tribal PTI Commission may recommend approval or denial of the defendant's PTI application; and if approval is recommended, such approval may be recommended with the rehabilitative activities recommended by the PTI Program director or such modified rehabilitative activities as are determined by the tribal PTI Commission to be appropriate to achieve the Tribe's goals for rehabilitation. At such meeting, the tribal PTI Commission shall inform the defendant of its recommendations and the defendant shall indicate whether he consents to the recommendations, including the rehabilitative activities. In addition, the PTI program director shall prepare a list of the tribal PTI Commission's recommended rehabilitative activities and any other conditions of application approval for consent to and signature by the tribal PTI Commission and the defendant at the meeting. A copy thereof shall be provided to the defendant at the meeting. If the defendant rejects the proposed rehabilitative plan, the PTI program director shall recommend defendant's return to prosecution in the ordinary course and follow the procedures in 2 M.P.T.L. ch. 3 § 3(b)(6)(c).

g. Within seven days after said meeting, all applications, including applications approved with rehabilitative recommendations consented to by the defendant and applications denied by the tribal PTI Commission, shall be forwarded by the PTI program director to the designated tribal court judge. In the event the tribal PTI Commission does not recommend application approval, or the defendant does not consent in writing to the rehabilitative activities and any conditions recommended by the tribal PTI Commission, the PTI program director shall so notify the designated tribal court judge and the defendant, in writing, within seven days after the meeting.

h. All such applications and recommendations shall be acted upon by the designated tribal court judge within seven days after receipt of same, or at the earliest date after receipt at which a defendant can be presented in tribal court before the designated tribal court judge. The court shall enter written orders detailing all rehabilitative recommendations as orders of the court.

2 M.P.T.L. ch. 7 Guid. 6

Guideline 6. PTI Decisions

The decisions and reasons therefore made by the designated tribal judges, prosecutor and program director in granting or denying a defendant's application for PTI enrollment, in recommending and ordering termination from

the program or dismissal or charges, in all cases must be reduced to writing and disclosed to the defendant. A defendant may be accepted into the PTI Program by the designated tribal court judge, on recommendation of the program director, with the consent of the prosecuting attorney, the defendant and the tribal PTI Commission. Rehabilitative recommendations shall also be considered by the designated tribal court judge prior to the imposition of any such PTI rehabilitative conditions. Defendants recommended for enrollment by the program director and consented to by the prosecutor must be presented to the designated tribal court judge authorized to enter orders.

2 M.P.T.L. ch. 7 Guid. 7

Guideline 7. Appeals

a. If an application is rejected by the program director, prosecutor or the tribal PTI Commission, an appeal may be taken by the defendant to the tribal court. Any such appeal shall be filed within 14 days after the mailing of the rejection notice to the defendant and shall be heard by the designated tribal court judge. The challenge is to be based on alleged arbitrary or capricious action, and the defendant has the burden of showing that the action taken by the program director, prosecutor or the tribal PTI Commission was an abuse of discretion in denying or refusing to consent to the application.

b. If preliminary acceptance is given to defendant's application but the rehabilitative recommendations made by the tribal PTI Commission are rejected or modified by the designated tribal court judge, the matter shall be re-considered by the tribal PTI Commission and additional recommendations issued. If the tribal PTI Commission's new recommendations are not accepted by the defendant, an appeal may be taken by the defendant to the tribal court; such appeal shall be filed within 14 days of the mailing of the new recommendations to the defendant by the PTI Program director. Any such appeal shall be on the grounds above stated and shall be heard by the designated tribal court judge.

c. All decisions of the designated tribal court judge in appeals filed pursuant to paragraphs (a) and (b) hereof, shall be final.

2 M.P.T.L. ch. 7 Guid. 8

Guideline 8. Termination of PTI Program

a. If the defendant has been accepted into the PTI program and has failed to perform the conditions of rehabilitation as detailed in the PTI orders of the court, a written recommendation to return the defendant to prosecution in the ordinary course and terminate eligibility for continued participation in the PTI program, may be filed by either the PTI program director, the prosecutor or the tribal PTI Commission, with the designated tribal court judge.

b. If such a written recommendation is filed with the designated tribal court judge, the judge shall order that the tribal PTI Commission and PTI program

director meet with the defendant on a specified date. At such meeting the tribal PTI Commission shall consider the written recommendation and provide the defendant with the opportunity to oppose such written recommendation. The tribal PTI Commission shall determine at such meeting whether or not it concurs with the recommendation to terminate the defendant's PTI eligibility and, within seven days of such meeting, the PTI program director shall notify the designated tribal court judge and the defendant of the tribal PTI Commission's recommendation.

c. The defendant shall have the right to a hearing before the designated tribal court judge entering the original PTI order, if the PTI Commission recommends termination of PTI eligibility, and the defendant files a timely motion for hearing with the tribal court within 14 days of the PTI program director's mailing of notice to the defendant containing the recommendation of the tribal PTI Commission.

d. Upon the failure of the defendant to file a timely motion for hearing, the designated tribal court judge shall review the recommendations filed and render a decision as to whether defendant's PTI eligibility shall be terminated. In the event that the designated tribal court judge decides that the defendant's PTI eligibility is to be terminated, the designated tribal court judge shall order that the defendant's prosecution proceed in the ordinary course. The decision of the tribal court judge, whether after motion and hearing, or based upon written recommendation, shall be final.

2 M.P.T.L. ch. 7 Guid. 9

Guideline 9. Guideline Compliance; Confidentiality

Consistent with the goals of the PTI Program, it shall be the duty of the designated judge to whom any matter is presented as a result of which a defendant may be eligible for participation in the PTI program to determine whether all procedures for such eligibility have been followed. If such procedures have not been followed or not completed, the designated judge shall suspend further proceedings in the matter until all such procedures have been completed in accordance with these Guidelines. The designated judge shall also take all steps to ensure the confidentiality of all PTI records.

TITLE 3. GAMING

CHAPTER 1. GAMING LAW

3 M.P.T.L. ch. 1 § 1

§ 1. Statement of Policy

It is the purpose of this Law to provide for the sound regulation of all gaming

activities on lands within the jurisdiction of the Mashantucket Pequot Tribe, in order to protect the public interest in the integrity of such gaming activities, to prevent improper or unlawful conduct in the course of such gaming activities, and to promote the development of a balanced tribal economy by dedicating all of the net revenues from such gaming activities to the public purposes of the Tribe.

3 M.P.T.L. ch. 1 § 2

§ 2. Definitions

For purposes of this Law:

- a. "Act" means the Indian Gaming Regulatory Act, Pub.L. 100-497, 25 U.S.C. § 2701 et seq.
- b. "Chairman" means the Chairman of the Mashantucket Pequot Tribal Gaming Commission established pursuant to this Law.
- c. "Class II gaming" means Class II gaming as defined in accordance with the Act, 25 U.S.C. § 2703(7)(A).
- d. "Class III gaming" means Class III gaming as defined in accordance with the Act, 25 U.S.C. § 2703(8).
- e. "Commission" means the Mashantucket Pequot Tribal Gaming Commission established by this Law.
- f. "Compact" means the Final Mashantucket Pequot Gaming Procedures promulgated by the United States as further prescribed by the Secretary of the Interior in accordance with the Indian Gaming Regulatory Act as the procedures under which Class III gaming may be conducted on Indian lands over which the Tribe has jurisdiction, and published at 56 Fed. Reg. 24996 (May 31, 1991).
- g. "Enterprise" means the Mashantucket Pequot Gaming Enterprise established by the Tribe to conduct all gaming operations of the Tribe on the Reservation.
- h. "Executive Director" means the Executive Director of the Mashantucket Pequot Tribal Gaming Commission established pursuant to this Law.
- i. "Gaming facilities" means any room or rooms in which Class II gaming or Class III gaming is conducted on the Reservation.
- j. "National Indian Gaming Commission" means the National Indian Gaming Commission established pursuant to 25 U.S.C. § 2704.
- k. "Net revenues" means gross revenues of a Class III gaming activity less amounts paid out as, or paid for, prizes and total operating expenses including debt service but excluding management fees paid to a management contractor within the meaning of 25 U.S.C. § 2711(c).

l. "Law" means this Mashantucket Pequot Tribal Gaming Law.

m. "State" means the state of Connecticut.

n. "State Gaming Agency" means the Division of Special Revenue or such other agency as the State may establish to carry out the regulatory responsibilities of the State under the Compact.

o. "Tribe" means the Mashantucket Pequot Tribe.

3 M.P.T.L. ch. 1 § 3

§ 3. Adoption of Compact

In accordance with Section 13(d) of the Compact, the Compact is hereby incorporated within and enacted as an integral part of this Law with respect to all forms of Class III gaming, and the Compact including the appendices thereto is appended to and made a part of this Law as if set forth in full herein; provided, however, that nothing in the adoption of the Compact herein shall be deemed to affect the operation by the Tribe of any Class II gaming, whether conducted within or without the gaming facilities, or to confer upon the state any jurisdiction over such Class II gaming conducted by the Tribe on its Reservation.

3 M.P.T.L. ch. 1 § 4

§ 4. Authorization for Gaming Activities

a. Forms of Class III gaming authorized. The Enterprise on behalf of the Tribe may conduct the following types of Class III gaming:

(1) The following games of chance:

(a) Blackjack;

(b) Poker;

(c) Dice;

(d) Money-wheels;

(e) Roulette;

(f) Baccarat;

(g) Chuck-a-luck;

(h) Pan game;

(i) Over and Under;

(j) Horse race game;

(k) Acey-ducey;

(l) Beat the dealer; and

(m) Bouncing ball.

(2) Any bazaar game not listed in subsection (a)(1), but only if conducted solely for merchandise prizes;

(3) Any lottery game;

(4) Off-track pari-mutuel betting on animal races;

(5) Pari-mutuel betting, through simulcasting, on animal races;

(6) Pari-mutuel betting on jai alai games conducted on the Reservation;

(7) Pari-mutuel betting on dog racing conducted on the Reservation;

(8) Pari-mutuel betting on horse racing conducted on the Reservation, but only to the extent authorized in accordance with Section 15 of the Compact;

(9) Video facsimiles of any game of chance listed in subsection (a)(8), but only to the extent authorized in accordance with Section 15 of the Compact;

(10) Telephone betting on any lottery game, but only to the extent authorized in accordance with Section 15 of the Compact; and

(11) Off-track pari-mutuel telephone betting on animal races, but only to the extent authorized in accordance with Section 15 of the Compact.

b. Authority for Class II gaming. In addition to the forms of Class III gaming authorized pursuant to Section (a) hereof, the Tribe shall be authorized to conduct all forms of Class II gaming on the Reservation, including without limitation any form of bingo (whether or not electronic, computer, or other technologic aids are used in connection therewith), pull-tabs, lotto, punch boards, tip jars, instant bingo, and other games similar to bingo so long as played at the same location as bingo.

3 M.P.T.L. ch. 1 § 5

§ 5. Compliance with the Act

This Law shall be construed in a manner which conforms to the Act in all respects, and if inconsistent with the Act in any manner, the provisions of the Act shall govern.

a. Limitation on gaming operations. In compliance with 25 U.S.C. §

2710(b)(2)(A), the Tribe shall have the sole proprietary interest and responsibility for the conduct of any gaming activity on the Reservation; provided, however, that nothing herein shall interfere with the exercise by any secured party of its rights under any collateral lease, leasehold mortgage or other financing agreement with the Tribe to enforce its security interests in the premises on which such gaming activities may be conducted, or to enforce its rights against gross revenues of the Tribe from its gaming activities for the purpose of repayment of the debt obligations of the Tribe to such secured party in accordance with the provisions of such agreements.

b. Application of net revenues. In compliance with 25 U.S.C. § 2710(b)(2)(B), net revenues from any gaming activity are not to be used for purposes other than:

- (1) to fund tribal government operations or programs;
- (2) to provide for the general welfare of the Indian tribe and its members;
- (3) to promote tribal economic development;
- (4) to donate to charitable organizations; or
- (5) to help fund operations of local government agencies of the State and its political subsections.

c. Annual audit. In compliance with 25 U.S.C. § 2710(b)(2)(C) and (D), all gaming activities shall be subject to an audit by independent certified public accountants, not less than annually, and copies of the annual audit shall be provided to the National Indian Gaming Commission. All contracts for supplies, services, or concessions for a contract amount in excess of \$25,000 annually (except contracts for professional, legal or accounting services) relating to Class II or Class III gaming shall be subject to such audits.

d. Public safety standards. In compliance with 25 U.S.C. § 2710(b)(2)(E), the construction and maintenance of any gaming facilities, and the operation of gaming activities, shall be conducted in a manner which adequately protects the environment and the public health and safety and for that purpose shall comply with the requirements of Sections 13(a), 14(a) and 14(c) of the Compact and all other applicable health, safety and environmental standards enacted by the Tribe. Those standards generally imposed by the laws and regulations of the State relating to public facilities with regard to building, sanitary, and health standards and fire safety shall be deemed to be incorporated by this Law as the laws of the Tribe applicable to the gaming facilities of the Tribe. Those standards generally imposed by the laws and regulations of the State relating to public facilities with regard to water discharges shall be deemed to be incorporated by this Law as the laws of the Tribe applicable to the gaming facilities of the Tribe; provided, however, that to the extent that federal water discharge standards specifically applicable to the Reservation would preempt such State standards, such federal standards shall govern. The Commission established by this Law shall be empowered to enforce these requirements as provided in Section 7 hereof.

e. Background investigations. In compliance with 25 U.S.C. § 2710(B)(2)(F):

(1) all Class III gaming employees, as defined in the Compact, including all primary management officials and key employees of any Class III Gaming Enterprise, together with such Class II gaming employees as are required by the Enterprise to secure such licenses, shall be subject to the State licensing requirements of the Compact as set forth in Section 5 of the Compact, which include requirements for background investigations and ongoing review including annual renewal of such State licenses for all gaming employees. The Tribe shall notify the National Indian Gaming Commission of the results of the State licensing process for its primary management officials and key employees in accordance with such regulations or procedures as the National Indian Gaming Commission may establish;

(2) all Class II gaming employees who are not licensed by the State as gaming employees pursuant to the Compact shall be required to obtain a license as a gaming employee from the Commission established pursuant to this Law, and for that purpose the Commission shall conduct background investigations of all such employees and shall deny or revoke such licenses for any employee whose prior activities, criminal records if any, or reputation, habits and associations pose a threat to the public interest or to the effective regulation of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming. The Commission shall notify the National Indian Gaming Commission of the results of its background investigation for the primary management officials and key employees of its Class II gaming operations who are not licensed by the State as gaming employees pursuant to the Compact, and of the results of the State licensing process for such primary management, officials and key employees who are licensed by the State as gaming employees pursuant to the Compact, in accordance with such regulations or procedures as the National Indian Gaming Commission may establish.

3 M.P.T.L. ch. 1 § 6

§ 6. Penalties

Any individual who violates any provision of this Law, including the provisions of the Compact incorporated herein, shall be subject to civil penalties including exclusion from employment by any tribal Gaming Enterprise, exclusion from attendance at any tribal gaming facility, exclusion from the Reservation if a non-member of the Tribe, or, with respect to any person subject to the jurisdiction of the Tribe to impose such fines, a fine of not more than \$500 for each such violation. The Commission established pursuant to this Law shall have the jurisdiction to impose any such penalties on any person within the jurisdiction of the Tribe to impose such penalties.

3 M.P.T.L. ch. 1 § 7

§ 7. Tribal Gaming Commission

a. Establishment of Commission. There shall be established a Mashantucket Pequot Tribal Gaming Commission consisting of a chairman, vice chairman and three other members who shall be appointed by the Tribal Chairman with the advice and consent of the Tribal Council, at least three of whom shall be members of the Tribe, but none of whom shall be employees or directors of the Enterprise, and who shall each serve for a term of three years commencing on the date of their appointment; provided, that the initial members so appointed shall serve for terms deemed to commence on January 31, 1993 and one of the initial members appointed shall be designated to serve for an initial term of one year and one of the initial members appointed shall be designated to serve for an initial term of two years. No less than three members of the Commission shall serve on a full time basis. The Commission shall establish the compensation of members of the Commission with approval of the Tribal Council.

Full-time members of the Commission, who are tribal members may be removed for cause by a vote of a majority of the members of the Tribal Council then in office, and upon expiration of their term they shall be reappointed unless the Tribal Council finds cause not to reappoint said members. Members of the Commission who are part time or are not tribal members may be removed by the Tribal Council with or without cause. Vacancies in the Commission shall be filled by the Tribal Council. No member or employee of the Commission shall participate as a player in any gaming activity conducted by the Tribe.

b. Powers and duties of Commission. The Commission shall have the following powers and duties:

(1) The Commission shall have primary responsibility for oversight of tribal gaming operations to assure the integrity of such operations and shall, for that purpose, employ non-uniformed inspectors who shall be present in all gaming facilities during all hours of operation and who shall be under the sole supervision of the Commission and not to any management employees of the tribal gaming operations. Such inspectors shall have unfettered access to all areas of the gaming facilities at all times, and personnel employed by the Enterprise shall for such purposes provide such inspectors access to locked and secured areas of the gaming facilities in accordance with the standards of maintenance and operation promulgated pursuant to the Compact. Such inspectors shall report to the Commission regarding any failure by the Enterprise to comply with any of the provisions of the Compact or this Law and any other applicable laws of the Tribe. Inspectors assigned by the Commission shall also receive consumer complaints within the gaming facilities and shall assist in seeking voluntary resolution of such complaints. Inspectors appointed by the Commission shall be licensed as gaming employees by the State in accordance with the Compact.

(2) The Commission may on its own initiative investigate any aspect of the operations of the Enterprise in order to protect the public interest in the integrity of such gaming activities and to prevent improper or unlawful conduct in the course of such gaming activities, and shall investigate any report of a failure of the Enterprise to comply with the provisions of the Compact or this Law and may require the Enterprise to take any corrective action deemed necessary by the Commission upon such terms and conditions as the Commission may determine appropriate. The Commission may compel any person employed by or doing business with the Enterprise to appear before it and to provide such

information, documents or other materials as may be in their possession to assist in any such investigation.

(3) The Commission shall carry out each of the responsibilities and duties set forth for the tribal gaming agency in the Compact and in the Standards of Operation and Management.

(4) The Commission shall prepare a plan for the protection of public safety and the physical security of patrons in each of its gaming facilities, following consultation and agreement with the state police, setting forth the respective responsibilities of the Commission, the security department of the Enterprise, any tribal police agency, and the state police.

(5) The Commission shall review and approve floor plans and surveillance systems for each gaming facility and shall confer with the State gaming agency regarding the adequacy of such plans and systems.

(6) The Commission shall establish and revise Standards of Operation and Management for Class III gaming activities in accordance with the Compact.

(7) The Commission may issue and revoke licenses for Class II gaming employees in accordance with Section 5(e)(ii) of this Law.

(8) The Commission may issue and revoke licenses to any person providing gaming equipment to the Class II gaming operations of the Enterprise who is not otherwise registered as a gaming service enterprise by the State pursuant to the Compact and who transacts business with the Enterprise with a value in excess of \$50,000 within any two year period. No person shall transact such business without a valid license from the Commission. For purposes of such licensing, the Commission shall apply the same standards as are applied to gaming service enterprises registered by the State pursuant to the Compact. The Commission may conduct such investigation into such enterprises as it deems necessary or appropriate to satisfy such standards.

(9) The Commission shall establish a list of persons barred from the gaming facilities because their criminal history or association with career offenders or career offender organizations poses a threat to the integrity of the gaming activities of the Tribe.

(10) The Commission shall approve the rules of each game of chance operated by the Tribe pursuant to Section 7 of the Compact and shall in accordance with the provisions of the Compact notify the State Gaming Agency of such rules and of any change in such rules.

(11) The Commission shall enforce the health and safety standards applicable to the gaming facilities of the Enterprise in accordance with Section 5(d) of this Law. Prior to the opening of any facility for Class III gaming, the Enterprise shall obtain a certificate of compliance from the Commission relating to the Class III gaming facilities. The Commission shall issue a certificate of compliance to the Enterprise upon a determination that the gaming facilities of the Enterprise comply with such standards.

(12) The Commission may impose penalties for violations of this Law, the Compact or the Standards of Operation and Management in accordance with Section 5 of this Law.

(13) The Commission may in the name of the Tribe bring any civil action or criminal complaint in the courts of the State or the United States to enforce the provisions of this Law or to enjoin or otherwise prevent any violation of this Law, the Act or the Compact, occurring on the Reservation.

(14) The Commission may receive any complaint from an employee of the Enterprise or any member of the public who is or claims to be adversely affected by an act or omission of the Enterprise which is asserted to violate this Law, the Compact, or the Standards of Management and Operation adopted pursuant to this Law, and may upon consideration of such complaint order such remedial action as it deems appropriate to bring the Enterprise into compliance with such provisions. The Commission may for this purpose, in its sole discretion, conduct a hearing and receive evidence with regard to such complaint if it deems an evidentiary proceeding useful in the resolution of such complaint.

(15) The Commission may adopt an annual operating budget which shall be subject to the approval of the Tribal Council and may in accordance with said budget employ such staff from time to time as it deems necessary to fulfill its responsibilities under this Law, and may retain legal counsel and other professional services including investigative services to assist the Commission with respect to any of the issues over which the Commission exercises jurisdiction. The expenses of the Commission in accordance with such budget shall be assessed against the Enterprise and the Enterprise shall pay such assessments to the Tribe.

c. Chairman. (1) The Tribal Council shall appoint the Chairman of the Commission who shall serve on a full-time basis. The Executive Director or any other member of the Commission acting in the absence of the Chairman may, whenever he deems it necessary to protect the public interest in the integrity of tribal gaming operations, issue in the name of the Commission any order which the Commission has the power to issue, to the Enterprise or to any employee or contractor of the Enterprise or to any other person within the jurisdiction of the Tribe, to take any action or cease and desist from any action as may be required to protect to the public interest; provided, that such order shall be subject to review by the Commission at its earliest opportunity, whereupon it may be confirmed or vacated by the Commission.

(2) Vice Chairman. The Vice Chairman shall, in the absence of the Chairman, have all the powers and duties of the Chairman as described herein.

d. Executive Director. The Commission shall appoint an individual to serve as a full time Executive Director of the Commission to administer its responsibilities on a day to day basis and to oversee inspectors appointed by the Commission as well as such other staff as the Commission may from time to time employ or, in the alternative, assign responsibilities of the Executive Director to various supervisory positions. The Executive Director's role shall include coordination of the functions of the Commission with the state police

and the State Gaming Agency. The Chairman may request the Executive Director to conduct a preliminary investigation and render a recommendation to the Commission with respect to the grant or denial of any license, the imposition of any penalty, the investigation of any complaint, or any other action within the jurisdiction of the Commission. The executive director shall have the power, in the name of the Commission, to conduct any hearing, investigation or inquiry, compel the production of any information or documents, and otherwise exercise the investigatory powers of the Commission, which the Commission may exercise under this Law.e. Procedures of the Commission.

(1) Regular meetings of the Commission may be held upon such notice, or without notice, and at such time and place as shall from time to time be fixed by the Commission. Unless otherwise specified by the Commission, no notice of such regular meetings shall be necessary.

(2) Special meetings of the Commission may be called by the chairman or the executive director. The person or persons calling the special meeting shall fix the time and place thereof. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Commission need to be specified in the notice of the meeting.

(3) At any meeting of the Commission, a majority of the members then in office shall constitute a quorum for the transaction of business. The vote of a majority of the members present at a meeting at which a quorum is present shall be the act of the Commission. The chairman shall preside at all meetings of the Commission unless the Chairman designates another member to preside in his absence.

(4) Any action required or permitted to be taken at a meeting of the Commission may be taken without a meeting if all of the members sign written consents setting forth the action taken or to be taken, at anytime before or after the intended effective date of such action. Such consents shall be filed with the minutes of the Commission and shall have the same effect as a unanimous vote or resolution of the Commission at a legal meeting thereof. Any such action taken by unanimous written consents may, but need not be, set forth in such consents in the form of resolutions or votes.

(5) Members of the Commission may participate in a meeting of the Commission by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting in such matter by any member who does not object at the beginning of such meeting to the holding thereof in such manner shall constitute presence in person at such meeting.

(6) No action of the Commission to impose a penalty pursuant to Section 5 of this Law, or to revoke a license for a gaming employee previously issued by the Commission, shall be valid unless the person affected is given at least seven days notice of the proposed action and the opportunity to appear and be heard before the Commission, either in person or through a representative or legal counsel, and to submit such evidence as the Commission deems relevant to the matter at issue; provided, that if the Commission deems it necessary to protect the public interest in the integrity of the gaming activities, the

Commission may take such action with immediate effect as it deems required, and shall thereupon provide notice and an opportunity to be heard to the affected person as soon as is reasonably practicable following such action. Any person who is denied an initial gaming employee license or who is barred from the gaming facilities by action of the Commission may request a hearing before the Commission by written request submitted within 30 days following receipt of notice of the action of the Commission, and the Commission shall thereupon afford an opportunity to appear and be heard before the Commissions either in person or through a representative or legal counsel, and to submit such evidence as the Commission deems relevant to the matter at issue and thereafter the Commission shall either affirm or reconsider its decision. Any hearing conducted under this subsection may at the direction of the Commission be conducted by the executive director or by one or more members of the Commission designated by the Commission for that purpose.

(7) The Commission may adopt such additional procedures and rules as it deems necessary or convenient to govern its affairs and which are consistent with this Law.

3 M.P.T.L. ch. 1 § 8

§ 8. Standards of Operation and Management

a. Games of Chance. The initial Standards of Operation and Management for games of chance adopted in accordance with Section 7(a) of the Compact shall be those set forth as Appendix A of the Compact.

b. Pari-mutuel Wagering. The initial Standards of Operation and Management for pari-mutuel wagering adopted in accordance with Section 8(a) of the Compact shall be those set forth as Appendix B of the Compact.

c. Lottery Games. The initial Standards of Operation and Management for lottery games adopted in accordance with Section 9(a) of the Compact shall be those set forth as Appendix C of the Compact.

d. Class II Games. The Commission shall adopt Standards of Operation and Management for Class II games and, pending such adoption, may direct the Enterprise to comply with such standards as the Commission may determine necessary to protect the integrity of such Class II games. The standards of operation and management for Class II games shall provide, at a minimum, that:

(1) no person under the age of 18 shall be permitted to participate in any Class II gaming operations as an employee, contractor or player;

(2) the Enterprise shall establish the rules of each game by which the game will be conducted and the winner or winners determined in advance of such game, and such rules shall be visibly displayed or available in pamphlet form in the gaming facility.

3 M.P.T.L. ch. 1 § 9

§ 9. Prohibited Acts

It shall be a violation of this Law for any person to:

- a. Conduct or participate in any Class II or Class III gaming operation on the Reservation other than the Enterprise.
- b. Receive, distribute, apply or divert any property, funds, proceeds or other assets of the Enterprise to the benefit of any individual or any other person except as authorized by this Law and the Resolution of the Tribe establishing the Enterprise.
- c. Tamper with any equipment used in the conduct of tribal gaming operations with the intent to cause any person to win or lose any wager other than in accord with the publicly announced rules of such gaming operations.
- d. Do any other act in connection with the conduct of the tribal gaming operations with the intent to affect the outcome of any wager other than in accord with the publicly announced rules of such gaming operations.
- e. To participate as a player in any regular public bingo game, any lottery, any pari-mutuel wager, or game of chance authorized pursuant to Section 4(a)(9) hereof, conducted by the Tribe, while such person is a member of the Tribal Council or a director or employee of the Enterprise.

3 M.P.T.L. ch. 1 § 10

§ 10. Prior Laws Repealed

The Mashantucket Pequot Bingo Control law is hereby repealed; provided, however, that the Mashantucket Pequot Bingo Control Commission, the Tribal Bingo Operation and the general manager of the Tribal Bingo Operation shall continue to exercise their respective powers and carry out their respective functions and duties under the former Bingo Control Law until the Commission determines and notifies each of them, respectively, and the Tribal Council, that the Commission or the Enterprise, as the case may be, has organized and is prepared to assume its responsibilities under this Law.

TITLE 4. TORT CLAIMS (GAMING ENTERPRISE)

CHAPTER 1

4 M.P.T.L. ch. 1 § 1

§ 1. Definitions

Unless otherwise required by the context, the following words and phrases shall

be defined as follows:

a. "Mashantucket Pequot Gaming Enterprise" or "Gaming Enterprise" means the arm of the tribal government established by the Mashantucket Pequot Tribal Council to conduct the gaming operations of the Tribe, and includes its officers, agents, servants and employees.

b. "Gaming Enterprise Site" means the building or buildings in which Foxwoods Resort Casino is situated, and all parking areas and access roads appurtenant thereto and located on the Reservation of the Tribe.

c. "Claim" means a petition for an award under this Law. A claim may be filed with respect to any injury as defined in this Title.

d. "Person" means any individual, firm, partnership, corporation, limited liability company, association, or any other legal entity.

e. "Dangerous Condition" means a physical aspect of a facility or the use thereof which constitutes an unreasonable risk to human health or safety, which is known to exist or which in the exercise of reasonable care should have been known to exist and which condition is proximately caused by the negligent acts or omissions of the Gaming Enterprise in constructing or maintaining such facility. For the purposes of this subsection, a dangerous condition should have been known to exist if it is established that the condition had existed for such a period of time and was of such a nature that, in the exercise of reasonable care, such condition and its dangerous character should have been discovered. A dangerous condition shall not exist solely because the design of any facility is inadequate or due to the mere existence of wind, water, ice or temperature by itself, or by the mere existence of a natural physical condition. Nothing in this Section shall preclude an accumulation of water, snow, or ice from being found to constitute a dangerous condition when the Gaming Enterprise fails to use existing means available to it for the removal of such accumulation and when the Gaming Enterprise had notice of such accumulation and reasonable time to act.

f. "Injury" means death, harm to a person, or damage to or loss of property which if inflicted by another constitutes a tort under tribal law.

g. "Actual Damages" means the ascertainable loss of money or property sustained as a result of an injury without any reduction for collateral sources.

4 M.P.T.L. ch. 1 § 2

§ 2. Effective Date of Amendments

a. The amendments to this Law made pursuant to TCR101200-03 of 07 shall be applicable to claims accruing after the enactment date of the Resolution.

b. The amendments to this Law made pursuant to TCR122702-02 of 02 shall be applicable to claims pending and accruing as of the enactment date of the Resolution.

c. The amendments to this law pursuant to TCR052907-06 of 09 shall be applicable to claims accruing after May 29, 2007, the date the of enactment of TCR052907-06 of 09.

4 M.P.T.L. ch. 1 § 3

§ 3. Jurisdiction over Tort Claims and Waiver of Sovereign Immunity from Suit

a. The tribal court shall have jurisdiction over tort claims against the Gaming Enterprise or arising at the Gaming Enterprise Site.

b. The Tribe hereby waives the sovereign immunity from suit of the Gaming Enterprise for actions in the tribal court founded upon a tort of the Gaming Enterprise. Nothing herein shall be construed as a waiver of the sovereign immunity from suit of the Tribe or the Gaming Enterprise in state or federal court or in any action before any state or federal agency or in any other forum or context.

c. Members of the Tribal Council remain immune from suit for actions taken within the scope of their duties and responsibilities as members of the Tribal Council.

4 M.P.T.L. ch. 1 § 4

§ 4. Awards

In any judgment under this Law against the Gaming Enterprise, the court may award damages as hereinafter provided:

a. The court may enter an award for actual damages.

b. For any injury resulting in death, the Court may enter an award for actual damages, but in no event shall the award be less than \$100,000.

c. In addition to an award for actual damages, the court may enter an award for any injury resulting in permanent significant disfigurement or permanent significant scar of the face, head, or neck, or, on any other area of the body only if the resulting permanent significant disfigurement or permanent significant scar handicaps the claimant in obtaining or continuing to work. In determining an appropriate damage award for a permanent significant disfigurement or permanent significant scar, the court shall calculate such an award pursuant to 13 M.P.T.L. ch. 4, Sections 12(c) and 12(d); ¹ except that when the claimant is not employed, the court shall use the rate of \$200 per week, without deduction.

d. In addition to an award for actual damages, the court may enter an award for

(1) pain and suffering or mental anguish in an amount which shall not exceed 200% of the actual damages sustained.

(2) for purposes of calculating pain and suffering or mental anguish, actual damages shall include the reasonable value of expenses or losses incurred, notwithstanding offsets resulting from adjustments or write offs based on contractual relationships or other arrangements between third party payors, including but not limited to Medicare or private insurance carriers.

e. No other award or judgment shall enter under this Law, including:

(1) no award based upon a rule of law imposing absolute or strict liability;

(2) no award for punitive or exemplary damages;

(3) no award based upon a claim of loss of consortium; and

(4) no judgment for declaratory or injunctive relief against the Gaming Enterprise.

(5) in causes of action based on negligence, contributory negligence shall not bar recovery in an action by any person or the person's legal representative to recover damages resulting from personal injury, wrongful death or damage to property if the negligence was less than or equal to the combined negligence of the person or persons against whom recovery is sought. Any award for damages to a person shall be reduced in proportion to the person's contributory negligence. However the person shall recover nothing if claimant's contributory negligence is determined to be greater than fifty (50) percent.

4 M.P.T.L. ch. 1 § 5

§ 5. Limitation on Presentation of Claim

a. Any action under this Law must be filed within one year from the date the claim accrued. Claims brought under this Law shall be deemed to accrue on the date when the injury is sustained.

b. The defendant must present the issue of failure to file a claim as stated in Section 5(a) to the Court as an affirmative defense. Such defense shall not be considered jurisdictional in nature.

4 M.P.T.L. ch. 1 § 6

§ 6. Attachment Prohibition

Neither execution nor attachment shall issue against the Gaming Enterprise or the Tribe in any claim for injury or proceedings initiated under this Law.

4 M.P.T.L. ch. 1 § 7

§ 7. Miscellaneous

a. This Law shall govern all tort claims against the Mashantucket Pequot Gaming Enterprise or arising at the Gaming Enterprise Site. When interpreting this law, the court shall follow tribal law and precedent and may be guided by the common law of other jurisdictions.

b. All actions brought under this Law shall be tried to the court and not to a jury. No costs shall be taxed against the Gaming Enterprise.

c. When it is alleged that the liability of the Gaming Enterprise is based upon the action of an officer, agent, servant, or employee of the Gaming Enterprise acting within the scope of his or her employment there shall be no separate cause of action against said officer, agent, servant or employee, and nothing in this law shall be construed to waive the sovereign immunity of the Tribe or the Gaming Enterprise to the extent that it extends to such an individual.

LEGISLATIVE HISTORY REVISIONS TO TITLE 4 TORT CLAIMS (GAMING ENTERPRISE)

4 M.P.T.L. Leg. History

A. Background

Title 4 of the Mashantucket Pequot Tribal Laws was originally enacted in 1992 as TCR011092-01, called the "Sovereign Immunity Waiver Ordinance." In adopting that Resolution, the Tribal Council provided "reasonable procedures for the disposition of tort claims arising from alleged injuries to patrons of its gaming facilities," as required by the Mashantucket Pequot Gaming Procedures, 56 Fed. Reg. 24996 (May 31, 1991). Since 1992, tort claims against the Gaming Enterprise have been resolved pursuant to this Law. In addition, the Gaming Enterprise has grown and the Tribal Council has enacted several other laws. In its continuous review of tribal laws and in an effort to respond to the needs of the community and address issues or ambiguities that have arisen, the Judicial Committee conducted an extensive review of the tort claims law and recommended changes to the Tribal Council.

The following is a summary of the amendments to Title 4. Tort Claims (Gaming Enterprise) and the intent of the Tribal Council in adopting these amendments.

B. Summary of Amendments

1. Jurisdiction and Waiver of Sovereign Immunity from Suit

Waiver of Sovereign Immunity From Suit.

Prior to the amendments, Title 4 contained a waiver of sovereign immunity that allowed suits against the Gaming Enterprise, an arm of the tribal government, for three specific types of tort claims: 1. injuries proximately caused by the negligent acts or omissions of the Gaming Enterprise (including its employees); 2. injuries proximately caused by the negligent acts or omissions

of tribal security officers; and 3. injuries proximately caused by the dangerous condition of the property at the Gaming Enterprise (dangerous condition being defined in the law).

The amendment to this Section aligns the waiver of sovereign immunity with the waiver in Title 12, Section 2(a), for actions "founded upon a tort." Thus, the waiver no longer is limited to claims based upon negligence. This waiver is intended to include intentional torts, but would not include so called "constitutional" torts or statutory torts. A "constitutional" tort depends upon rights guaranteed by either the U.S. Constitution or the various state constitutions. Facially, these claims would not be applicable to the Gaming Enterprise or the Tribe, since neither the U.S. Constitution nor state constitutions are applicable to the Tribe, as a sovereign predating the state and federal governments. The Tribe's Constitution does not provide for or address individual rights vis-à-vis the tribal government and, therefore, could not form the basis of the typical constitutional tort.

Nor does this waiver encompass any type of analogous claim based upon the rights recognized in the Indian Civil Rights Act, which contains similar, although not identical, restraints against tribal governmental actions regarding the civil rights of individuals. The Tribal Council intends to provide separately for claims based upon alleged violations of civil rights and thus, such claims are not within the purview of the waiver of immunity contained in this Law.

All references to or reliance upon the law of the state of Connecticut have been deleted with the intent of clarifying that the tribal court is not bound by state law in any respect. The waiver of immunity does not extend to any type of "statutory" torts defined by any other jurisdiction.

2. Jurisdiction

The amendments clarify that the tribal court has jurisdiction over tort action against the Gaming Enterprise and arising at the Gaming Enterprise site that may not involve the Gaming Enterprise as a party (i.e., private party actions).

3. Damage Awards

Prior to the amendments, Title 4 limited damage awards in several ways. In reviewing the tribal law and its implementation over the past nine years, the Council has amended the law to change some of the limitations on damages. The amendments include the following:

a. Increase awards for pain and suffering. The tribal court system has been limited in its authority to render awards for pain and suffering, in comparison to other judicial systems. Plaintiffs' attorneys generally have been critical of this limitation and the judiciary has expressed some concern in not being able to award greater damages in some cases. The tribal court system also has been complimented by those who favor tort reform and believe there should be some limits placed upon excessive awards. In addition, the claims handling and adjudication processes in the Tribal system, in large part, have worked well in resolving and paying claims quickly and without the delays found in other

systems. The amendments increase the cap on damages for pain and suffering from 50% of actual damages to 100% of actual damages.

b. Minimum award in injuries resulting in death. Although there has never been a claim brought against the Gaming Enterprise involving a death, the present system may not be able to adequately compensate the family or survivors in the event of a death proximately caused by the Gaming Enterprise. The law has been amended to provide for a minimum recovery of \$100,000 in wrongful death cases which will address the potentially inadequate recovery that might result in some cases where the actual damages are negligible. In addition to the minimum award for actual damages, a litigant could seek an award for pain and suffering not to exceed a total of 100% of the actual award.

c. Damages for permanent disfigurement or scarring. Another change to the present system is to provide relief to an injured person when a plaintiff has a permanent significant disfigurement or scar on the face, neck or head, or if on any other area of the body when the person can demonstrate that it handicaps the person in obtaining or continuing to work. The amendment allows a plaintiff in this instance to receive an additional award for such disfigurement or scarring, and directs the court to calculate this award in accordance with the Tribe's Workers' Compensation Code approach, which ties the award to average weekly salary for a limited number of weeks.

d. Elimination of language which limits awards to extent covered by insurance. The amendments eliminate language limiting claims against the Gaming Enterprise to only those covered by insurance. Previously, the definitions of "Injury" and "Actual Damages" included language defining them as having to be "expressly covered by the liability insurance of the Gaming Enterprise without regard to any deductible amount contained in the insurance policy." The Gaming Enterprise has extensive insurance coverage and this particular provision has not been used to deny liability.

e. Limitation on awards as to claims against the Gaming Enterprise. The limitations on damages concern claims against the sovereign only, and do not limit awards in claims between private individuals.

4. Private Party Actions

Prior to the amendments, Title 4 did not directly address claims between private parties and to which the Gaming Enterprise was not a party. The amendments clarify that the tribal court has jurisdiction over both tort claims against the Gaming Enterprise, as well as tort claims arising on the Gaming Enterprise site. This change allows individuals to proceed in tribal court for injuries occurring at the Gaming Enterprise. In addition, this provision is intended to provide the tribal court with jurisdiction in cases where both the Gaming Enterprise and a non-tribal entity are parties and to avoid separate actions in different forums: one in tribal court against the Gaming Enterprise and one in state court against the non-tribal entity or individual.

5. Statute of Limitations

Prior to the amendments, all claims and notices of claims had to be filed

within 180 days from the date the injury is sustained. The amendment lengthens the time for bringing the claim in tribal court to one year from the date of injury, while maintaining a requirement that the claimant file a notice of claim with the tribal court within 180 days of the date of the injury. This procedure is consistent with Title 12 governing tort claims against the Tribe and other tribal divisions or enterprises.

6. Other Changes/Deletions

The amendments also remove certain provisions of the original laws: the Section addressing Volunteers (Section 6); employee actions outside the scope of employment (Section 7); potential reimbursement to the Gaming Enterprise if it is determined that an employee acted in a willful and wanton manner or otherwise outside the scope of employment (Section 8); referral of matters under \$10,000 to the office of the magistrate (Section 10(d)); application of the laws of the state of Connecticut (Section 12); provision making Sections severable (Section 14); and construction provisions (Sections 15(a), 15(b), 15(c)).

These Sections have been deleted because they have not been used or are no longer relevant to the tort law in the tribal court. For instance, the office of the magistrate has never been used for the disposition of claims and referral to such an office is not possible. The reference to state law has been deleted because the tribal court and tribal law continue to develop and there is no need to direct the court to follow state law as tribal law.

The amendments are effective for any claim accruing after the enactment of the amendments and shall not be applicable to either pending claims or those accruing prior to the adoption of the amendments. In addition, because of the substantial and significant changes to the tort law, and for ease of codification, the amendments will wholly replace the current law.

TITLE 5. CHILD WELFARE

CHAPTER 1. CHILD PROTECTION AND FAMILY PRESERVATION LAW

5 M.P.T.L. ch. 1 § 1

§ 1. Findings and Policy

The Mashantucket Pequot Tribe finds that there is no resource more vital to its continued existence and integrity than its children. The Tribe recognizes that extended family relations are essential components of the tribal community. The Tribe hereby declares that it is the policy of this Nation to protect the health and welfare of children and families within the Mashantucket Pequot community, to promote the security of community, and to preserve the unity of the family by enhancing the parental capacity for good child care and development and providing a continuum of services for children and families with an emphasis, whenever possible, on prevention, early intervention, and

community-based solutions.

For these purposes, the Tribe further declares that is the policy of this Nation to require the reporting of suspected child neglect and abuse, the investigation of such reports, and where needed to secure the safety and well-being of the child or children involved, the judicial intervention for the removal of children from their families and the placement of such children in tribally approved foster or protective care homes which will reflect the values and culture of the Tribe.

5 M.P.T.L. ch. 1 § 2

§ 2. Supervision over Welfare of Children

The Health and Human Services Department shall have general supervision over the provision of services to children and families who require the care and protection of the Tribe.

5 M.P.T.L. ch. 1 § 3

§ 3. Family Court

a. There is hereby established a division of the tribal court to be known as the family court, which shall have exclusive jurisdiction over any child custody proceeding involving a child who resides or is domiciled within the Mashantucket Pequot Reservation, settlement area, or trust lands, or a child who is a ward of the court, notwithstanding the residence or domicile of the child. Where the family court asserts jurisdiction over a child pursuant to this Law, the court shall also have jurisdiction over any adult residing in the child's home to the extent necessary to issue any orders protecting the best interests of the child.

b. The family court shall have the authority to issue all orders necessary to ensure the safety of children within the jurisdiction of the Tribe, including the issuance of subpoenas and orders of restriction, the imposition of fines and sanctions for contempt, and such other orders as may be appropriate. All actions brought under this Law shall be determined by the court in accordance with tribal law. The court may be guided, but not bound by, the principles of law applicable to similar claims arising under the laws of the state of Connecticut or of the United States.

c. The family court may accept a transfer of jurisdiction from any court of competent jurisdiction involving a child custody proceeding of a child not domiciled or residing within the Reservation, upon the petition of either parent or the child's custodian, or the Tribe; provided however, that the family court may decline to accept jurisdiction over a child custody proceeding when there is good cause to decline such jurisdiction. The family court may transfer a child custody proceeding to an appropriate court of competent jurisdiction when the transfer is in the best interests of the child.

d. The family court shall give full faith and credit to the public acts, records and judicial decrees applicable to child custody proceedings of any court of competent jurisdiction to the same extent that such court gives full faith and credit to the public acts, records and judicial decrees of the tribal court.

e. In any child custody proceeding in a state court, the Tribe shall have the right to intervene at any point in the proceeding to protect the best interests of the child.

f. Family court judges shall meet the general qualifications for tribal court judges, and, in addition, shall have significant training and experience in child welfare matters, and be familiar with the Indian Child Welfare Act, 25 U.S.C. §§ 1901-1923, and the Indian Child Protection and Family Violence Prevention Act, 25 U.S.C. §§ 3201-3211, 18 U.S.C. § 1169. The family court may establish qualifications for additional court personnel as needed, such as guardians ad litem, court appointed special advocates, special investigators.

CHAPTER 2. DEFINITIONS

5 M.P.T.L. ch. 2

Chapter 2. Definitions

Unless otherwise required by the context, the following words and phrases shall be defined accordingly:

a. "Abandonment" means the complete lack of parental contact with her child or marginal contact for 24 of the past 48 months, and the failure to provide financial support for more than one continuous year. Placement of the child with a member of the parent's extended family shall not constitute abandonment.

b. "Adult" means a person 18 years of age or older. A person under the age of 18 years who is a parent may be treated as an adult.

c. "Child" means any unmarried person who is under the age of 18 years and is either

(1) a member of the Mashantucket Pequot Tribe, or

(2) eligible for membership in the Tribe and is the biological child of a member of the Tribe.

d. "Child abuse" means any case in which a child is dead or exhibits evidence of skin bruising, bleeding, malnutrition, failure to thrive, burns, fracture of any bone, subdural hematoma or soft tissue swelling and such condition is not justifiably explained or may not be the product of an accidental occurrence; or a child is subjected to sexual assault, sexual molestation, sexual exploitation, sexual contact, or prostitution.

e. "Child custody proceeding" means

(1) foster care placement: any action removing a child from his/her parent or custodian for temporary placement in a foster home or institution or the home of a guardian where the parent or Indian custodian cannot have the child returned upon demand, but where parental rights have not been terminated;

(2) termination of parental rights: any action resulting in the termination of the parent-child relationship;

(3) pre-adoptive placement: the temporary placement of a child in a foster home or institution after the termination of parental rights, but prior to or in lieu of adoptive placement; and

(4) adoptive placement: the permanent placement of a child for adoption, including any action resulting in a final decree of adoption.

Child custody proceeding shall not include a placement based upon an award in a divorce proceeding of custody to one of the parents or intra-family custody dispute.

f. "Child neglect" means, but is not limited to, negligent treatment or maltreatment of a child by a person, including a person responsible for the child's welfare, under circumstances which indicate that the child's health or welfare is harmed or threatened thereby, and abandonment.

g. "Child Protective Services" ("CPS") means the designated staff within HHS who has primary responsibility for receiving reports of children in need of the Tribe's care and protection, making referrals and coordinating the screening and investigation of suspected child neglect and abuse, and ensuring that protective services and related assistance are provided to children and families.

h. "Custodian/Guardian" means any person who has legal custody of a child or with whom temporary care, custody and control has been placed, under law or Tribal custom, and who is responsible for the health, safety, and welfare of a child. Such a person has the duty and authority to make major decisions affecting such child's welfare, including, but not limited to major medical, psychiatric or surgical treatment.

i. "Domicile" means a person's permanent home, legal or main residence. The domicile of a child is generally that of the custodial parent or guardian. A child shall be considered a domicile of the Mashantucket Pequot Reservation where the child's custodial parent or guardian considers the Reservation to be her permanent home.

j. "Expert Witness" means a person who is a professional having a recognized education or experience in medicine, sociology, psychology, or other fields relevant to a child welfare proceeding.

k. "Extended Family Member" means any person who has reached the age of 18 and is related to the Indian child by blood or marriage, or any person recognized

by the law or custom of the Tribe.

l. "Foster Home" means any tribally approved home or facility which provides temporary shelter and related assistance to children under the supervision of HHS.

m. "Guardian Ad Litem" means any person appointed by the family court to represent and protect the legal rights and interests of the child in the family court proceedings.

n. "Health and Human Services Committee" ("HHS Committee") means the duly authorized Standing Committee of the Mashantucket Pequot Tribal Nation.

o. "Health and Human Services Department" ("HHS") means the tribal department supervising and directing all child welfare, health, and family services programs, and their related programs.

p. "Law Enforcement Services" ("LES") means the Tribal Police Department, and the director and assistant director of the tribal Public Safety Department.

q. "Parent" means a biological or adoptive mother or father, including an unwed father whose paternity has been acknowledged or established in accordance with tribal law or custom.

r. "Protective Services" means assistance provided by HHS after reports or referrals of neglect or abuse have been received and investigated.

s. "Protective Supervision" means the status created by court order following adjudication of neglect or abuse.

Miscellaneous words listed in singular form may be considered to include the plural form of each word and vice versa except where the context clearly indicates otherwise, and the use of she/her means she or he, her or his.

CHAPTER 3. REPORTING OF CHILD NEGLECT AND ABUSE

5 M.P.T.L. ch. 3 § 1

§ 1. Notification of Child Abuse Reports

Pursuant to the Indian Child Protection and Family Violence Prevention Act, 25 U.S.C. §§ 3201-3211, and 18 U.S.C. § 1169, the following procedures shall be followed for reporting child abuse or neglect.

a. Whenever the LES or CPS receive an initial report or referral from any person of the neglect or abuse of a child in Indian country or actions which would reasonably be expected to result in the neglect or abuse of a child in Indian country, the receiving agency shall:

(1) immediately notify the appropriate officials of the other agency and the

tribal prosecutor of such report and information, and

(2) submit a copy of the written preliminary report required under subsection (c) of this Section to such agency and office.

b. Where an initial report or referral of abuse involves an Indian child or where the alleged abuser is an Indian and the preliminary report indicates that a criminal violation has occurred, the LES shall immediately report such occurrence to the Federal Bureau of Investigation.

c. Within 36 hours after receiving an initial report or referral of child neglect or abuse, the receiving agency shall prepare a written preliminary report which shall include, if available: the name, address, age, and sex of the child who is the subject of the report; the grade and the school in which the child is currently enrolled; the name and address of the child's parents or other person responsible for the child's care; the name and address of the alleged offender; the name and address of the person who made the report to the agency; a brief narrative as to the nature and extent of the child's condition or injuries, including any previously known or suspected neglect or abuse of the child or the child's siblings and the date of the suspected neglect or abuse; and any other information the agency or the person who made the report to the agency believes to be important to the investigation and disposition of the alleged neglect or abuse.

d. Upon receipt of a report alleging neglect or abuse, the CPS, in conjunction with the LES, shall:

(1) convene a Multi-Disciplinary Team ("MDT"), comprised of personnel with experience and training in prevention, identification, investigation and treatment of incidents of child neglect and abuse and family violence which shall provide advice, technical assistance and consultation in these areas, and assist in the investigation of such allegation;

(2) take immediate and appropriate steps to secure the safety and well-being of the child or children involved;

(3) provide appropriate services to the family; and

(4) complete the investigation and prepare a written final report on such allegation within 15 days.

e. If the investigation produces evidence that a child has been neglected or abused by a person other than the parent, guardian/custodian, the LES or CPS shall immediately notify the child's parent or other person responsible for the child's care, and any other appropriate law enforcement authority having jurisdiction over the suspected neglect or abuse. If the investigation produces evidence that a child has been abused by an employee of the Tribe, the LES or CPS shall notify the director of the appropriate tribal department of such evidence, and the director may suspend such employee, with or without pay, or terminate the employee. The employee shall be entitled to pursue any employment rights provided under the Tribe's personnel policies and procedures.

f. HHS, in conjunction with the LES, shall develop protocols for the reporting, screening, investigation, and treatment of child neglect and abuse, and to clarify roles and responsibilities of the tribal departments and agencies involved in child welfare matters.

5 M.P.T.L. ch. 3 § 2

§ 2. Interviews and Examinations

a. In any case where the LES or CPS reasonably believe that the child has been subjected to neglect or abuse, officials of those agencies shall be allowed to take photographs, x-rays, medical and psychological examinations of the child and interview the child without first obtaining the consent of the parent, guardian/custodian.

b. All examinations and interviews of a child who may have been subjected to neglect or abuse shall be conducted under the supervision of the MDT and in a manner that minimizes additional trauma to the child.

c. The expense of such examinations and diagnostic tests shall be paid by the parents or guardian/custodian of the child, or if they are unable to pay, by HHS, which may seek reimbursement according to tribal law.

5 M.P.T.L. ch. 3 § 3

§ 3. Emergency Removal

a. If a child is in imminent danger from her surroundings and removal from such surroundings is necessary to insure the child's safety, the LES or CPS may remove the child from such surroundings without a court order and place her in protective care or a Foster Home. A child shall be considered to be in imminent danger when:

(1) the failure to remove the child may result in an immediate and substantial risk of death, permanent or serious injury, or serious emotional harm to the child; or

(2) the parent, guardian/custodian is absent and it appears from the circumstances that the child's basic necessities of life are not being met, and proper arrangements have not been made by the parent, guardian/custodian to provide for such necessities.

b. When a child is removed, the LES or CPS shall make reasonable efforts to contact a member of the child's extended family.

c. Such removal shall not exceed 96 hours, within which time an emergency protective care petition shall be filed with the court or the child shall be returned to her parent or guardian/custodian.

d. If a petition is filed, the procedures for removal shall be followed,

provided that the court shall schedule a hearing on the petition within 10 days from the date the petition was filed.

5 M.P.T.L. ch. 3 § 4

§ 4. Procedures for Removal

a. If the investigation produces evidence that the child has been neglected or abused and is in need of care, the tribal prosecutor shall file a protective care petition.

b. The petition shall set forth the following:

(1) the name, birth date, sex, residence and tribal affiliation of the child;

(2) the basis for the court's jurisdiction;

(3) a plain and concise statement of the facts upon which the allegations of neglect or abuse are based, including the date, time and location at which the alleged neglect or abuse occurred;

(4) the names, addresses, social security numbers and tribal affiliation of the child's parents or guardians/custodians, if available;

(5) the names and addresses of the child's extended family and all former care givers, if available; and,

(6) if the child has been placed outside of the home, the facts necessitating the placement, the date and time of the placement, and where and with whom the child was placed.

c. The court shall schedule a hearing on the petition within 20 days from the date the petition was filed. Upon petition or its own initiative, the court may order that a social study of the child's home and family or an evaluation of matters relevant to the disposition of the case be made.

d. Upon the filing of the petition, the court shall cause a summons to be issued requiring the parents and any other persons necessary or proper to the proceedings to appear in court at the time and place named therein. The summons and petition shall be personally served upon the party at least 10 days before the scheduled hearing. If the party to be served is not within the Reservation boundaries or personal service cannot be effected, the summons and petition may be served by certified or registered mail, with a return receipt requested. The summons shall contain the following information:

(1) identify the parties and the nature of the proceedings;

(2) state that the party served shall personally appear before the court and respond to the Petition at a specified date and time; and

(3) state that the party has the right to be represented by an

attorney/advocate at her own expense in all proceedings under this Law, to introduce evidence, to be heard on her own behalf, to examine witnesses, and to be informed of possible consequences of the proceedings.

5 M.P.T.L. ch. 3 § 5

§ 5. Hearing

The purpose of the hearing is to determine whether or not the child is in need of care and court intervention and protective supervision are necessary to protect the best interests of the child.

a. The hearing proceedings shall be on the record, but shall be closed to the general public. General rules of evidence and civil procedure shall be suspended.

(1) Any privilege against the disclosure of communications between spouses shall not apply and either party may testify as to any relevant matter.

(2) Evidence that the child has been neglected or abused or has sustained a non-accidental injury shall constitute prima facie evidence that shall be sufficient to support an adjudication that such child is in need of care.

(3) The child shall be represented by a Guardian Ad Litem ("GAL") appointed by the tribal court to speak on behalf of the best interests of the child. The GAL shall be knowledgeable about the protective, social, and medical needs of the child and the child's family. The GAL's fee shall be paid by the parents or guardian/custodian, or if such they are unable to pay, by the court, which may seek reimbursement according to tribal law.

b. Whenever any party intends to call the child as a witness, it shall notify the court no later than five days before the hearing, unless good cause is shown for short notice to the court. Upon receipt of the notice, the court may direct the child to be evaluated by an expert witness to determine if it is asserted that testifying in person would cause trauma to the child.

(1) The child may be allowed to testify if such testimony will not cause serious emotional or psychological harm to the child.

(2) If the court determines that such testimony may cause serious emotional or psychological harm to the child, the child may testify by means of a videotape deposition or other appropriate method. If the court allows these methods to be utilized, the court shall specifically set out the reasons for this determination on the record.

c. The court shall hear testimony from the parties and make specific findings as to whether or not the allegations of the petition are supported by the evidence and whether or not the best interests of the child will be served by court intervention, protective supervision, or by removal from her home.

(1) Whenever removal and foster care placement of a child is recommended, the

court shall be satisfied that active efforts have been made to provide remedial and rehabilitation services designed to prevent the breakup of the family and that these efforts have proved unsuccessful.

(2) Whenever it appears from the allegations of the petition, supported by a preponderance of the evidence, including the testimony of a qualified expert witness and, if available, the testimony of the parents or guardian/custodian, that the child's condition or the circumstances surrounding her care require that her custody be assumed to safeguard her welfare, the court shall vest in the HHS or a qualified person the child's temporary care and custody.

5 M.P.T.L. ch. 3 § 6

§ 6. Court Findings

a. The court shall enter a written order with specific findings of fact and conclusions of law.

b. If the court concludes that removal or continued out of the home placement is not warranted, the child shall be returned immediately to the custody of her parents, custodian/guardian; provided however, that the court may define the terms and conditions for returning the child to her home, continued court jurisdiction and protective supervision.

c. If, pursuant to Section 5(c)(2), the court finds that removal or continued removal is in the best interests of the child, the court shall determine:

(1) the proper placement of the child;

(2) the services or treatment to be provided to the child and the child's family to help address the circumstances underlying the removal; and

(3) the terms and conditions for placement of the child, returning the child to her home, and family visitation.

d. Where the evidence demonstrates that the activities of a particular person in the household are the basis for the court's finding that removal of the child is required, the court may, pursuant to its civil regulatory authority, issue a restraining order preventing that person from residing in the residence in lieu of removing the child.

e. The expense for any temporary care and custody shall be paid by the parents or guardian/custodian, or if they are unable to pay, by HHS which may seek reimbursement according to tribal law.

5 M.P.T.L. ch. 3 § 7

§ 7. Review of Placement and Supervision

a. The court may exercise continuing jurisdiction over the supervision of such

child custody proceeding for so long as it deems necessary to protect the child's best interests. The status of all children who have come within the supervision of the court shall be reviewed by the court at least every three months at a hearing to determine whether or not the placement conditions have been met and whether or not court supervision shall continue.

b. The first review following a formal hearing on the petition shall be held within 45 days of the court's decision.

c. If continued court supervision and intervention is necessary, the court shall set forth the following in a written order:

(1) what services have been provided or offered to the parents or guardian/custodian to help address the circumstances underlying the removal;

(2) the extent of the parent or guardian/custodian involvement with the child or any reason why visitation and/or contact has been infrequent or not otherwise occurred;

(3) whether or not the parents or guardian/custodian have been cooperative with the court;

(4) whether or not the parents or guardian/custodian should be required to participate in any additional treatment programs to help correct the underlying circumstances;

(5) define a time frame in which the family can reasonably expect to be reunited, provided the circumstances underlying the removal have been satisfactorily addressed; and

(6) any additional steps the court deems necessary and appropriate.

5 M.P.T.L. ch. 3 § 8

§ 8. Placement Preferences

a. Whenever the court has adjudged a child to be in need of protective or foster care, the child shall be placed in the least restrictive setting which most approximates a family and in which her special needs, if any, may be met.

The child shall also be placed within reasonable proximity to her home, taking into account any special needs of the child. A placement preference shall be given, in the absence of good cause to the contrary and taking into consideration the child's age and maturity, to a placement with:

(1) members of the child's family or extended family;

(2) other members of the Mashantucket Pequot Tribe;

(3) a tribally approved Foster Home or facility for children which has a program suitable to meet the child's needs;

(4) other Indian families.

b. Where a child is placed outside of the tribal community, the tribal court shall include in its order provisions for continuing contact between the child and the tribal community.

5 M.P.T.L. ch. 3 § 9

§ 9. Emergency Authorization of Medical Treatment

a. This Section shall apply to the emergency removal of a child who is in imminent danger.

b. When a physician indicates that in her professional opinion, the life of the child would be greatly endangered or that there is a strong likelihood that the child would suffer permanent and/or serious harm without specified treatment, the protective or foster care parent or the family court on an ex parte basis may authorize emergency medical treatment. Every effort shall be made to contact the child's parents and HHS before authorization is given. The child's parents or an extended member of the child's family shall be notified of the emergency treatment immediately thereafter.

5 M.P.T.L. ch. 3 § 10

§ 10. Character Investigations

a. HHS shall compile a list of all positions which involve regular contact with, or control over, Indian children.

b. HHS shall, in conjunction with the LES, conduct an investigation of the character of each individual who is employed, or is being considered for employment by the Tribe, in a position listed in subsection (a) of this Section.

c. The minimum standards of character that are to be prescribed under this Section shall ensure that none of the individuals employed in any position listed in subsection (a) have been found guilty of, or entered a plea of no contest or guilty to, any offense under federal, state or tribal law involving crimes of violence, sexual assault, molestation, exploitation, contact or prostitution, or crimes against persons.

5 M.P.T.L. ch. 3 § 11

§ 11. Confidentiality

a. The identity of any person making a report of suspected child neglect or abuse shall not be disclosed, without the consent of the individual, to any person other than a court of competent jurisdiction or an employee of the tribe, or state or federal government, who needs to know the information in the

performance of such employee's duties.

b. Pursuant to 25 U.S.C. § 3205, 5 U.S.C. § 552a, and 20 U.S.C. § 1232g, or any other provision of law, agencies of the tribe that investigate and treat incidents of child abuse may provide information and records to those agencies of any other tribe, state, or the federal government that need to know the information in the performance of their duties.

5 M.P.T.L. ch. 3 § 12

§ 12. Central Registry

The LES and CPS shall maintain a registry of all reports of suspected child neglect or abuse, and the information contained in the reports and any other information relative to the report, wherever located, shall be confidential, subject to their use and access as required for any interview, examination, investigation, or prosecution, or to prevent or discover further abuse of children.

5 M.P.T.L. ch. 3 § 13

§ 13. Records

a. A record of all hearings under this Law shall be made and preserved.

b. All family court, LES, CPS, and HHS records shall be confidential and shall not be open to inspection, except by the LES, CPS, HHS or family court personnel directly involved in handling the case, or any other person by order of the court, having a legitimate interest in the particular case or work of the court.

5 M.P.T.L. ch. 3 § 14

§ 14. Modification, Revocation or Extension of Court Orders

a. Upon a motion of any party to the proceeding or any other person or entity who would have had the right to be a party to the proceeding, the court may conduct a hearing to modify, revoke or extend a court order made under this Law.

b. Any hearing to modify, revoke or extend a court order shall be held in accordance with the procedures established by the tribal court.

5 M.P.T.L. ch. 3 § 15

§ 15. Appeals

Appeals from decisions by the family court under this Law may be made by any party in accordance with the rules governing the Mashantucket Pequot Tribe Court of Appeals.

CHAPTER 4. GUARDIANSHIP

5 M.P.T.L. ch. 4 § 1

§ 1. Appointment of Guardians

If a child is under the age of 14 years, the court may appoint a guardian over the person of a child. If the child is 14 years of age or older, she may nominate her own guardian who, if approved by the court, shall be appointed accordingly. If the guardian nominated by the child is not approved by the court, or if the child resides outside of the Reservation, or if, after being duly cited by the court, the child fails to nominate a suitable person, the court may nominate and appoint the guardian in the same manner as if the child were under the age of 14 years.

5 M.P.T.L. ch. 4 § 2

§ 2. Guardianship Petition

a. The petition for guardianship may be filed by any of the following persons:

- (1) either or both parents, including a parent who is a minor;
- (2) the tribal prosecutor on behalf of the Tribe;
- (3) any person possessing a legitimate interest in the matter.

b. The petition for guardianship shall include the following information:

- (1) the name, sex, date and place of birth, present address and tribal affiliation of the child who is the proposed ward;
- (2) the name and address of the petitioner, and the nature of the relationship between the petitioner and the child;
- (3) the names, dates of birth, address, tribal affiliation of the child's parents;
- (4) the name of the person or agency of the proposed guardian;
- (5) if the parent of the child is a minor, the names and addresses of the parents or guardian of the minor;
- (6) the name and address of the person or agency having legal or temporary custody of the child;

(7) the facts upon which the guardianship is sought, the effects of the guardianship and the basis for the court's jurisdiction; and

(8) a statement describing the property owned, possessed, or in which the child has an interest and the value of such property or property interest.

c. If the information required under subsections (2), (3) and (7) of subsection (b) of this Section is not stated, the petition shall be dismissed. If any of the other facts required hereunder are not known or cannot be ascertained by the petitioner, the petitioner shall so state in the petition. The petitioner shall sign and date the petition, and attest to the veracity of the information contained therein.

5 M.P.T.L. ch. 4 § 3

§ 3. Appointment of Guardian Ad Litem for Minor or Incompetent Parent

a. Whenever, with respect to any petition filed under this Law, it appears that either parent of the child is a minor or incompetent, the court shall appoint a Guardian Ad Litem for such parent. The Guardian Ad Litem shall be an attorney authorized to practice law in tribal court.

b. The Guardian Ad Litem shall be allowed reasonable compensation which shall be assessed against the petitioner. If the court finds that the petitioner is unable to pay, the reasonable compensation shall be paid by court, which may seek reimbursement of such fees according to tribal law.

5 M.P.T.L. ch. 4 § 4

§ 4. Consent to Guardianship

a. If a petition indicates that either or both parents consent to the guardianship, or if any time following the filing of a petition and before the entry of a final decree, a parent consents to the guardianship, each consenting parent shall acknowledge such consent in writing on a form promulgated by the chief judge, before the court, evidencing to the satisfaction of the court that the parent has voluntarily and knowingly consented to the guardianship and that the terms and consequences of such consent are understood by the parent. The court shall also certify that either the parent or guardian fully understood the explanation in english or that it was interpreted into a language that the parent or guardian or custodian understood.

b. No voluntary consent to guardianship by a mother shall be executed prior to or within 10 days after the birth of the child. A minor who is a parent shall have the right to consent to the guardianship and such consent shall not be voidable by reason of such minority.

c. In any voluntary proceeding the consent of the parent may be withdrawn for any reason at any time prior to the entry of a final decree, and where the

child has been placed out of the family, the child shall be returned to the parent unless the court finds good cause to the contrary not to return the child.

5 M.P.T.L. ch. 4 § 5

§ 5. Hearing

a. Upon the filing of a petition for guardianship, the court shall set a time for hearing the petition. The time for the hearing shall not be more than 30 days after the filing of the petition.

b. The court shall cause a notice of the hearing to be given to the parents of the minor child, including any parent of a minor who is himself a parent, the guardian or any other person whom the court deems appropriate, the director of Health & Human Services, and to the child if he is over the age of 14 years. The notice shall state that the party for whom a guardianship is being sought has the right to be represented by counsel.

c. Notice of the hearing and a copy of the petition, certified by the petitioner or his attorney or the court clerk, shall be served at least 10 days before the date of the hearing by personal service on the persons enumerated in subsection (b) of this Section. If personal service cannot be reasonably effected or the address of any person is unknown, a judge or court clerk shall order notice to be given by registered or certified mail, return receipt requested, or by publication at least 10 days before the date of the hearing in a newspaper of general circulation in the place of the last-known address of the person to be notified, whether within or without Connecticut, or if no such address is known, in a newspaper of general circulation in the region where the court is located.

d. Notice and appearance may be waived by a parent in writing before the court, provided that such parent has been apprised by the court of the meaning and consequences of the guardianship action. The parent who has executed such a waiver shall not be required to appear at the subsequent hearing. Where the parent is a minor, the waiver shall be effective only upon approval by the court.

5 M.P.T.L. ch. 4 § 6

§ 6. Conduct of Hearing; Investigation and Report; Grounds for Termination

a. At the hearing held on the petition for the guardianship, any party to whom notice was given shall have the right to appear and be heard with respect to the petition. If the parent who is consenting to the guardianship appears at the hearing, the court shall explain to the parent the meaning and consequences of the guardianship action.

b. Upon finding at the hearing or at any time during the pendency of the petition that reasonable cause exists to warrant an examination, the court, on

its own motion or on motion of any party, may order the child to be examined by a physician, psychiatrist, or licensed clinical psychologist appointed by the court. The court may also order an examination of a parent or guardian whose competency or ability to care for a child before the court is at issue. The expenses of any examination if ordered by the court shall be paid by the petitioner, or if ordered on motion by a party, shall be paid for by that party unless such party or petitioner is unable to pay, in which case, they shall be paid by the court. The court may consider the results of the examination in ruling on the merits of the petition.

c. The court may, in any contested case, request the Health and Human Services Department to make an investigation and written report to the court within 45 days from receipt of such request. The report shall indicate the physical, mental and emotional health of the child and shall contain such facts as may be relevant to determine whether the proposed guardianship will be in the best interests of the child, including the physical, mental and social and financial condition of the proposed guardian, and any factors which the agency deems relevant to determine whether the proposed guardianship will be in the best interests of the child.

d. If such a report is requested, the court shall schedule a hearing not more than 30 days from the date the expiration of the 45 day time period or receipt of the report, whichever is earlier. The court shall give reasonable notice of the investigation hearing to all parties to the first hearing.

e. The report shall be admissible in evidence, subject to the right of any interested party to require that the person making it appear as a witness and subject himself to examination.

f. At either the investigation hearing or the first hearing, if no investigation and report has been requested, the court may approve the petition for guardianship and may appoint a guardian of the person of the child, if it finds by a preponderance of the evidence, including the testimony of a qualified expert witness, that the guardianship is in the best interests of the child, and, with respect to any consenting adult that such consent was voluntarily and knowingly given.

g. If the court denies a petition for guardianship, with or without consent, it may refer the matter to the Health and Human Services Department to assess the needs of the child, the care the child is receiving, and a remediation plan for the parent.

5 M.P.T.L. ch. 4 § 7

§ 7. Findings and Orders

a. The court shall make written findings in determining whether to appoint a guardian based on a consideration of:

(1) the timeliness, nature and extent of services offered or provided to the child or parent by any tribal or state agency to facilitate the preservation of

the family;

(2) the terms of any applicable court order and the extent to which the parties have fulfilled their obligations thereunder;

(3) the feelings and emotional ties of the child with respect to his parents, the proposed guardian, or any person who has provided physical care or custody to the child during the preceding year and with whom the child has developed significant emotional ties;

(4) the age of the child;

(5) the efforts the parent has made to make it in the best interests of the child to be reunited with the parent; and

(6) the extent to which the parent may have been prevented from maintaining a meaningful relationship with the child.

b. Whenever the court finds that a guardian should be appointed, the court shall appoint either a temporary or permanent guardian over the person of the child under such terms and conditions as the court sets forth in the written order. An appointment of a guardianship shall not terminate the parental rights of the parents, however, the guardian shall have the responsibility for the care, custody and education of the child until she attains the age of 18 years, marries, is emancipated by the court, or until the guardian is legally discharged. The guardian shall also have the authority to consent to the medical care and treatment of the child. The court may grant visitation rights to the parents and the child's extended family under the terms and conditions as the court deems to be in the best interests of the child. The guardian shall not have the authority, without the express written consent of the court, to use or dispose of any real or personal property of the child in any manner.

c. Any support obligation existing prior to the effective date of the court's order shall not be severed or terminated.

5 M.P.T.L. ch. 4 § 8

§ 8. Termination of the Guardianship

a. A temporary guardianship may be terminated upon a determination that it is in the best interests of the child to change custody from the guardian to a new guardian or to return the child to the child's parent.

b. A permanent guardianship shall only be terminated upon a determination of the unsuitability of the permanent guardian rather than the competency or suitability of the parents.

5 M.P.T.L. ch. 4 § 9

§ 9. Guardian of the Property

a. The court may appoint a guardian of the property of a child under such express terms and conditions as the court deems to be in the best interests of the child and not inconsistent with tribal law.

b. The guardianship of the property may be limited to specific property or a specific legal action or it may extend until the child attains the age of 18 years.

c. The property and funds of the child shall be used by the guardian solely for the child's support and education, and shall be expended by the guardian in a manner as can reasonably be afforded according to the income and estate of the child. If the court determines it appropriate, the written order may set forth that the child's property may not be used for the child's care, but rather to be managed for the child until the child attains the age of 18 years, marries, is emancipated by the court, or until the guardian is legally discharged.

5 M.P.T.L. ch. 4 § 10

§ 10. Review of Guardianship

The status of all children who have been placed with a guardian pursuant to this Law shall be reviewed by the court at least once a year, or as otherwise directed by the court. Whenever a guardian of the child's property has been appointed, the guardian shall submit a yearly accounting regarding the guardian's use of the child's property to the court for review and approval.

CHAPTER 5. TERMINATION OF PARENTAL RIGHTS

5 M.P.T.L. ch. 5 § 1

§ 1. Purpose

The purpose of this Law is to provide for the voluntary or involuntary termination of the parent-child relationship by court order resulting in the complete severance of the legal relationship, with all its rights and responsibilities, between the child and his parents so that the child is free for permanent placement or adoption, except that it shall not affect the right of inheritance of the child or the child's membership rights in the Tribe. This Law shall be construed in a manner consistent with the philosophy that the family unit is of most value to the community and to individual family members when that unit remains united and together, and that termination of the parent-child relationship bears such permanent effects that it should be used only as a last resort when, in the opinion of the court, all efforts have failed to preserve a viable family unit and termination is in the best interests of the child concerned.

§ 2. Appointment of Guardian Ad Litem for Minor or Incompetent Parent

a. Whenever, with respect to any petition filed under this Law, it appears that either parent of the child is a minor or incompetent, the court shall appoint a Guardian Ad Litem for such parent. The Guardian Ad Litem shall be an attorney authorized to practice law in tribal court.

b. The Guardian Ad Litem shall be allowed reasonable compensation which shall be assessed against the petitioner. If the court finds that the petitioner is unable to pay, the reasonable compensation shall be paid by court, which may seek reimbursement of such fees according to tribal law.

§ 3. Petition to Terminate Parental Rights

a. A petition to terminate parental rights may be filed by any of the following persons:

- (1) either or both parents, including a parent who is a minor;
- (2) the guardian of the child;
- (3) the tribal prosecutor on behalf of the Tribe;
- (4) any person possessing a legitimate interest in the matter.

b. The petition for termination of parental rights shall be entitled "In the interests of (Name of Child), a person under the age of 18 years," and shall set forth with specificity:

- (1) the name, sex, date and place of birth, present address and tribal affiliation of the child;
- (2) the name and address of the petitioner, and the nature of the relationship between the petitioner and the child;
- (3) the names, dates of birth, addresses, and tribal affiliation of the child's parents;
- (4) if the parent of the child is a minor, the names and addresses of the parents or guardian of the minor;
- (5) the name and address of the person or agency having legal or temporary custody of the child;
- (6) the facts upon which the termination is sought, the effects of a termination decree and the basis for the court's jurisdiction;

(7) the name of the persons or agencies which have agreed to accept custody or guardianship of the child upon disposition of the matter; and

(8) a list of the assets of the child, together with a statement of the value thereof.

c. If the information required under subsections (2) and (6) of subsection (b) of this Section is not stated, the petition shall be dismissed. If any of the other facts required hereunder are not known or cannot be ascertained by the petitioner, the petitioner shall so state in the petition. The petitioner shall sign and date the petition, and attest to the veracity of the information contained therein.

5 M.P.T.L. ch. 5 § 4

§ 4. Consent to Termination

a. If a petition indicates that either or both parents consent to the termination of their parental right, or if any time following the filing of a petition and before the entry of a final decree, a parent consents to the termination of his parental rights, each consenting parent shall acknowledge such consent in writing on a form promulgated by the chief judge, before the court, evidencing to the satisfaction of the court that the parent has voluntarily and knowingly consented to the termination of his parental rights, and that the terms and consequences of such consent are understood by the parent. The court shall also certify that either the parent or guardian fully understood the explanation in english or that it was interpreted into a language that the parent or guardian or custodian understood.

b. No consent to termination of parental rights by a mother shall be executed prior to or within 10 days after the birth of the child. A minor who is a parent shall have the right to consent to termination of parental rights and such consent shall not be voidable by reason of such minority.

c. In any voluntary proceeding the consent of the parent may be withdrawn for any reason at any time prior to the entry of a final decree, and where the child has been placed out of the family, the child shall be returned to the parent unless the court finds good cause to the contrary not to return the child.

5 M.P.T.L. ch. 5 § 5

§ 5. Hearing

a. Upon the filing of a petition for the termination of parental rights, the court shall set a time for hearing the petition. The time for the hearing shall not be more than 30 days after the filing of the petition.

b. The court shall cause a notice of the hearing to be given to the parents of

the minor child, including any parent of a minor who is himself a parent, the guardian or any other person whom the court deems appropriate, the director of Health & Human Services, and to the child if he is over the age of 14 years. The notice shall state that the party whom parental rights are being terminated has the right to be represented by counsel.

c. Notice of the hearing and a copy of the petition, certified by the petitioner or his attorney or the court clerk, shall be served at least 10 days before the date of the hearing by personal service on the persons enumerated in subsection (b) of this Section. If personal service cannot be reasonably effected or the address of any person is unknown, a judge or court clerk shall order notice to be given by registered or certified mail, return receipt requested, or by publication at least 10 days before the date of the hearing in a newspaper of general circulation in the place of the last-known address of the person to be notified, whether within or without Connecticut, or if no such address is known, in a newspaper of general circulation in the region where the Court is located.

d. Notice and appearance may be waived by a parent in writing before the court, provided that such parent has been apprised by the court of the meaning and consequences of the termination action. The parent who has executed such a waiver shall not be required to appear at the subsequent hearing. Where the parent is a minor, the waiver shall be effective only upon approval by the court.

5 M.P.T.L. ch. 5 § 6

§ 6. Conduct of Hearing; Investigation and Report; Grounds for Termination

a. At the hearing held on the petition for the termination of parental rights, any party to whom notice was given shall have the right to appear and be heard with respect to the petition. If the parent who is consenting to the termination of parental rights appears at the hearing, the court shall explain to the parent the meaning and consequences of termination of parental rights.

b. Upon finding at the hearing or at anytime during the pendency of the petition that reasonable cause exists to warrant an examination, the court, on its own motion or on motion of any party, may order the child to be examined by a physician, psychiatrist, or licensed clinical psychologist appointed by the court. The court may also order an examination of a parent or guardian whose competency or ability to care for a child before the court is at issue. The expenses of any examination if ordered by the court shall be paid by the petitioner, or if ordered on motion by a party, shall be paid for by that party unless such party or petitioner is unable to pay, in which case, they shall be paid by the court. The court may consider the results of the examination in ruling on the merits of the petition.

c. The court may, in any contested case, request the Health and Human Services Department to make an investigation and written report to the court within 45 days from receipt of such request. The report shall indicate the physical, mental and emotional health of the child and shall contain such facts as may be

relevant to determine whether the proposed termination of parental rights will be in the best interests of the child, including the physical, mental and social and financial condition of the parents, and any factors which the agency deems relevant to determine whether the proposed termination will be in the best interests of the child.

d. If such a report is requested, the court shall schedule a hearing not more than 30 days from the date the expiration of the 45 day time period or receipt of the report, whichever is earlier. The court shall give reasonable notice of the investigation hearing to all parties to the first hearing.

e. The report shall be admissible in evidence, subject to the right of any interested party to require that the person making it appear as a witness and subject himself to examination.

f. At either the investigation hearing or the first hearing, if no investigation and report has been requested, the court may approve the petition terminating the parental rights and may appoint a guardian of the person of the child, if it finds by clear and convincing evidence, including the testimony of two qualified expert witnesses, that the termination of parental rights is in the best interests of the child, and, with respect to any consenting adult that such consent was voluntarily and knowingly given; or, with respect to any non-consenting parent that over an extended period of time in which, except as provided in subsection (g) of this Section, shall not be less than one year, the child has been abandoned or abused by the parent, or the child has been denied the care, guidance, or control necessary for his physical, educational, moral or emotional well-being and the continuation of the parent-child relationship would be detrimental to the best interests of the child.

g. If the court denies a petition for termination of parental rights, with or without consent, it may refer the matter to the Health and Human Services Department to assess the needs of the child, the care the child is receiving, and a remediation plan for the parent.

h. The court may waive the requirement that one year expire prior to the termination of parental rights if it finds from the totality of the circumstances surrounding the child that such waiver is necessary to promote the best interests of the child.

5 M.P.T.L. ch. 5 § 7

§ 7. Findings and Orders

a. Except in cases based on consent, the court shall make written findings in determining whether to terminate the parent-child relationship based on

(1) the timeliness, nature and extent of services offered or provided to the child or parent by any tribal or state agency to facilitate the reunion of the child with the parent;

(2) the terms of any applicable court order and the extent to which the parties

have fulfilled their obligations thereunder;

(3) the feelings and emotional ties of the child with respect to his parents, any guardian, or any person who has provided physical care or custody to the child during the preceding year and with whom the child has developed significant emotional ties;

(4) the age of the child;

(5) the efforts the parent has made to make it in the best interests of the child to be reunited with the parent; and

(6) the extent to which the parent may have been prevented from maintaining a meaningful relationship with the child.

b. Whenever the court finds that the parent-child relationship should be terminated, all rights, powers, privileges, immunities, duties, and obligations including any rights to custody, control, or visitation, existing between the child and parent shall be severed and terminated, provided that the rights of one parent may be terminated without affecting the rights of the other parent.

The remaining parent shall be the sole parent and, unless otherwise provided by law, the guardian of the person of the child. The parent whose rights have been terminated shall have no standing to appear at any future legal proceedings concerning the child.

c. Any support obligation existing prior to the effective date of the order terminating parental rights shall not be severed or terminated.

d. A termination order shall not prevent a child from inheriting property or interest in the same manner as any other natural child from the natural parent.

A natural parent may not, however, inherit from a natural child after termination.

5 M.P.T.L. ch. 5 § 8

§ 8. Child's Continued Right to Benefits

An order terminating the parent-child relationship shall not disentitle a child to any benefit due the child from any third person, agencies, state or the United States, nor shall any action under this Law be deemed to affect any rights and benefits that the child derives from the child's descent from or membership in the Mashantucket Pequot Tribe.

5 M.P.T.L. ch. 5 § 9

§ 9. Custody after Relinquishment or Termination Order

a. If upon entering a decree terminating the parental rights of a parent or guardian, there remains no suitable parent or no parent having parental rights, the court shall commit the child to the care and custody of the Health and

Human Services Department or shall place the child in accordance with the placement preferences established by this Law under such terms and conditions as are in the best interests of the child. In the absence of a suitable home under the placement preferences, the court may place the child with a non-Indian family outside the tribal community, or authorize the Health and Human Services Department to seek an appropriate adoption of the child.

b. At least every three months thereafter, a report shall be made to the court on the efforts taken to secure permanent placement of the child. The court shall so review the status of the child until the child is adopted or permanently placed.

5 M.P.T.L. ch. 5 § 10

§ 10. Review of Placement

The status of all children who have been permanently placed pursuant to this Law shall be reviewed by the court at least once a year, or as otherwise directed by the court.

CHAPTER 6. FOSTER HOME LICENSING PROCEDURES

5 M.P.T.L. ch. 6 § 1

§ 1. Foster Care Inspector

a. The HHS Committee shall appoint one or more qualified and neutral persons as the Foster Home inspector(s) to inspect the homes of tribal members and others who reside on the Reservation or within a fifty (50) mile radius of the Reservation. Such appointee(s) shall serve at the pleasure of the HHS Committee. The foster home inspector shall report to the HHS Committee as necessary.

b. Upon an inspection of the proposed Foster Home and an interview with the proposed foster family, the foster home inspector shall submit a recommendation to the chairperson of the HHS Committee. The HHS Committee shall review the recommendation and act upon it within 30 days, or, if no action is taken, the recommendation of the foster home inspector shall be deemed approved. If the HHS Committee approves the foster family, the HHS Committee shall issue a Foster Home license within 30 days. The foster parent shall file a copy of the foster home license with the Tribal Clerk's Office.

c. Except under exceptional circumstances, or in order to preserve a family unit, a foster home may not accept more than four foster children.

d. Any license issued by the HHS Committee shall apply only to the residence where the family is living at the time application for a license is made. A permanent change of residence automatically terminates the license. The foster parents shall notify the HHS Committee whenever a change of residence is

contemplated.

e. The foster parents shall also notify the HHS Committee whenever a change in the household occurs. For example, if any member of the Foster Home moves out of the residence, or if any other person moves into the residence, the foster parent shall notify the HHS Committee within 48 hours. Failure to report such changes may result in the suspension or revocation of the Foster Home license.

f. It shall be grounds for revocation of the foster home license if any member of the foster home is accused or convicted of a crime or if any other facts come to the attention of the HHS Committee which would render the Foster Home unsuitable. The Tribal Police shall have an affirmative duty to notify the HHS Committee of any information which may reflect upon the suitability of the Foster Home.

g. Upon reasonable notice a revocation hearing shall be held before the HHS Committee. Such hearing shall be on the record but closed to the general public. General rules of evidence and civil procedure shall be suspended. The HHS Committee may hear testimony from the parties and shall make specific findings as to whether the foster home license should be revoked as being in the best interest of the foster child. In the event the HHS Committee revokes the foster home license, it shall notify the Tribal Clerk's Office and CPS, and CPS shall immediately make suitable arrangements for the removal and placement of the foster child consistent with Chapter 3, Section 8 of this Title. Any revocation decision of the HHS Committee shall be final and not subject to further review or appeal.

5 M.P.T.L. ch. 6 § 2

§ 2. Foster Home Requirements

a. The Foster Home shall be constructed, arranged and maintained so as to provide for the health and safety of all occupants. The foster care inspector may, upon 24 hours notice, inspect a Foster Home.

b. Heating, ventilation, and light shall be sufficient to provide a comfortable, airy atmosphere. Furnishings and housekeeping shall be adequate to protect the health and comfort of the foster child.

c. Comfortable beds shall be provided for all members of the family. Sleeping rooms must provide adequate opportunities for rest. All sleeping rooms must have a window of a type that may be readily opened and used for evacuation in case of fire.

d. Play space shall be available and free from hazards which might be dangerous to the life or health of the child.

5 M.P.T.L. ch. 6 § 3

§ 3. The Foster Family

a. All members of the household shall be in such physical and mental health as will not adversely effect either the health of the child or the quality and manner of his care.

b. Members of the foster family shall be of good character and standing in the community. They shall never have been convicted of a sex offense and shall not have had any felony convictions within the last five years. Exceptions concerning non-sexual felony convictions may be made provided adequate information is submitted and reviewed indicating that a significant change of character has occurred.

c. The foster parents shall be of suitable temperament to care for the foster child, and shall understand the special needs of the child as an Indian person and a member of the tribal community.

d. Foster parents shall be at least 21 years of age, but there shall be no upper age level, provided that the foster parent has the physical and emotional stamina to deal with the care and guardianship of a foster child. Foster parents shall be willing, when necessary, to cooperate with the biological parents and shall be willing to help the family re-establish the necessary family ties.

e. A Foster Home need not be composed of both a male and female foster parent. The foster home inspector may certify a Foster Home with a single foster parent provided that the foster parent displays the qualifications necessary to raise a foster child.

f. The foster parents shall have an income sufficient to care for all members of the foster family. The foster care inspector may take into account any tribal or state benefits when determining the financial ability of the foster parents compared to the financial needs of the child.

g. Any time a pre-school foster child is placed in a foster home, there must be at least one foster parent at home full time, unless the foster parent has obligations outside the home that necessitate day care, in which case, the foster parent shall show the ability and availability to provide appropriate day care for the pre-school foster child. For school age children, the foster parent must show the child care arrangements which will be made for those periods of time when both foster parents are employed. Infants and young children shall never be left alone without competent supervision.

h. Except without specific approval by the HHS Committee, a foster home shall not be licensed whenever any member of the family is mentally ill or on convalescent status or is on parole or probation or is an inmate of a penal or correctional institution.

i. The standards the foster care inspector shall use in judging the above criteria shall be those of the tribal community.

§ 4. Investigation

The foster care inspector is authorized to conduct a character investigation to determine the adequacy of the foster home and the competency of the proposed foster parents. The inspector shall be authorized to interview the potential foster parents and any other person who is familiar with the applicants and with the type of care they provide to their children.

5 M.P.T.L. ch. 6 § 5

§ 5. The Foster Child

a. The daily routine of a foster child shall be such as to promote good health, rest and play habits.

b. The responsibility for a child's health care shall rest with the foster parents. In case of an emergency or a serious sickness or accident to a child, the foster parents shall immediately notify the HHS Committee Chairperson. The foster parents may consent to surgery or other treatment in a medical emergency.

c. The foster parents shall not subject the child to verbal abuse, derogatory remarks about the child, the child's natural parents or relatives, or to threats to expel the child from the foster home. No child shall be deprived of meals, mail or family visits as a method of discipline. When discipline or punishment must be administered, it shall be done with understanding and reason.

CHAPTER 7. ADOPTION

5 M.P.T.L. ch. 7 § 1

§ 1. Open Adoptions

It is the policy of the Tribe that is children should be adopted as a matter of last resort, and alternative long-term placements such as guardianship and long-term foster placement should be first considered which maintain a stronger connection between the child, the parent and family.

Adoptions under this code shall be in the nature of "Open Adoptions." Open adoption is a form of adoption in which the biological family and the adopted child may enjoy an ongoing in-person relationship, unless the court orders otherwise for good cause.

5 M.P.T.L. ch. 7 § 2

§ 2. Purpose

The purpose of such open adoptions is to not permanently deprive the child of connections to, or knowledge of, the child's biological family. The purpose of adoptions shall be to give the adoptive child a permanent home. The following shall apply and be contained in all adoptive orders and decrees:

a. The adoptive parents and adoptive child shall be treated under the law as if the relationship was that of a biological child and parent, except as set forth herein.

b. The adoptive child shall have an absolute right, absent a convincing and compelling reason to the contrary, to information and knowledge about his biological family and his Mashantucket Pequot Tribal heritage.

c. Adoption shall not serve to prevent an adoptive child from inheriting from a biological parent in the same manner as any other biological child. The biological parents shall not be entitled to inherit from an adoptive child in the same manner as parents would otherwise be entitled to inherit. An adoptive child shall be entitled to inherit from adoptive parents, and vice versa, in the same manner as if biological parents and child.

5 M.P.T.L. ch. 7 § 3

§ 3. Availability for Adoption

A child may be adopted only if he has no parents by reason of death or by the voluntary or involuntary termination of the parent-child relationship. The Court may conduct a hearing as provided under 5 M.P.T.L. ch. 5, Termination of Parental Rights, prior to or in connection with an adoption hearing.

5 M.P.T.L. ch. 7 § 4

§ 4. Who may File an Adoption Petition

Any adult may file a petition to adopt an Indian minor residing within the Mashantucket Pequot Tribal lands, or a minor tribal member not residing on the Mashantucket Pequot Tribal lands. The court may also hear petitions transferred from state courts pursuant to 25 U.S.C. 1911(b). In the case of married persons maintaining a home together, the petition shall be the joint petition of husband and wife except that if one of the spouses is the biological parent of the child to be adopted, the biological parent shall not be required to join in the petition.

5 M.P.T.L. ch. 7 § 5

§ 5. Placement Preferences

a. If a child is placed out-of-home, the following placement preferences shall be observed, in order:

(1) With a member of the child's immediate family who resides on the Reservation or within a 50 mile radius of the Reservation;

(2) With a member of the child's immediate family regardless of residence;

(3) With a member of the child's extended family who resides on the Reservation or within a 50 mile radius of the Reservation;

(4) With a member of the child's extended family regardless of residence;

(5) With another person who resides within or near the Mashantucket Pequot Tribal community who has knowledge of an a desire to foster the child's tribal status and special needs;

(6) With a member of, or a person eligible for, enrollment in the child's tribe;

(7) With a member of another Indian tribe;

(8) With any person who has knowledge of and a desire to foster the child's tribal status and special needs (including but not limited to cultural, therapeutic, and needs based on disability).

b. The placement preferences in paragraph (a) shall be observed unless the person having priority cannot adequately care for and protect the child or placing the child with the person having priority would pose a danger to the child.

c. Placement of a child with anyone who does not reside within the jurisdiction of the Mashantucket Pequot Tribal Nation shall be contingent on the person's written agreement to accept the jurisdiction of the Tribal Court, to not permanently remove the child from the State of Connecticut without permission from the Court or supervising agency, nor to allow the child to cross an international boundary without permission from the Court.

5 M.P.T.L. ch. 7 § 6

§ 6. Traditional Custodians and Grandparents Rights

a. No disposition order or decree including termination of parental rights and adoption shall divest the child's traditional custodians or grandparent of their right to reasonable visitation with the child and their duty to provide instruction and training to the child regarding Tribal customs and traditions or their duty to provide the necessities of life for the child should the parents be unable to do so, unless those rights and duties have been extinguished in a proceedings in which the individual was a party, provided that adoptive traditional custodians shall also succeed to these rights and duties.

b. The rights and duties of the traditional custodians and grandparents may be enforced by court order whenever it appears in the child's best interest to do so, provided that all interested parties shall be given notice and an opportunity to be heard.

5 M.P.T.L. ch. 7 § 7

§ 7. Content of Adoption Petition

The petition for adoption shall include the following, to the best information and belief of the petitioner:

- a. The full name, address, and tribal affiliation of the petitioner;
- b. The full name, sex, residence, date and place of birth, and tribal affiliations of the proposed adoptee;
- c. The name by which the proposed adoptee shall be known if the petition is granted;
- d. The basis for the Mashantucket Pequot Family Court's jurisdiction;
- e. A full description and statement of value of all property owned, possessed or in which the child has an interest;
- f. The relationship of the petitioner to the proposed adoptee; and
- g. The names and addresses of any person or agency whose consent to aid adoption is necessary.

NOTE: Where there is more than one proposed adoptee, and the proposed adoptees are siblings, only one petition shall be required for the adoption of all or any combination of the siblings, provided that each sibling proposed to be adopted be named in the petition. All petitions must be signed and dated by the petitioner, and must be notarized or witnessed by a clerk of the court.

5 M.P.T.L. ch. 7 § 8

§ 8. Notice

Notice shall be provided in accordance with the notice procedures set forth in Chapter 5, Section 5(c) of this Title.

5 M.P.T.L. ch. 7 § 9

§ 9. Home Studies

When a petition for the adoption of a child is filed with the Mashantucket

Pequot Family Court, the Court shall immediately request that the Child Protective Services/Family Services or other qualified agency, conduct a home study on the petitioner and a report on the child. The home study and report shall relate to circumstance of the home, the petitioner and his/her ability, both physically and mentally, to assume the responsibilities of a parent to the child. The home study shall contain other pertinent information designed to assist the Mashantucket Pequot Family Court in determining the best placement for the child. The home study will also address the issue of whether or not the home most closely resembles that of the child's culture, identity, and where applicable, tribal affiliation.

No determination can be made on a petition for adoption until the home study and/or report has been completed and submitted to and considered by the Mashantucket Pequot Family Court. The home study shall be submitted to the court no later than 10 days before the hearing. The home study and /or report may be consolidated into one document. The Mashantucket Pequot Family Court may order additional home studies or reports as deemed necessary.

5 M.P.T.L. ch. 7 § 10

§ 10. Hearing Procedures

An adoption hearing shall be held within 90 days of receipt of an adoption petition from the prospective adoptive parent(s). The hearing proceedings shall be on the record, but shall be closed to the general public. Rules of evidence and civil procedure shall be suspended. The child shall be represented by a Guardian Ad Litem ("GAL") appointed by the court to speak on behalf of the best interest of the child. The GAL shall be knowledgeable about the protective, social, and medical needs of the child and the child's family.

The GAL's fee shall be paid by the parents or guardian/custodian, or if they are unable to pay, by the court, which may seek reimbursement according to tribal law.

The Mashantucket Pequot Family Court shall conduct the hearing to determine if it is in the best interests of the child and shall examine the following:

- a. Termination of parental rights order;
- b. Length of time of the child's wardship by the court;
- c. Special conditions of the child;
- d. Parental communication with the child;
- e. Minor's consent to adoption, if 12 years of age or older;
- f. Home studies or other reports; and
- g. Order of preference of placement.

The petitioner and the proposed adoptee shall appear personally at the hearing.

During the hearing the Mashantucket Pequot Family Court shall advised the party(s) of their basic rights as provided under Mashantucket Pequot Tribal Law. The judge shall examine all persons separately, and may, if satisfied that all other requirements of this chapter have been met, enter a final decree of adoption, or may place the person to be adopted, in the legal custody of the petitioner for a period not to exceed six months prior to entering a final decree of adoption.

If the Mashantucket Pequot Family Court is satisfied that the adoption will not be in the child's best interest, or finds that all of the requirements of this chapter have not been met, it may deny the petition and make any other order it deems necessary for the care and custody of the child not inconsistent with this Title.

Proceedings for termination of the parent-child relationship and proceedings for adoption may be consolidated and determined at one hearing provided that all the requirements of this Chapter and Chapter 5 of this Title governing termination are complied with fully.

The hearing shall be informal in nature. Concerned parties may present evidence relating to the situation. Hearsay evidence will not be excluded from the proceedings. Only the parties, their counsel, witnesses, the child's extended family and other persons determined to be appropriate by the court shall be admitted.

5 M.P.T.L. ch. 7 § 11

§ 11. Adoption Decree

If the Mashantucket Pequot Family Court finds that the requirements of this Chapter have been met and that the child's best interests will be satisfied, a final decree of adoption may be entered.

NOTE: A person, when adopted, may take the name of the person adopting, and the two shall thenceforth sustain toward each other the legal relationship of parent and child, and shall have all the rights and shall be subject to all the duties of that relationship, including all of the rights of a child of the whole blood to inherit from any person, in all respects, under the provisions of inheritance and succession of this code.

5 M.P.T.L. ch. 7 § 12

§ 12. Intervention

Upon showing of good cause and if the best interests of the child so indicate, the Court may allow or invite persons other than those entitled to notice to intervene and participate in any or all phases of the proceedings subject to the rules of confidentiality pursuant to this Title.

TITLE 6. FAMILY RELATIONS

CHAPTER 1. PURPOSE AND DEFINITION

6 M.P.T.L. ch. 1 § 1

§ 1. Purpose and Definitions

a. The Mashantucket Pequot Tribe finds that the Tribe's interest over family relations is an integral part of tribal self-government and the Tribe's history and culture, that it is exceedingly important to the Tribe to support the preservation of families, that families thrive when they receive appropriate emotional and financial support, and that the lives of children and families improve by strengthening parental responsibility for family and child support.

The Tribe encourages the development of tribal law and policies and procedures that protect and preserve the continuity of family and promote a uniform, efficient and equitable recognition and implementation of these responsibilities.

b. Unless otherwise stated or required by the context, the words and phrases used in this Law shall have the same meaning of words and phrases as defined in the Child Protection and Family Preservation Law, 5 M.P.T.L. ch. 1.

6 M.P.T.L. ch. 1 § 2

§ 2. Jurisdiction over Family Relations

a. In addition to the jurisdiction of the family court authorized in the Child Protection and Family Preservation Law, 5 M.P.T.L. ch. 1, the family court shall have jurisdiction over all family relations matters affecting or involving: dissolution or annulment of a marriage; support; custody of a minor child; appointment and removal of guardians; all rights and remedies for establishing paternity; termination of parental rights; and all other matters within the jurisdiction of the tribal court concerning children or family relations.

b. The family court shall have the authority to issue all orders necessary to ensure the welfare and safety of children and families within the jurisdiction of the Tribe, including the issuance of subpoenas and orders of restriction, the imposition of fines and sanctions for contempt, and such other orders as may be appropriate.

c. The family court shall give full faith and credit to the public acts, records and judicial decrees applicable to family relation matters of any court of competent jurisdiction as provided by this Law.

d. For the purposes of any investigation or pre-trial conference, the family court judge may employ the services of the pre-trial intervention and probation

programs, and the Tribe's medical and public health staff. Such family relations personnel shall also be available to assist in any probate matter.

e. In any family relations matter, the judge may retain jurisdiction thereof until its final disposition, as the court deems necessary.

6 M.P.T.L. ch. 1 § 3

§ 3. Investigations

a. In any pending family relations matter the judge may cause an investigation to be made with respect to any circumstance of the matter which may be helpful, material or relevant to the proper disposition of the case. Such investigation may include an examination of the parentage of any child, the child's age, habits and history, inquiry into the home conditions, habits and character of the child's parents or guardians, and an evaluation of the child's mental or physical condition.

b. In any action for dissolution of marriage, such investigation may include an examination into the age, habits, family history of the parties, and the financial ability of the parties to furnish support to either spouse or any dependent child.

c. Whenever an investigation has been ordered, the case shall not be disposed of until the report has been filed as hereinafter provided and counsel and the parties have had a reasonable opportunity to examine it prior to the time the case is to be heard. Any report of an investigation shall be filed with the court clerk and mailed to all counsel of record.

6 M.P.T.L. ch. 1 § 4

§ 4. Records and Hearing

The court shall, upon the request of either party or of counsel for any minor child, or if the judge presiding over the case determines that the welfare of any children involved or the nature of the case so requires, direct the hearing of any matter under this Law to be heard in chambers or in court from which the public and press have been excluded. The records and papers in any family relations matter shall be kept confidential and not open to inspection, except upon order of the court for good cause.

CHAPTER 2. RESTRAINING ORDERS

6 M.P.T.L. ch. 2 § 1

§ 1. Relief from Abuse by Family or Household Member

Any family or household member who has been subjected to a continuous threat of physical injury or other abuse by another family or household member may make an application to the tribal court for relief under this Section.

6 M.P.T.L. ch. 2 § 2

§ 2. Court Orders, Duration

a. The application shall be accompanied by an affidavit made under oath which includes a brief statement of the conditions from which relief is sought. Upon receipt of the application, the court shall order that a hearing on the application be held not later than 10 days from the date of the order.

b. In its discretion the court may make such orders as it deems appropriate for the protection of the applicant and such dependent children or other persons as the court sees fit. Such orders may include temporary child custody or visitation rights and such relief may include, but is not limited to, an order restraining the respondent from:

- (1) imposing any restraint upon the person or liberty of the applicant;
- (2) threatening, harassing, assaulting, molesting, or attacking the applicant;
or
- (3) entering the family dwelling or the dwelling of the applicant.

c. If an applicant alleges an immediate and present physical danger to the applicant, the court may issue an Ex Parte Order granting such relief as it deems appropriate. If a postponement of a hearing on the application is requested by either party and granted, the order shall not be continued except upon agreement of the parties or by order of the court for good cause shown.

d. Every order of the court made in accordance with this Section shall contain the following language: "Violation of this order constitutes a criminal offense punishable to the full extent of the law."

e. Upon the granting of an Ex Parte Order the court shall provide two certified copies of the order to the applicant. Upon the granting of an order after notice and hearing the court shall provide two certified copies of the order to the applicant and a copy to the respondent. The court shall send a certified copy of all restraining orders to the appropriate law enforcement agency within 48 hours of its issuance.

6 M.P.T.L. ch. 2 § 3

§ 3. Extension of an Order

No order of the court shall exceed 90 days except that an order may be extended by the court upon the motion of the applicant for additional time as the court deems necessary.

6 M.P.T.L. ch. 2 § 4

§ 4. Service

a. If the respondent has not appeared upon the initial application, service of a motion to extend an order may be made by certified or registered mail directed to the respondent at his or her last known address.

b. Whenever possible, the tribal police shall cause notice of the hearing, a copy of the application, and any Ex Parte Order issued to be served on the respondent not less than five days before the hearing, provided that the applicant shall cause such notice to be served whenever the tribal police may not effectuate such service.

6 M.P.T.L. ch. 2 § 5

§ 5. Contempt and Violation

a. When a motion for contempt is filed for violation of a restraining order there shall be an expedited hearing. Such hearings shall be held within two days of service of the motion on the respondent, provided service on the respondent is made not less than 24 hours before the hearing.

b. If the court finds the respondent in violation of an order, the court may impose such sanctions as the court deems appropriate.

c. An action under this Section shall not preclude the applicant from seeking any other civil or criminal relief.

CHAPTER 3. MARRIAGES

6 M.P.T.L. ch. 3 § 1

§ 1. Governing Law

Upon enactment of this law or any amendment thereto, the provisions herein shall govern all matters relating to the performance of marriages on the Mashantucket Pequot Reservation.

6 M.P.T.L. ch. 3 § 2

§ 2. Authority to Perform Marriages

a. Persons Authorized to Perform Marriages. Tribal officials authorized to join persons in marriage include Tribal Council Members, the Chair or Vice

Chair of the Elders Council, and other officiators who are certified by the Tribal Clerk as having the authority to perform marriages on the Mashantucket Pequot Reservation pursuant to this Law.

b. Qualifications of Officiators. Persons authorized to perform marriages, other than Tribal Officials, shall meet the following qualifications:

(1) if a tribal member, be over the age of 30, reside on or near the Mashantucket Pequot Reservation, be in good standing with the Tribe, and ordained or licensed and in good standing with his or her religious affiliation, which affiliation is recognized by the State of Connecticut.

(2) if not a tribal member, be ordained or licensed and in good standing with his or her religious affiliation, which affiliation is recognized by the State of Connecticut.

c. Application. Qualified Officiators seeking authority to perform marriages on the Mashantucket Pequot Reservation shall file an application with the Tribal Clerk and certify his or her familiarity with the Tribal Law, in particular, 6 M.P.T.L. ch. 3, and shall submit such application and a \$75 application fee to the Tribal Clerk.

d. Certification Procedure.

(1) Upon review and determination that the qualifications have been satisfied and the application is in order, the Tribal Clerk shall certify the application and administer the Oath of office to the Officiator.

(2) Each Officiator, after taking the Oath, shall furnish his or her signature to the Tribal Clerk upon a certificate prescribed and provided by the Tribal Clerk, provided that failure to take the Oath or to furnish a signature to the Tribal Clerk shall disqualify such person from performing marriages on the Mashantucket Pequot Reservation.

(3) Tribal Officials seeking to perform marriages on the Mashantucket Pequot Reservation shall take the Oath, shall furnish his or her signature to the Tribal Clerk upon a certificate prescribed and provided by the Tribal Clerk, provided that failure to take the Oath or to furnish a signature to the Tribal Clerk shall disqualify such person from performing marriages on the Mashantucket Pequot Reservation.

(4) The Tribal Clerk shall keep a record of the names of Officiators having been certified as having the authority to marry pursuant to this Law.

(5) The Tribal Clerk shall transmit a copy of the certificate to the Officiator.

(6) The certificate shall be sufficient evidence that the Officiator is duly authorized to perform marriages on the Mashantucket Pequot Reservation and Officiators shall cause the certificate to be displayed to any person who seeks his or her service to marry.

(7) Such certification shall be valid for a period of 3 years, at which time the Officiator may renew his or her certification providing that he or she remains in good standing with the Tribe and his or her religious affiliation.

e. Authority of Tribal Officials and Officiators.

(1) Tribal Officials and Tribal Member Officiators may perform marriages of tribal members and qualified non-tribal members, and may co-officiate marriages with non-tribal Officiators.

(2) Non-tribal Officiators may perform marriages on the Mashantucket Pequot Reservation provided that one party to the marriage is a tribal member.

(3) At the conclusion of the marriage ceremony, the Officiator shall recite the following: "By the authority vested in me by the Mashantucket Pequot Tribal Nation, I now pronounce you husband and wife."

(4) Tribal Officials and Officiators may accept a modest gift or remuneration for their services, and shall not perform such services for profit or commercial purposes.

6 M.P.T.L. ch. 3 § 3

§ 3. Marriage License Required

a. A man and a woman may be joined in marriage on the Mashantucket Pequot Reservation provided that:

(1) both applicants have attained the age of 18 years;

(2) both applicants have complied with the license requirements of this law;

(3) both applicants have a socio-economic or cultural tie to the Mashantucket Pequot Tribal Nation; and

(4) the marriage is performed by an authorized Tribal Official or Officiator.

6 M.P.T.L. ch. 3 § 4

§ 4. Requirements for Issuance of Marriage License

a. The Tribal Clerk shall issue a marriage license when both applicants have appeared before the Clerk, made application for a license, and provided the requisite information as provided in this law. The application shall be dated, signed and sworn to, or affirmed by, each applicant. In the event that the applicants make application separately, the last dated application shall be deemed the date of the application.

b. The application shall state each applicants' name, age, tribal affiliation (if any), the particular socio-economic or cultural tie to the Mashantucket

Pequot Tribal Nation, occupation, address, birth place, marital status (whether divorced or widowed), names and dates of birth of any minor children, and conservatorship or guardianship status, if any; and both applicants shall submit a certified birth certificate. Any person who intentionally provides false information may be subject to the full penalties provided by Tribal law.

c. No marriage license shall be issued until each applicant has provided a statement signed by a licensed physician or medical officer that the applicant has submitted to an HIV-related test, provided that the HIV-related testing be strictly conducted and any information obtained in connection thereto be kept strictly confidential pursuant to the law of the State of Connecticut. The applicants shall submit a statement to the Court that the applicants have disclosed the results of the HIV-related testing to each other.

d. No marriage license shall be issued if the required HIV related test for either applicant has been conducted more than thirty-five days prior to the date of application.

e. Marriage license applications and copies of the marriage license shall be filed with the Tribal Clerk as part of the official records of the Tribe, and a duplicate original marriage license shall be given to the married parties.

6 M.P.T.L. ch. 3 § 5

§ 5. Marriage Certificate

The person who joins any persons in marriage shall certify upon the marriage license certificate the fact, time and place of the marriage, and return it to the Tribal Clerk for filing within ten days of the marriage ceremony.

6 M.P.T.L. ch. 3 § 6

§ 6. Recognition of Marriages Performed off the Reservation

All marriages celebrated off of the Mashantucket Pequot Reservation shall be recognized as valid pursuant to Tribal law, provided the marriage was legal in the jurisdiction where celebrated and consistent with Tribal customs and policy.

6 M.P.T.L. ch. 3 § 7

§ 7. Validation of Marriages Performed

All marriages performed on the Mashantucket Pequot Reservation prior to June 1, 2002 pursuant to a state marriage license are hereby recognized as valid pursuant to Tribal law.

CHAPTER 4. DISSOLUTION OF MARRIAGE AND ANNULMENT

6 M.P.T.L. ch. 4 § 1

§ 1. Jurisdiction

a. The tribal court shall have jurisdiction over all complaints seeking a decree of dissolution of marriage or annulment provided that at least one party to the action is a member of the Tribe.

b. Whenever the requirements of subsection (a) are met and one party to the action resides out of or is absent from the Mashantucket Pequot Reservation, or that person's whereabouts are not known, the judge may make an order of notice as he deems reasonable. After the notice has been given and proved to the court, the court may hear the complaint if it finds that the absent party has received actual notice that the complaint is pending. If it appears that the absent party has not received or has refused to accept such notice, the court may hear the case, provided that if it finds cause, the court may order such further notice to be given as it deems reasonable and continue the complaint until the order is complied with.

6 M.P.T.L. ch. 4 § 2

§ 2. Grounds for Dissolution of Marriage or Annulment

a. A marriage is dissolved only by the death of one of the parties or by a decree of dissolution of marriage. A decree of dissolution of marriage shall be granted upon a finding that the marriage has broken down irretrievably.

b. An annulment shall be granted if the marriage is void or voidable under the laws of the Tribe or of the state in which the marriage was performed.

6 M.P.T.L. ch. 4 § 3

§ 3. Service and Filing of Complaint

A proceeding for dissolution of marriage or annulment shall be commenced by the filing and service of a complaint in the tribal court.

6 M.P.T.L. ch. 4 § 4

§ 4. Rules of Procedure

Until comprehensive rules of procedure are established for civil causes of action in tribal court, the Rules of Procedure shall be followed in all actions brought under this Law. Where necessary and practical, and where not inconsistent with the above-referenced Sections and the provisions of this Law,

the court shall follow the rules of procedure and principles of law applicable to similar claims arising under the laws of the state of Connecticut.

6 M.P.T.L. ch. 4 § 5

§ 5. Private Hearing

When necessitated by the interests of justice and the persons involved, the court shall, upon its own motion or a motion of either party or of counsel for any minor child, direct the hearing of any matter under this part to be private, and thereupon shall exclude all persons except the officers of the court, the court reporter, their witnesses and counsel.

6 M.P.T.L. ch. 4 § 6

§ 6. Stipulation of Parties and Finding of Irretrievable Breakdown

a. In any action for dissolution of marriage, the court shall make a finding that a marriage breakdown has occurred where the parties, and not their attorneys, execute a written stipulation that their marriage has broken down irretrievably or, where both parties are physically present in court, stipulate that their marriage has broken down irretrievably, and the parties have submitted an agreement concerning the custody, care, education, visitation, maintenance or support of their children, if any, and concerning spousal support and the disposition of property.

b. The testimony of either party in support of that conclusion shall be sufficient.

c. In any case in which the court finds, after hearing, that a cause enumerated in Section 2 of this Chapter exists, the court shall enter a decree dissolving the marriage or granting an annulment.

6 M.P.T.L. ch. 4 § 7

§ 7. Conciliation Period

a. On or after the appearance date to the complaint seeking the dissolution of a marriage and prior to the expiration of the 90 day period specified in Section 8 of this Chapter, either spouse or counsel for the minor child may submit a request for conciliation to the court. The court shall thereafter enter an order that the parties meet with a conciliator mutually acceptable to them or, if the parties cannot agree as to a conciliator, with a conciliator named by the court. The conciliator shall be a person experienced in marriage counseling.

b. Within such 90 day period or within 30 days of the request, whichever is later, there shall be two mandatory consultations with the conciliator by each party to explore the possibility of reconciliation or of resolving the problems

which might lead to continuing conflicts following the dissolution of the marriage. Failure of either party to attend these consultations, except for good cause, shall preclude further action on the complaint for six months from the date of the return day; provided the court may terminate such stay upon motion of either party and for good cause shown. Further consultations may be held with the consent of both parties.

c. All communications during these consultations shall be absolutely privileged, except that the conciliator shall report to the court whether or not the parties attended the consultations.

d. The reasonable fees of the conciliator shall be paid by one or both of the parties as the court directs.

e. The court may establish a registry of mediation services as a reference to parties filing for dissolution of marriage to address property, financial, child custody, and visitation issues.

6 M.P.T.L. ch. 4 § 8

§ 8. Waiting Period

a. After the expiration of 90 days following the appearance date to the complaint for dissolution of marriage or annulment, or after the expiration of six months where proceedings have been stayed under Section 7(b), the court may proceed on the complaint, the case may be heard and a decree granted thereon.

b. Nothing herein shall prevent any interlocutory proceeding within the 90 day period; nor shall the 90-day or the six-month period apply in actions for annulment.

6 M.P.T.L. ch. 4 § 9

§ 9. Legal Counsel for Minor Children

a. The court may appoint legal counsel for any minor children of the parties at any time after the return day of the complaint, if the court deems it to be in the best interest of the child or children. The court may appoint legal counsel on its own motion, or at the request of either of the parties or of the legal guardian of any child, or at the request of any child who is of sufficient age capable of making an intelligent request. The reasonable fees of the appointed legal counsel shall be paid by one or both of the parties as the court directs.

b. Notwithstanding subsection (a), in any case before the court where it finds that the custody, care, education, visitation, or support of a minor child is in actual controversy, the court may make any order regarding the matter in controversy prior to the appointment of counsel where it finds immediate action necessary in the best interest of any child.

c. Counsel for the child or children shall be heard on all matters pertaining to the interest of any child so long as the court deems such representation to be in the best interest of the child.

6 M.P.T.L. ch. 4 § 10

§ 10. Orders Regarding Custody and Care of Minor Children

a. In any controversy before the court as to the care or custody of a minor child, and at any time after the return day of any complaint under this Chapter, the court may make or modify any proper order regarding the education and support of the child, and of care, custody and visitation if it has jurisdiction under the provisions of this Chapter. The court may assign the custody of any child to the parents jointly, to either parent or to a third party, according to its best judgment upon the facts of the case and subject to such conditions and limitations as it deems equitable. The court may also make any order granting the right of visitation of any child to a third party, including, but not limited to, grandparents.

b. In making or modifying any order with respect to custody or visitation, the court shall be guided by the best interests of the child, giving consideration to the wishes of the child of sufficient age and maturity, and the circumstances, if relevant, of the parents.

c. In determining whether a child is in need of support and, if so, the respective abilities of the parents to provide support, the court shall take into consideration all the factors enumerated in Section 4 of Chapter 5 of this Law.

d. A parent not granted custody of a minor child shall not be denied the right of access to the academic, medical, hospital or other health records of such minor child unless otherwise ordered by the court for good cause shown.

e. Where the parents of a minor child live separately, the court may, on the petition of either party and after notice given to the other, make any order as to the custody, care, education, visitation, and support of any minor child of the parties.

f. In making any order under this Chapter, the court shall be guided by the best interests of the child, giving consideration to the wishes of the child of sufficient age and maturity.

g. Executions and earning assignments in accordance with Section 4(e) of Chapter 5 of this Law shall be available to effectuate any support order in all actions for dissolution or annulment of marriage.

6 M.P.T.L. ch. 4 § 11

§ 11. Joint Custody

a. For the purposes of this Section, "joint custody" means an order awarding legal custody of the minor child to both parents, providing for joint decision-making by the parents and providing that physical custody shall be shared by the parents in such a way as to assure the child of continuing contact with both parents. The court may award joint legal custody without awarding joint physical custody.

b. There shall be a presumption that joint custody is in the best interests of a minor child where the parents have agreed to an award of joint custody or so agreed in court at a hearing for the purpose of determining the custody of the minor child of the marriage. If the court declines to enter an order awarding joint custody pursuant to this Section, the court shall state in its decision the reasons for denial of an award of joint custody.

6 M.P.T.L. ch. 4 § 12

§ 12. Non-Parent Custody

a. In any dispute as to the custody of a minor child involving a parent and a non-parent, there shall be a presumption that it is in the best interests of the child to be in the custody of the parent, which presumption may be rebutted by showing that it would be detrimental to the child to permit the parent to have custody.

b. In any proceeding as to the custody of a minor child, and on any complaint under this Chapter, the court may allow a third party with a significant interest in the matter to intervene upon motion. The court may award full or partial custody, care, education, and visitation rights of such child to such third party upon such terms and conditions as it deems to be in the best interests of the child.

6 M.P.T.L. ch. 4 § 13

§ 13. Visitation Rights

a. The court may grant the right of visitation of any child or children to any person, upon an application of such person if the court finds that it is in the best interests of the child. Such order shall be according to the court's best judgment based upon the facts of the case and subject to such conditions and limitations as it deems equitable, provided the granting of such visitation rights shall not be contingent upon any order of financial support by the court.

b. Visitation rights granted in accordance with this Section shall not be deemed to have created parental rights in the person to whom such visitation rights are granted.

6 M.P.T.L. ch. 4 § 14

§ 14. Orders Regarding Children and Support in Annulment Cases

In any petition for annulment, the court may make such order regarding any child of the marriage and concerning any support as it might make in an action for dissolution of marriage. The child of any void or voidable marriage shall be deemed legitimate.

6 M.P.T.L. ch. 4 § 15

§ 15. Payment of Attorney's Fees

In any proceeding seeking relief under the provisions of this Law, the court may order either spouse or, if such proceeding concerns the custody, care, education, visitation or support of a minor child, either parent, to pay the reasonable attorney's fees of the other or of the child in accordance with their respective financial abilities.

6 M.P.T.L. ch. 4 § 16

§ 16. Restoration of Former Name

At the time of entering a decree dissolving a marriage or granting an annulment, or any time after entering such a decree, the court shall, upon the request or motion of the spouse whose name is to be changed, restore the birth name or former name of such spouse.

6 M.P.T.L. ch. 4 § 17

§ 17. Review of Agreements; Incorporation into Decree

a. In any case under this Law where the parties have submitted to the court an agreement concerning the custody, care, education, visitation, maintenance or support of any of their children or concerning spousal support or the disposition of property, the court shall inquire into the financial resources and actual needs of the spouses and their respective fitness to have physical custody of or rights of visitation with any minor child, in order to determine whether the agreement of the spouses is fair and equitable under the circumstances.

b. If the court finds the agreement fair and equitable, it shall become part of the court file, and if the agreement is in writing, it shall be incorporated by reference into the order or decree of the court.

c. If the court finds that the agreement is not fair and equitable, it shall make such orders as to finances and custody as the circumstances require.

d. If the agreement is in writing and provides for the care, education, maintenance or support of a child beyond the age of 18, it may also be

incorporated or otherwise made a part of any order and shall be enforceable to the same extent as any other provision of such order or decree.

6 M.P.T.L. ch. 4 § 18

§ 18. Effect of Decree

A decree of annulment or dissolution shall give the parties the status of unmarried persons and they may marry again.

6 M.P.T.L. ch. 4 § 19

§ 19. Notice of Court Decrees

The court clerk shall, on or before the 15th day of each month, file a notice with the Department of Health and Human Services and the tribal clerk of each dissolution or annulment of marriage granted in the preceding month, stating the names and addresses of the parties to the marriage, the date of granting of the dissolution or annulment, and any name change granted by the court. Before a final decree is entered, the parties or their attorneys shall supply the court clerk with such information as is necessary to complete the notice.

CHAPTER 5. SUPPORT OF CHILD AND SPOUSE

6 M.P.T.L. ch. 5 § 1

§ 1. Support and use of Family Home Pending Decree

During the pendency of any complaint or petition under this Law, and after a hearing duly held, the court may award alimony and support to either party from the date of filing an application thereof with the court. In determining the award, the court shall consider the factors enumerated in Sections 2 and 3 of this Chapter. The court also may award exclusive use of the family home to either of the parties, provided that a non-tribal member spouse may be awarded use of tribal housing only when such party also has been given custody of any minor tribal member children during their minority, and provided further that such use shall be in accordance with Tribal Housing Authority's policies and regulations.

6 M.P.T.L. ch. 5 § 2

§ 2. Assignment of Property

a. At the time of entering a decree dissolving or annulling a marriage, the court may assign to either party all or any part of the estate of the other. The court may require that title to any non-trust real property pass to either

party or may order the sale of such non-trust real property when, in the court's judgment, it is the proper mode to carry the decree into effect.

b. In determining the nature and value of the property, if any, to be assigned, the court, after hearing the evidence and witnesses, shall consider the following factors: the length of the marriage; the age, health, station, occupation, amount and sources of income, vocational skills, employability, estate, liabilities and needs of each of the parties; the opportunity of each for future acquisition of capital assets and income; and the tribal interests, if any, in such property. The court shall also consider the contribution of each of the parties in the acquisition, preservation or appreciation in value of their respective estates.

6 M.P.T.L. ch. 5 § 3

§ 3. Alimony

a. At the time of entering the decree dissolving or annulling a marriage, the court may order either party to pay alimony to the other, in addition to or in lieu of an award pursuant to Section 2 of this Chapter.

b. In determining whether alimony shall be awarded and the duration and amount of the award, the court shall hear the evidence and witnesses, if any, of each party, and, except as provided in any approved stipulation, shall consider the following factors: the length of the marriage; the age, health, station, occupation, amount and sources of income, vocational skills, employability, estate, liabilities and needs of each of the parties; and the award, if any, which the court may make pursuant to Section 1 of this Chapter; the tribal interests, if any, in the source of income; and in the case of a parent to whom the custody of minor children has been awarded, the desirability of such parent's securing employment.

6 M.P.T.L. ch. 5 § 4

§ 4. Parents' Obligation for Support of Minor Child

a. Upon or subsequent to entering the decree dissolving or annulling a marriage, the court may order the parents of a minor child of the marriage to financially support the child according to their respective abilities, if the child is in need of such financial support.

b. In determining whether a child is in need of financial support, and if in need, the respective abilities of the parents to provide such support and the amount and duration thereof, the court shall consider the following factors: the age, health, station, earning capacity, amount and sources of income, estate, vocational skills, employability of each of the parents; the age, health, occupation, educational status and expectation, amount and sources of income, vocational skills, employability, estate and needs of the child; and any tribal interests in or benefits available to either of the parents or minor child, including, but not limited to, health care and education.

c. In making its determination of financial support for a minor child, the court shall be guided by the state of Connecticut's Child Support and Arrearage Guidelines. If the court deviates from the Child Support and Arrearage Guidelines, the court shall make a specific finding on the record that the application of the guidelines would be inequitable or inappropriate.

d. The court shall make and enforce the decree for the financial support of the child as it considers just. The court may order either parent to name any child under 18 as a beneficiary of any medical or dental or benefit plan carried by such parent or available to such parent on a group basis through employment.

e. Whenever an obligor is before the court in proceedings to establish, modify, or enforce a support order, and such order is not secured by a wage assignment or garnishment, the court may require the obligor to execute such wage and earning assignment.

6 M.P.T.L. ch. 5 § 5

§ 5. Modification of Alimony or Support Orders and Judgments

a. Unless and to the extent that the decree precludes modification, any final order for the payment of periodic alimony or financial support for a minor child may at any time thereafter be modified by the court upon a showing of a significant change in the circumstances of either party. In determining whether to modify a child support order, the court shall consider the division of real and personal property between the parties set forth in the final decree and the benefits accruing to the child as a result of such division.

b. In an action for dissolution or annulment of marriage in which a final judgment has been entered providing for the payment of alimony by one party, the court may, in its discretion and upon notice and hearing, modify, suspend, reduce or terminate such alimony if it is shown that the party receiving alimony is living under circumstances which the court finds has resulted in a change of circumstances that has significantly altered the financial needs of that party.

c. No order for periodic payment of child support or alimony may be subject to retroactive modification, except that the court may order modification with respect to any period during which there is a pending motion for modification from the date of service of notice of such pending motion upon the opposing party.

6 M.P.T.L. ch. 5 § 6

§ 6. Contempt Orders

When any person is found in contempt of an order of the court, the court may award to the petitioner a reasonable attorney's fee and the fees of the officer

serving the contempt citation, such sums to be paid by the person found in contempt. The costs of commitment of any person imprisoned for contempt of court by reason of failure to comply with such an order shall be paid by the Tribe.

CHAPTER 6. PATERNITY PROCEEDINGS

6 M.P.T.L. ch. 6 § 1

§ 1. Determination of Paternity and Support

The Mashantucket Pequot Family Court shall have jurisdiction over all suits brought to determine the paternity of a child provided that the court has personal jurisdiction over the putative father. A judgment of the court establishing the identity of the father of the child shall be conclusive of that fact in all subsequent determinations of support and inheritance.

6 M.P.T.L. ch. 6 § 2

§ 2. Proceedings

a. Paternity proceedings are commenced by filing a complaint alleging that the person named as therein is the father of the child and petitioning the court to issue an Order of Paternity.

b. An action under this Chapter may be brought by any person having an interest in the matter or by the tribal prosecutor in the name of the Mashantucket Pequot Tribe.

c. The court shall schedule a hearing on the matter, which shall be closed to the public.

d. The testimony of both the mother and putative father shall be solicited in connection with such proceeding.

6 M.P.T.L. ch. 6 § 3

§ 3. Blood Tests

a. In any proceeding in which a question of paternity is an issue, the court, upon motion of any party, may order the mother, her child, and the putative father or the husband of the mother to submit to one or more blood grouping tests, to be made by a qualified physician or other qualified person designated by the court, to determine whether or not the putative father or husband of the mother can be excluded as being the father of the child. The results of such tests shall be admissible in evidence only in cases where such results establish definite exclusion of the putative father or such husband as the

father of the child.

b. In any proceeding in which a question of paternity is an issue, the court, upon motion of any party, may order genetic tests which shall mean human leukocyte antigen tests, or DNA tests, to be performed, unless a putative father or husband has been excluded by prior blood grouping tests. Such tests shall be made by a hospital, accredited laboratory, qualified physician, or other qualified person designated by the court, to determine whether or not the putative father or husband is the father of the child. The results of such tests shall be admissible in evidence to establish either definite exclusion of the putative father or husband, or as evidence that he is the father of the child.

c. The costs of the blood tests shall be chargeable against the party making the motion.

6 M.P.T.L. ch. 6 § 4

§ 4. Presumption of Paternity

A rebuttal presumption of paternity exists where one or more of the following factors are present:

a. the child is born during the marriage of the parties or within 300 days of the termination of the marriage;

b. the child is born to parties who attempted to marry but whose marriage is or could be declared void;

c. the child is born to parties who have married or attempted to marry after the child's birth and the putative father has (i) acknowledged paternity in writing, (ii) consented to be named as the father on the child's birth certificate, or (iii) been ordered to pay child support;

d. the putative father has openly held out the child as his natural child; or

e. the putative father has signed a written acknowledgement of paternity.

6 M.P.T.L. ch. 6 § 5

§ 5. Judgment and Order of the Court

a. If the putative father is found to be the biological father of the child, the court shall make an Order of Paternity.

b. The court may order the father of the child to stand charged with the support and maintenance of such child, with the assistance of the mother if she is financially able, as the court finds, in accordance with the child support provisions of this Law.

§ 6. Acknowledgment of Paternity

In lieu of or in conclusion of a paternity proceeding, the written acknowledgement of paternity executed by the putative father of the child when accompanied by an attested waiver of the right to a hearing and the right to an attorney, and a written affirmation of paternity executed and sworn or affirmed to by the mother of the child and filed with the court, shall have the same force and effect as a judgment of the court.

§ 7. Agreement to Support

a. In conclusion of a paternity proceeding or in lieu of a contested support hearing, a written acknowledgment of support of the child in accordance with Tribal child support procedures under this Law, together with provisions for any reimbursement for past due support based on ability to pay, and any reasonable expense of prosecution of the petition, may be obtained in the manner prescribed above, and such acknowledgment shall have the same force and effect, retroactively or prospectively in accordance with such agreement as an order of support by the court.

b. Wage executions and earning assignments in accordance with the tribal child support procedures under this Law shall be available in paternity proceedings.

§ 8. Registration and Enforcement of Foreign Paternity Judgments

a. The court shall maintain a registry of paternity judgments from other jurisdictions. Any party to an action in which a paternity judgment from another jurisdiction was rendered may register the foreign paternity judgment in the court without payment of a filing fee or other cost to the party.

b. The party shall file a certified copy of the foreign paternity judgment and a certification that such judgment is final and has not been modified, altered, amended, set aside, or vacated and that the enforcement of such judgment has not been stayed or suspended. Such certificate shall set forth the full name and last known address of the other party to the judgment.

c. Such foreign paternity judgment so registered shall become a judgment of the Mashantucket Pequot Tribal Court and shall be enforced and otherwise treated in the same manner as a judgment of the court.

d. Within five days of the filing of the judgment and certification, the party filing such judgment and certification shall notify the other party to the paternity action of the filing of such judgment by registered or certified mail

to the party's last known address or by personal service. The court shall not enforce any such foreign paternity judgment until proof of service has been filed with the court.

CHAPTER 7. EMANCIPATION

6 M.P.T.L. ch. 7 § 1

§ 1. Petition and Summons

a. Any minor child who has attained the age of 16 years may petition the court for a determination that he be emancipated. The petition for emancipation shall set forth with specificity:

(1) the name, sex, date and place of birth, present address and tribal affiliation of the minor child;

(2) the names, dates of birth, addresses, and tribal affiliation of the minor child's parents or guardian;

(3) the facts upon which emancipation is sought, and the basis for the court's jurisdiction.

b. Upon the filing of the petition, the court shall cause a notice to be issued to the minor child and the minor child's parents or guardian.

6 M.P.T.L. ch. 7 § 2

§ 2. Hearing

a. Upon the filing of a petition for emancipation, the court shall set a time for hearing the petition. The time for the hearing shall not be more than 30 days after the filing of the petition.

b. The court shall cause a notice of the hearing to be given to the minor child, the parents or guardian of the minor child; or any other person whom the court deems appropriate. The notice shall state that the minor child seeking emancipation has the right to be represented by counsel.

c. Notice of the hearing and a copy of the petition, certified by the petitioner or his attorney or the court clerk, shall be served at least 10 days before the date of the hearing by personal service on the persons enumerated in subsection (b) of this Section. If personal service cannot be reasonably effected or the address of any person is unknown, a judge or court clerk shall order notice to be given by registered or certified mail, return receipt requested, or if no such address is known, in a newspaper of general circulation in the region where the court is located.

d. Notice and appearance may be waived by a parent in writing before the court,

provided that such parent has been apprised by the court of the meaning and consequences of the emancipation action. The parent who has executed such a waiver shall not be required to appear at the subsequent hearing.

6 M.P.T.L. ch. 7 § 3

§ 3. Conduct of Hearing; Investigation and Report

a. At the hearing held on the petition for emancipation, any party to whom notice was given shall have the right to appear and be heard with respect to the petition. If the parent who is consenting to the emancipation appears at the hearing, the court shall explain to the parent the meaning and consequences of emancipation.

b. Upon finding at the hearing or at anytime during the pendency of the petition that reasonable cause exists to warrant an investigation into the circumstances upon which emancipation is sought, the court may request the Health and Human Services Department to make an investigation and written report to the court within 45 days from receipt of such request. The report shall indicate the physical, mental and emotional, and financial condition of the minor child and shall contain such facts as may be relevant to determine whether the proposed emancipation will be in the best interests of the minor child.

c. If such a report is requested, the court shall schedule a hearing on the results of the investigation not more than 30 days from the date of the expiration of the 45 day time period or receipt of the HHS report, whichever is earlier. The court shall give reasonable notice of the investigation hearing to all parties to the first hearing at least 10 days before the date of the investigation hearing.

d. The report shall be admissible in evidence, subject to the right of any interested party to require that the person(s) making it appear as a witness and subject himself to examination.

e. At either the hearing on the investigation or the first hearing, if no investigation and report has been requested, the court may approve the petition for emancipation if it finds that emancipation is in the best interests of the minor child.

f. If the court denies a petition for emancipation, it may refer the matter to the Health and Human Services Department to assess the needs of the minor child.

6 M.P.T.L. ch. 7 § 4

§ 4. Order and Effect of Emancipation

a. The court shall make written findings in determining whether emancipation would be in the best interests of the minor child. The court shall thereafter

enter an order declaring the minor child emancipated if the court finds that:

(1) emancipation is in the best interests of the minor child;

(2) the minor child has entered into a valid marriage or is on active duty with the armed forces of the United States of America; or

(3) the minor child willingly lives separate and apart from his parents or guardian, with or without their consent, and that the minor child is managing his own financial affairs, regardless of the source of any lawful income.

b. An order that a minor child is emancipated shall have the following effects: the minor child shall be free of control by his parents or guardian; the minor child may consent to medical, dental, or psychiatric care without parental consent, knowledge, or liability; the minor child shall be entitled to his own earnings and to establish his own residence; the minor child may enter into a binding contract, buy and sell real and personal property, execute releases, sue and be sued in his own name; the minor child shall be deemed eligible to secure a marriage license, register a motor vehicle, and enlist in the armed services of the United States of America; the minor child may not thereafter be the subject of a petition as a neglected, abused, dependent or uncared for minor child; the parents of the minor child shall no longer be the guardians of the minor child, and shall be relieved of any obligations respecting the minor child's school attendance and support; and the minor child shall be emancipated for the purposes of parental liability for the minor child's acts.

c. An order that a minor child is emancipated shall not change the minor child's eligibility for tribal housing and incentive benefits or other tribal benefits as determined by tribal law or policy.

CHAPTER 8. RECOGNITION AND ENFORCEMENT OF FOREIGN SUPPORT ORDERS

6 M.P.T.L. ch. 8 § 1

§ 1. Definitions

The following words and phrases are defined as follows:

a. "Child" means an individual, whether over or under the age of majority, who is owed or alleged to be owed a duty of support by the individual's parent or who is alleged to be a beneficiary of an income withholding order directed to the parent.

b. "Court" means a court, administrative agency, or a quasi-judicial entity, or a Native American traditional dispute resolution forum authorized to establish, enforce or modify support orders or to determine paternity, and which maintains a reviewable record of its proceedings.

c. "Dependent" means a spouse, former spouse, or child entitled to payments

under a judgment or support order.

d. "Disposable income" means that part of the income of an individual remaining after deduction from that income of amounts required to be withheld for the payment of federal, state and local income taxes, employment taxes, retirement contributions, group life and health insurance premiums.

e. "Duty of support" means an obligation imposed or imposable by law to provide support for a child or dependent.

f. "Employer" or "Payer" means the Mashantucket (Western) Pequot Tribe, its enterprises, governmental divisions or departments thereof, including the Mashantucket Pequot Gaming Enterprise and Pequot Pharmaceutical Network, but does not include any entity incorporated under the laws of any state.

g. "Foreign support order" means any judgment, decree or order of a court of competent jurisdiction of any state or federally recognized Indian tribe in any family relations matter involving the paternity, custody, care, education, visitation, maintenance, support of a child or dependent, or the disposition of property of the parties to an existing or terminated marriage, in which both parties have entered an appearance.

h. "Income" means any periodic form of payment due to an individual from any source, including, but not limited to, earnings, workers' compensation and disability benefits, are payments pursuant to a pension or retirement program.

i. "Income withholding order" means an order or other legal process directed to an obligor's employer or payer to withhold support from the income of the obligor.

j. "Issuing Court" means the court which issues an income withholding order or renders a judgment determining paternity.

k. "Obligor" means an individual, or the estate of a decedent, who owes a duty of support and is required to make payments under a judgment or support order.

l. "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the territories and possessions of the United States.

m. "Support" means monetary support, health care, arrearages, or reimbursement and may include related costs and fees, interest, attorney's fees, and other relief for the benefit of a child.

n. "Support order" means a court order, judgment, or decree, including an agreement approved by the court that requires payment to a child or dependent from the income of the obligor.

6 M.P.T.L. ch. 8 § 2

§ 2. Recognition of Foreign Support Orders

a. The Mashantucket (Western) Pequot Tribe hereby recognizes a foreign support judgment, support or income withholding order issued by a court of another tribe or state provided that such judgment or order does not contravene the public policy of the Tribe. Any party to an action in which a foreign support judgment, support or income withholding order has been rendered may send such judgment or order to the Department of Finance of the obligor's employer/payer without filing or registering the judgment or order in the tribal court, and such employer/payer shall withhold against the disposable income of the obligor and distribute the funds as directed in the order.

b. Such foreign support order shall not be modified or altered unless the court has jurisdiction, which shall be determined according to 12 M.P.T.L. ch. 1, § 1, the Mashantucket Pequot Civil Actions law, and 28 U.S.C. § 1738B, the Full Faith and Credit for Child Support Orders Act.

6 M.P.T.L. ch. 8 § 3

§ 3. Employer/Payer's Compliance

a. Upon receipt of an income withholding order, the obligor's employer/payer shall immediately provide a copy of the order to the obligor.

b. The employer/payer shall withhold against the obligor's disposable income and distribute the funds as directed in the income withholding order by complying with the terms of the order which specify:

(1) the duration and amount of periodic payments of current support or other obligation, stated as a sum certain;

(2) the person or agency designated to receive payments and the address to which the payments are to be forwarded;

(3) medical support, whether in the form of periodic cash payment, stated as a sum certain, or ordering the obligor to provide health insurance coverage for the child or dependent;

(4) the amount of periodic payments of fees and costs for a support enforcement agency, court or state, and attorney, stated as sums certain; and

(5) the amount of periodic payments of arrearages and interest on arrearages, stated as sums certain.

6 M.P.T.L. ch. 8 § 4

§ 4. Maximum Amount of Withholding. Time Periods. Priority of Multiple Orders

In determining the maximum amount permitted to be withheld from the obligor's

disposable income for any time period which is subject to an income withholding order, the time periods within which the employer/payer must implement the support order, the priorities for withholding and allocating income withheld for multiple child support obligees, and any other withholding terms or conditions not specified in the order, an employer/payer shall comply with Section 1673 of Title 15 of the United States Code and Section 52-362 of the Connecticut General Statutes, to the extent such provisions do not contravene tribal law.

6 M.P.T.L. ch. 8 § 5

§ 5. Immunity from Liability

An employer/payer who complies with an income withholding order that is regular on its face shall be immune from civil liability with regard to the employer/payer's withholding of support from the obligor's or employee's income.

6 M.P.T.L. ch. 8 § 6

§ 6. Contest by Obligor

a. An obligor may contest the validity or enforcement of an Income Withholding Order issued by a tribunal of another tribe or state and received directly by an employer in the same manner as if the order had been issued by the tribal court.

b. The obligor shall give notice of the contest to:

(1) a support enforcement agency providing services to the obligee;

(2) each employer that has directly received payments on the Income withholding Order or if no person or agency is designated, to the obligee.

6 M.P.T.L. ch. 8 § 7

§ 7. Fees and Costs

A party seeking to register or enforce an Income Withholding Order shall not be required to pay a registration or filing fee or the costs of service within the Mashantucket Pequot Reservation.

CHAPTER 9. CHANGE OF NAME

6 M.P.T.L. ch. 9 § 1

§ 1. Authority to Grant Change of Name

In addition to its authority to grant a change of name in a dissolution of marriage matter, the family court shall have jurisdiction over petitions for a change of name, and may change the name of the petitioner, who shall thereafter be known by the name prescribed by the court in its decree.

6 M.P.T.L. ch. 9 § 2

§ 2. Change of Name by Minor Child

In all proceedings for a change of name brought on behalf of a minor child, the parents of such child shall be necessary parties, shall be cited in the petition, and shall be served with the petition either by personal service or by mailing a copy of the petition to the parent's last-known address by registered or certified mail.

6 M.P.T.L. ch. 9 § 3

§ 3. Petition for Change of Name

a. The Petition for Change of Name shall contain the following information:

(1) the name of the petitioner, and if a minor child, the names of the minor child's parents;

(2) the petitioner's address, and if a minor child, the addresses of the minor child's parents;

(3) the reasons for requesting the change of name;

(4) the name by which petitioner has generally been known by, usually uses for motor vehicle license and registration, and in which the petitioner contracts bills, credit cards and bank accounts;

(5) the proposed name, and if it has been used, the manner in which the name has been used and length of time of such use; and

(6) a statement that the petitioner has no past due debts, bears a good reputation in the community, has no purpose in making this application except to conform the petitioner's legal name to that by which he wants to be generally known (or other reason), and a disclosure of any arrest or conviction within the seven years preceding the petition.

b. Any interested party may file a response to the petition within 20 days from the service date.

6 M.P.T.L. ch. 9 § 4

§ 4. Giving Public Notice

The family court shall publish a notice that a petition for a change of name has been filed in *The Pequot Times*. Such publication shall occur once and shall contain only a statement that a petition has been filed by the petitioner, and shall not disclose any information from the petition.

6 M.P.T.L. ch. 9 § 5

§ 5. Decision on the Petition

The court shall grant such petition for change of name unless it finds that it would result in injury to another person's legal rights. The court shall provide notice of the court's decision to the tribal clerk.

CHAPTER 10. MISCELLANEOUS

6 M.P.T.L. ch. 10 § 1

§ 1. Forms

The chief judge of the tribal court shall prepare forms, including instructions in plain language, for applying to the court for any complaint, remedy or relief available under this Law.

6 M.P.T.L. ch. 10 § 2

§ 2. Appeals

Appeals from decisions by the family court under this Law may be made by any party in accordance with the rules governing the Court of Appeals.

6 M.P.T.L. ch. 10 § 3

§ 3. Application of Law

All actions brought under this Law shall be determined by the court in accordance with tribal law. The court may be guided, but not bound by, the principles of law applicable to similar claims arising under the laws of the state of Connecticut, of other tribal courts, or of the United States.

TITLE 7. TRAFFIC SAFETY CODE

CHAPTER 1. VEHICLE AND TRAFFIC LAW

7 M.P.T.L. ch. 1 § 1

§ 1. Definitions

Terms used in this chapter shall be construed as follows, unless another construction is clearly apparent from the language or context in which the term is used or unless the construction is inconsistent with the manifest intention of the Tribal Council:

1. "Agricultural Tractor" means a tractor or other form of nonmuscular motive power used for transporting, hauling, plowing, cultivating, planting, harvesting, reaping or other agricultural purposes on any farm or other private property, or used for the purpose of transporting, from one farm to another, agricultural implements and farm products, provided the agricultural tractor is not used on any tribal highway for transporting a pay load or for some other commercial purpose;

2. "Apparent Candle Power" means an illumination equal to the normal illumination in foot candles produced by any lamp or lamps, divided by the square of the distance in feet between the lamp or lamps and the point at which the measurement is made;

3. "Authorized Emergency Vehicle" means (a) a fire department vehicle, (b) a police vehicle or (c) a public service company or municipal department ambulance or emergency vehicle designated or authorized for use as an authorized emergency vehicle by the tribe or the state of Connecticut or the towns of Ledyard, North Stonington or Preston;

4. "Auxiliary Driving Lamp" means an additional lighting device on a motor vehicle used primarily to supplement the general illumination in front of a motor vehicle provided by the motor vehicle's head lamps;

5. "Bulb" means a light source consisting of a glass bulb containing a filament or substance capable of being electrically maintained at incandescence;

6. "Camp Trailer" includes any trailer designed and used exclusively for camping or recreational purposes;

7. "Camper" means any motor vehicle designed or permanently altered in such a way as to provide temporary living quarters for travel, camping or recreational purposes;

8. "Combination Registration" means the type of registration issued to a motor vehicle used for both private passenger and commercial purposes if such vehicle does not have a gross vehicle weight in excess of 10,000 pounds;

9. "Commercial Driver's License" or "CDL" means a license issued to an individual in accordance with the laws of the issuing state or jurisdiction, which authorizes such individual to drive a commercial motor vehicle;

10. "Commercial Motor Vehicle" means a vehicle designed or used to transport passengers or property, except a vehicle used within 150 miles of a farm in connection with the operation of such farm, fire fighting apparatus or other authorized emergency vehicles, or a recreational vehicle in private use, which (a) has a gross vehicle weight rating of 26,001 or more; (b) is designed to transport 16 or more passengers, including the driver, or is designed to transport more than 10 passengers, including the driver, and is used to transport students under the age of 21 years to and from school; or (c) is transporting hazardous materials and is required to be placarded in accordance with the Code of Federal Regulations Title 49, Part 172, Subpart F, as amended;

11. "Commercial Registration" means the type of registration required for any motor vehicle designed or used to transport merchandise, freight or persons in connection with any business enterprise, unless a more specific type of registration is authorized and issued by the commissioner of the state or jurisdiction of origin for such class of vehicle;

12. "Commercial Trailer" means a trailer used in the conduct of a business to transport freight, materials or equipment whether or not permanently affixed to the bed of the trailer;

13. "Commissioner" includes the Commissioner of Motor Vehicles of the issuing state or jurisdiction and his duly authorized designee;

14. "Controlled Substance" has the same meaning as in the Federal Controlled Substances Act, 21 U.S.C. § 801 et seq.;

15. "Conviction" means an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, the payment of a fine or court cost, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended or probated;

16. "Dealer" includes any person actively engaged in buying, selling or exchanging motor vehicles or trailers who has an established place of business in this jurisdiction and who may, incidental to such business, repair motor vehicles or trailers, or cause them to be repaired by persons in his employ;

17. "Disqualification" means a withdrawal of the privilege to drive a commercial motor vehicle, which occurs as a result of (a) any suspension or revocation by a state agency of the privilege to operate a motor vehicle; (b) a determination by the Federal Highway Administration, under the rules of practice for motor carrier safety contained in the Code of Federal Regulations Title 49, Part 386, as amended, that a person is no longer qualified to operate a commercial motor vehicle under the standards of the Code of Federal Regulations Title 49, Part 391, as amended; or (c) the loss of qualification which automatically follows any of the convictions specified by the issuing state or jurisdiction;

18. "Drive" means to drive, operate or be in physical control of a motor vehicle, including a motor vehicle being towed by another;
19. "Driver" means any person who drives, operates or is in physical control of a commercial motor vehicle, or who is required to hold a commercial driver's license;
20. "Driver's License" or "Operator's License" means a valid motor vehicle operator's license issued by a state or foreign jurisdiction authorizing the holder thereof to operate a motor vehicle on the highways of any state or foreign jurisdiction;
21. "Employee" means any operator of a commercial motor vehicle, including full-time, regularly employed drivers, casual, intermittent or occasional drivers, drivers under contract and independent, owner-operator contractors, who, while in the course of operating a commercial motor vehicle, are either directly employed by, or are under contract to, an employer;
22. "Employer" means any person, including the United States, a state or any political subdivision thereof, who owns or leases a commercial motor vehicle, or assigns a person to drive a commercial motor vehicle;
23. "Fine Schedule" means a schedule of fines adopted by the Mashantucket Pequot Public Safety Committee and approved by the Mashantucket Pequot Tribal Council as it may be amended from time to time by the Public Safety Committee;
24. "Felony" means any offense as defined in Conn. Gen. Stat. § 53a-25 (1969) and includes any offense designated as a felony under federal law;
25. "Foreign Jurisdiction" means any jurisdiction other than the Mashantucket Pequot Tribal Nation;
26. "Fuels" means (a) all products commonly or commercially known or sold as gasoline, including casing head and absorption or natural gasoline, regardless of their classification or uses, (b) any liquid prepared, advertised, offered for sale or sold for use, or commonly and commercially used, as a fuel in internal combustion engines, which, when subjected to distillation in accordance with the standard method of test for distillation of gasoline, naphtha, kerosene and similar petroleum products by "American Society for Testing Materials Method D-86", shows not less than 10% distilled (recovered) below 347 Fahrenheit (175 Centigrade) and not less than 95% distilled (recovered) below 464 Fahrenheit (240 Centigrade); provided the term "fuels" shall not include commercial solvents or naphthas which distill, by "American Society for Testing Materials Method D-86", not more than 9% at 176 Fahrenheit and which have a distillation range of 150 Fahrenheit, or less, or liquefied gases which would not exist as liquids at a temperature of 60 Fahrenheit and a pressure of 14.7 pounds per square inch absolute, and (c) any liquid commonly referred to as "gasohol" which is prepared, advertised, offered for sale or sold for use, or commonly and commercially used, as a fuel in internal combustion engines, consisting of a blend of gasoline and a minimum of 10% by volume of ethyl or methyl alcohol;

27. "Gaming Enterprise" means Foxwoods Resort Casino and all associated parking and roadways used by employees or customers of Foxwoods.

28. "Gaming Enterprise Management" means the CEO and the senior management of Foxwoods Resort Casino.

29. "Garage" includes every place of business where motor vehicles are, for compensation, received for housing, storage or repair;

30. "Gross Vehicle Weight Rating" or "GVWR" means the value specified by the manufacturer as the maximum loaded weight of a single or a combination (articulated) vehicle, or its registered gross weight, whichever is greater. The GVWR of a combination (articulated) vehicle commonly referred to as the "gross combination weight rating" or GCWR is the GVWR of the power unit plus the GVWR of the towed unit or units;

31. "Gross Weight" means the light weight of a vehicle plus the weight of any load on the vehicle, provided, in the case of a tractor-trailer unit, "gross weight" means the light weight of the tractor plus the light weight of the trailer or semitrailer plus the weight of the load on the vehicle;

32. "Hazardous Materials" has the same meaning as in Section 103 of the Hazardous Materials Transportation Act, Section 1801 et seq., Title 49, United States Code;

33. "Head Lamp" means a lighting device affixed to the front of a motor vehicle projecting a high intensity beam which lights the road in front of the vehicle so that it can proceed safely during the hours of darkness;

34. "High-Mileage Vehicle" means a motor vehicle having the following characteristics: (a) Not less than three wheels in contact with the ground; (b) a completely enclosed seat on which the driver sits; (c) a single or two cylinder, gasoline or diesel engine or an electric-powered engine; and (d) efficient fuel consumption;

35. "Highway" includes any tribal or other public highway, road, street, avenue, alley, driveway, parkway, place or travel lane, under the control of the Tribe or any political subdivision thereof, dedicated, appropriated or opened to public travel or other use;

36. "Indian" means a member of a Tribe.

37. "Intersecting Highway" includes any public tribal highway which joins another at an angle whether or not it crosses the other;

38. "Light Weight" means the weight of an unloaded motor vehicle as ordinarily equipped and ready for use, exclusive of the weight of the operator of the motor vehicle;

39. "Local Authorities" includes the Tribal Council, Public Safety Committee, Land Use Committee, chief of police, or other officials having authority for the enactment or enforcement of traffic regulations within the reservation;

40. "Maintenance Vehicle" means any vehicle in use by the Tribe or its gaming facilities in the maintenance of tribal highways, private roadways and facilities located within the limits of tribal lands;

41. "Manufacturer" means a person, whether a resident or nonresident, engaged in the business of constructing or assembling motor vehicles of a type required to be registered under Chapter 1, Section 2, who offers the motor vehicles for sale on tribal lands;

42. "Median Divider" means an intervening space or physical barrier or clearly indicated dividing section separating traffic lanes provided for vehicles proceeding in opposite directions;

43. "Minibike" or "Minicycle" means any two or three wheel motorcycle having one or more of the following characteristics: (a) 10 inches (254 mm) or less nominal wheel rim diameter; (b) 40 inches or less wheel base; (c) 25 inches or less seat height measured at the lowest point on the top of the seat cushion without rider; (d) a propelling engine having a piston displacement of 50 c.c. or less;

44. "Motor Bus" includes any motor vehicle, except a taxicab, operated in whole or in part on any street or tribal highway in a manner affording a means of transportation by indiscriminately receiving or discharging passengers, or running on a regular route or over any portion of a regular route or between fixed termini;

45. "Motor Home" means a vehicular unit designed to provide living quarters and necessary amenities which are built into an integral part of, or permanently attached to, a truck or van chassis;

46. "Motorcycle" means a motor vehicle, with or without a side car, having not more than three wheels in contact with the ground and a saddle or seat on which the rider sits or a platform on which the rider stands and includes bicycles having a motor attached, except bicycles propelled by means of a helper motor, but does not include a vehicle having a completely or partially enclosed driver's seat and a motor which is not in the enclosed area;

47. "Motor Vehicle" means any vehicle propelled or drawn by any nonmuscular power, except aircraft, motor boats, road rollers, baggage trucks used about railroad stations or other mass transit facilities, electric battery-operated wheel chairs when operated by physically handicapped persons at speeds not exceeding 15 miles per hour, golf carts operated on tribal highways solely for the purpose of crossing from one part of the golf course to another, golf cart type vehicles operated on roads or tribal highways on the grounds of tribal institutions by tribal employees in the performance of their duties, provided said vehicles have been enumerated by the tribal Department of Transportation, agricultural tractors, farm implements, such vehicles as run only on rails or tracks, self-propelled snow plows, snow blowers and lawn mowers, when used for the purposes for which they were designed and operated at speeds not exceeding four miles per hour, whether or not the operator rides on or walks behind such equipment, bicycles with helper motors, special mobile equipment, and any other

vehicle not suitable for operation on a tribal highway;

48. "Nonresident" means any person whose legal residence is not within the exterior boundaries of tribal lands;

49. "Nonresident Commercial Driver's License" or "Nonresident CDL" means a commercial driver's license issued by a state to an individual who resides in a foreign jurisdiction;

50. "Nonskid Device" means any device applied to the tires, wheels, axles or frame of a motor vehicle for the purpose of increasing the traction of the motor vehicle;

51. "Number Plate" means any sign or marker furnished by a commissioner of motor vehicles or any tribal government on which is displayed the registration number assigned to a motor vehicle by said commissioner or tribal government;

52. "Officer" includes any tribal police officer, constable, sheriff, deputy sheriff, inspector of motor vehicles, state police officer or other official authorized to make arrests or to serve process, provided the officer is in uniform or displays his badge of office in a conspicuous place when making an arrest;

53. "Operator" means any person who operates a motor vehicle or who steers or directs the course of a motor vehicle being towed by another motor vehicle and includes a driver as defined in subsection 19 of this Section;

54. "Out-of-Service Order" means a temporary prohibition against driving a commercial motor vehicle or any other vehicle subject to the federal motor carrier safety regulations enforced by a commissioner of motor vehicles;

55. "Owner" means any person holding title to a motor vehicle, or having the legal right to register the same, including purchasers under conditional bills of sale;

56. "Parked Vehicle" means a motor vehicle in a stationary position within the limits of a tribal highway;

57. "Passenger and commercial motor vehicle" means a motor vehicle used for private passenger and commercial purposes which is eligible for combination registration;

58. "Passenger Motor Vehicle" means a motor vehicle used for the private transportation of persons and their personal belongings, designed to carry occupants in comfort and safety, with not less than 50% of the total area enclosed by the outermost body contour lines, excluding the area enclosing the engine, as seen in a plan view, utilized for designated seating positions and necessary leg room with a capacity of carrying not more than 10 passengers including the operator thereof;

59. "Passenger Registration" means the type of registration issued to a passenger motor vehicle unless a more specific type of registration is

authorized and issued by a commissioner for such class of vehicle;

60. "Person" includes any individual, corporation, limited liability company, association, copartnership, company, firm or other aggregation of individuals but does not include the Tribe or any political subdivision thereof, unless the context clearly states or requires;

61. "Pneumatic Tires" means tires inflated or inflatable with air;

62. "Pole Trailer" means a trailer which is (a) intended for transporting long or irregularly shaped loads such as poles, logs, pipes or structural members, which loads are capable of sustaining themselves as beams between supporting connections, and (b) designed to be drawn by a motor vehicle and attached or secured directly to the motor vehicle by any means including a reach, pole or boom;

63. "Public Safety Committee" means the regulatory committee established by the Mashantucket Pequot Tribal Council.

64. "Public Highway" means a tribal highway;

65. "Recreational Vehicle" includes the camper, camp trailer and motor home classes of vehicles;

66. "Registration" includes the certificate of motor vehicle registration and the number plate or plates used in connection with such registration;

67. "Registration Number" means the identifying number or letters, or both, assigned by a commissioner to a motor vehicle;

68. "Resident" includes any person having a legal residence on tribal lands or any person, firm or corporation owning or leasing a motor vehicle used or operated in intrastate business on tribal lands, or a firm or corporation having its principal office or place of business on tribal lands;

69. "Restrict" means, as the term relates to licenses to operate a motor vehicle, a limitation on the hours that a person may operate a motor vehicle or a restriction on the person's authority to operate a vehicle, for example, "to or from work."

70. "School Bus" means any school bus, as defined in 7 M.P.T.L. ch. 7, § 53;

71. "Second" violation or "subsequent" violation means an offense committed not more than one year after the date of an arrest which resulted in a previous conviction for a violation;

72. "Semitrailer" means any trailer type vehicle designed and used in conjunction with a motor vehicle so that some part of its own weight and load rests on or is carried by another vehicle;

73. "Service Bus" includes any vehicle except a vanpool vehicle or a school bus designed and regularly used to carry eight or more persons when used in private

service for the transportation of persons without charge to the individual;

74. "Service Car" means any motor vehicle used by a manufacturer, dealer or repairer for emergency motor vehicle repairs on the highways of this Tribe, for towing or for the transportation of necessary persons, tools and materials to and from the scene of such emergency repairs or towing;

75. "Shoulder" means that portion of a tribal highway immediately adjacent and contiguous to the travel lanes or main traveled portion of the roadway;

76. "Solid Tires" means tires of rubber, or other elastic material approved by the Commissioner of Transportation, which do not depend on confined air for the support of the load;

77. "Spot Lamp" or "Spot Light" means a lighting device projecting a high intensity beam, the direction of which can be readily controlled for special or emergency lighting as distinguished from ordinary road illumination;

78. "State" means any state, territory or jurisdiction of the United States and the District of Columbia;

79. "State of Origin" means the state or jurisdiction issuing the driver's license, motor vehicle registration or both;

80. "Stop" means complete cessation of movement;

81. "Tail Lamp" means a lighting device affixed to the rear of a motor vehicle showing a red light to the rear and indicating the presence of the motor vehicle when viewed from behind;

82. "Tank Vehicle" means any commercial motor vehicle designed to transport any liquid or gaseous material within a tank that is either permanently or temporarily attached to the vehicle or its chassis which shall include, but not be limited to, a cargo tank and portable tank, as defined in the Code of Federal Regulations Title 49, Section 383.5, as amended, provided it shall not include a portable tank with a rated capacity not to exceed 1,000 gallons;

83. "Taxi" or "Taxicab" means and includes any motor vehicle operated upon any street or tribal highway or on call or demand accepting or soliciting passengers indiscriminately for transportation for hire between such points along streets or tribal highways as may be directed by the passenger or passengers so being transported, provided nothing in this Chapter shall be construed to include, as a taxi or taxicab, a motor bus as defined in 7 M.P.T.L. ch. 1, § 1, or a motor vehicle in livery service when such motor vehicle is hired for a specific trip or trips and is subject to the direction of the person hiring the same;

84. "Tractor" or "Truck Tractor" means a motor vehicle designed and used for drawing a semitrailer;

85. "Tractor-Trailer Unit" means a combination of a tractor and a trailer or a combination of a tractor and a semitrailer;

86. "Trailer" means any rubber-tired vehicle without motive power drawn or propelled by a motor vehicle;

87. "Travel Lane" means the main traveled portion of a tribal highway. It also includes the main travel portion in, through and around all parking lots and parking garages within the exterior boundaries of tribal lands. All travel lanes are deemed to be public roadways for purposes of law enforcement;

88. "Tribal Council" means the duly elected governing body of the Mashantucket Pequot Tribal Nation;

89. "Tribal Court" means the Mashantucket Pequot Tribal Court;

90. "Tribal Lands" means the settlement lands as defined in 25 U.S.C. § 1752(4) but excluding Route 214, Shewville Road and Coachman Pike;

91. "Tribal Nation" means the Mashantucket Pequot Tribal Nation;

92. "Tribe" means an indigenous Indian tribe whose name appears on the list published periodically in the Federal Register as an acknowledged Indian tribe having a government to government relationship with the United States;

93. "Tribal Police" means a sworn officer of the Mashantucket Pequot Tribal Police Department;

94. "Tribal Highway" means any public or private road or any portion thereof that is within Tribal Lands;

95. "Truck" means a motor vehicle designed, used or maintained primarily for the transportation of property;

96. "United States" means the 50 states and the District of Columbia;

97. "Utility Trailer" means a trailer designed and used to transport personal property, materials or equipment, whether or not permanently affixed to the bed of the trailer, with a manufacturer's GVWR of 10,000 pounds or less;

98. "Vanpool Vehicle" includes all motor vehicles, the primary purpose of which is the daily transportation, on a prearranged nonprofit basis, of individuals between home and work, and which: (a) If owned by or leased to a person, or to an employee of the person, or to an employee of a local, state or federal government unit or agency located within tribal lands or within the State of Connecticut, are manufactured and equipped in such manner as to provide a seating capacity of at least seven but not more than fifteen individuals, or (b) if owned by or leased to a regional ride-sharing organization in the state of Connecticut recognized by the Commissioner of Transportation, are manufactured and equipped in such manner as to provide a seating capacity of at least six but not more than 19 individuals;

99. "Vehicle" includes any device suitable for the conveyance, drawing or other transportation of persons or property, whether operated on wheels, runners, a

cushion of air or by any other means. The term does not include devices propelled or drawn by human power or devices used exclusively on tracks;

100. "Wrecker" means a vehicle which is registered, designed, equipped and used exclusively for the purposes of towing or transporting wrecked or disabled motor vehicles for compensation.

7 M.P.T.L. ch. 1 § 2

§ 2. Motor Vehicle Registration Number and Certificate

No motor vehicle shall be operated or towed on any tribal highway, except as otherwise expressly provided, unless it is registered with the commissioner of the state of origin of the vehicle, provided any motor vehicle may be towed for repairs or necessary work if it bears the markers of a licensed and registered dealer, manufacturer or repairman.

7 M.P.T.L. ch. 1 § 3

§ 3. Presentation of Insurance Identification Card or Policy and Statement that Minimum Security will be Continuously Maintained Required. Investigation of Violations

a. For the purposes of this Section and 7 M.P.T.L. ch. 7, §§ 4 and 8, a false statement includes presentation of a false or fraudulent insurance identification card to a tribal police officer. For purposes of this Section, the term "current automobile insurance identification card" includes a permanent card with a future effective date provided the word "renewal" appears in close proximity to the effective date on the card.

b. A person presenting an insurance identification card to a tribal police officer is deemed to have full knowledge and understanding that presentation of the card means the owner of the vehicle so registered has provided and will continuously maintain throughout the registration period the minimum security required by the state of origin.

c. The tribal police shall, upon receiving prima facie evidence of a violation of this Section, immediately forward the information to the Office of the Tribal Prosecutor.

7 M.P.T.L. ch. 1 § 4

§ 4. Provisions Inapplicable to Certain Vehicles

The provisions of 7 M.P.T.L. ch. 1, § 3 and 7 M.P.T.L. ch. 7, § 4 shall not apply to any private passenger motor vehicle registered to the tribal government, federal government or any state or municipality or any such vehicle bearing dealer, repairer, manufacturer, transporter, experimental or junk number plates.

7 M.P.T.L. ch. 1 § 5

§ 5. Cancelled Registrations. Availability. Stop and Detain Procedures, when. Removal of Plates. Fees

If any tribal police officer observes a motor vehicle being operated upon a tribal highway, and such motor vehicle is displaying registration number plates identified as cancelled on the list made available by a traffic commissioner of any state, such tribal police officer may stop or detain such vehicle and its occupants and may proceed to issue to the operator a complaint for operating an unregistered motor vehicle, or expired registration if the vehicle is not being operated, in violation of 7 M.P.T.L. ch. 1, § 2. Such tribal police officer is further authorized to remove the registration number plates from the vehicle and to return them to any branch office of the department of motor vehicles of the state of origin. If any tribal police officer observes a motor vehicle parked in any parking area and such motor vehicle is displaying registration number plates identified as cancelled on the list made available by a traffic commissioner of any state, such tribal police officer is authorized to remove the registration number plates from the vehicle and to return them to any branch office of the department of motor vehicles of the state of origin. If a number plate is identified as cancelled on the list provided by a traffic commissioner of any state and such identification is in error, the Tribe shall indemnify any tribal police officer for any claim for damages made against that individual as a result of his good faith reliance on the accuracy of the list provided by a traffic commissioner of any state regarding the confiscation of number plates. Any cause of action arising from any tribal police officer's good faith reliance on the accuracy of the list provided by the traffic commissioner of any state regarding the confiscation of number plates shall only lie in tribal court.

7 M.P.T.L. ch. 1 § 6

§ 6. Registration Certificate and Insurance Identification Card to be Carried in Vehicle

The certificate of registration and any automobile insurance identification card for the vehicle shall be carried in the motor vehicle at all times when it is being operated on a tribal highway, except as otherwise provided by statute.

If a vehicle is registered in the name of a lessor, a legible photostatic copy of the certificate of registration or a rental or lease contract which shall include the vehicle identification number of such vehicle be carried in lieu of the original certificate, provided the original certificate shall be available at all times for inspection at the lessor's usual place of business. If a vehicle is registered as a school bus such copy may be carried in lieu of the original certificate, provided such certificate shall be available at all times for inspection at the school bus owner's usual place of business.

7 M.P.T.L. ch. 1 § 7

§ 7. Display of Number Plates and Stickers. Return of Number Plates to Commissioner

a. (1) Each motor vehicle for which one number plate has been issued shall, while in use or operation upon any tribal highway, display in a conspicuous place at the rear of such vehicle the number plate. Each such motor vehicle shall also display a sticker on the number plate or elsewhere on the vehicle, as a traffic commissioner of a state may direct, denoting the expiration date of the registration, as assigned by the said commissioner.

(2) Each motor vehicle for which two number plates have been issued shall, while in use or operation upon any tribal highway, display in a conspicuous place at the front and the rear of such vehicle the number plates. Each such motor vehicle shall also display a sticker on the rear number plate or elsewhere on the vehicle, as a traffic commissioner of any state may direct, denoting the expiration date of the registration, as assigned by the said commissioner.

b. Such number plates when displayed upon motor vehicles shall be entirely unobscured and the numerals and letters thereon shall be plainly legible at all times. Such number plates shall be horizontal, and shall be fastened so as not to swing and, during the time when a motor vehicle is required to display lights, the rear number plate shall be so illuminated as to be legible at a distance of 50 feet. No plates, devices or attachments may be affixed to the official number plates. Plates, devices or attachments affixed to the number plate holder shall be attached to the rear of the holder in such manner that they will not cover any part of the number plate and that loosening of the device or its attachments will not permit it to fall or move so as to cover any symbols on the face of the number plate. Not more than one number plate shall be displayed on the front or rear of any motor vehicle in operation upon tribal highways; provided any motor vehicle may, upon permission of the commissioner of the state of origin, display more than one number plate in front or rear, subject to such conditions as the commissioner of the state of origin prescribes. If any number plate supplied by the commissioner of the state of origin is lost, or if the registered number thereon becomes mutilated or illegible, the owner of or the person in control of the motor vehicle for which such number plate was furnished shall immediately place a temporary number plate bearing his registration number upon such motor vehicle, which temporary number plate shall conform to the regular number plate and shall be displayed as nearly as possible as herein provided for such regular number plate; and such owner shall, within 48 hours after such loss or mutilation of his number plate, give notice thereof to the commissioner of the state of origin and apply for a new number plate.

c. No person shall willfully damage or destroy any number plate.

CHAPTER 2. OPERATORS' LICENSES

7 M.P.T.L. ch. 2 § 1

§ 1. Motor Vehicle Operator's License. Learner's Permit. Limited License. Requirements. Penalty

a. Except as otherwise provided by this Section, no person shall operate a motor vehicle on any tribal highway on which a speed limit has been established until he has obtained a motor vehicle operator's license from his state of origin.

b. A person 18 years of age or older may operate a motor vehicle without a motor vehicle operator's license if:

(1) he has not had a motor vehicle operator's license suspended or revoked in his state of origin; and

(2) he is under the instruction of, and accompanied by, a person who holds a valid instructor's license issued by any state or a person 20 years of age or older who has been licensed to operate, for at least four years preceding the instruction, a motor vehicle of the same class as the motor vehicle being operated and who has not had his motor vehicle operator's license suspended by the commissioner of his state of origin during the four-year period preceding the instruction.

c. No person issued a limited license shall operate:

(1) a motor vehicle in violation of the limitations imposed by such license or,

(2) any motor vehicle other than the motor vehicle for which his right to operate is limited.

d. As used in this Section, the words "motor vehicle" shall not be construed to include "motorcycle."

7 M.P.T.L. ch. 2 § 2

§ 2. Classification of Operator's License

No person shall operate a motor vehicle in violation of the classification of the license issued to him.

7 M.P.T.L. ch. 2 § 3

§ 3. Operation of Motor Vehicle Owned by Resident of Foreign Country

Any motor vehicle or trailer owned or operated by a resident of a foreign country, which country adheres to the articles of the "International Convention" held in Paris, April 24, 1926, or amendments thereto, relative to the operation of motor vehicles, may be operated on the highways of this tribal nation without registration, provided such nonresident operator is the holder of an international operator's license and provided such motor vehicle is legally registered in the country of his residence and also bears an

international registration.

CHAPTER 3. EQUIPMENT

7 M.P.T.L. ch. 3 § 1

§ 1. Mechanical Equipment

a. Each motor vehicle and the devices on such vehicle shall be operated, equipped, constructed and adjusted to prevent unnecessary or unusual noise.

b. Each motor vehicle operated by an internal combustion engine shall be equipped, except as hereinafter provided, with a muffler or mufflers designed to prevent excessive, unusual or unnecessary exhaust noise. The muffler or mufflers shall be maintained by the owner in good working order and shall be in use whenever the motor vehicle is operated. No person shall use, on a motor vehicle, a muffler or mufflers lacking interior baffle plates or other effective muffling devices, a gutted muffler, a muffler cutout or a straight exhaust, or any mechanical device which will amplify the noise emitted by the vehicle. No person shall remove all or part of any muffler on a motor vehicle except to repair or replace the muffler or part for the more effective prevention of noise. No person shall use on the exhaust system or tail pipe of a motor vehicle any extension or device which will cause excessive or unusual noise.

c. The engine of every motor vehicle shall be equipped and adjusted to prevent excessive fumes or exhaust smoke.

d. All pipes carrying exhaust gases from the motor shall be constructed of, and maintained with, leak-proof metal. Exhaust pipes shall be directed from the muffler or mufflers toward the rear of the vehicle and shall be approximately parallel with the longitudinal axis of the vehicle and approximately parallel to the surface of the roadway, or shall be directed from the muffler upward to a location above the cab or body of the vehicle so that fumes, gases and smoke are directed away from the occupants of the vehicle. Exhaust pipes on a passenger vehicle shall extend to the extreme rear end of the vehicle's body, not including the bumper and its attachments to the body, or shall be attached to the vehicle in such a way that the exhaust pipes direct the exhaust gases to either side of the vehicle ensuring that fresh ambient air is located under the vehicle at all times.

e. Every motor vehicle, when operated on a tribal highway, shall be equipped with a horn in good working order and capable of emitting sound audible under normal conditions from a distance of not less than 200 feet, but no horn or other warning device shall emit an unreasonably loud or harsh sound or a whistle.

f. No vehicle shall be equipped with, nor shall any person use on a vehicle, any siren, whistle or bell as a warning signal device, except as otherwise permitted by this Section. Any motor vehicle may be equipped with a theft

alarm signal device which is so arranged that it cannot be used by the driver as an ordinary warning signal. Any authorized emergency vehicle may be equipped with a siren, whistle or bell, capable of emitting sound audible under normal conditions from a distance of not less than 500 feet. Such signal shall not be used unless the vehicle is operated in response to an emergency call or in the immediate pursuit of an actual or suspected violator of the law, in which event the driver of the vehicle shall sound the signal when reasonably necessary to warn pedestrians and other drivers of the approach of the vehicle.

7 M.P.T.L. ch. 3 § 2

§ 2. Maximum Noise Levels

a. No person shall operate a vehicle or combination of vehicles, nor shall the owner of any vehicle allow the vehicle to be operated, at any time or under any condition of grade, surface, speed, load, acceleration, deceleration or weather condition in such a manner as to exceed the decibel levels established in this Section. This requirement applies to the total noise generated by a vehicle and shall not be construed as limiting or precluding the enforcement of any other motor vehicle noise provisions of this Title.

b. No person shall sell or offer for sale a new vehicle which produces a maximum decibel level which exceeds the decibel levels established under this Section.

c. Any regulations promulgated by the Connecticut Commissioner of Motor Vehicles establishing the maximum decibel levels permissible for motor vehicles, are hereby adopted as tribal law.

7 M.P.T.L. ch. 3 § 3

§ 3. Ball Joints and Tie Rod Ends. Prohibition on Certain Installations and Attachments to Ball Joint and Tie Rod Ends

a. No person shall install or attach to the ball joints or tie rod ends of a motor vehicle any type of bushing, spring, shim or device which results in concealing the degree of play or motion in the ball joints or tie rod ends.

b. No person shall operate, or as owner cause or permit to be operated, any motor vehicle on which there has been installed or attached to the ball joints or tie rod ends any type of bushing, spring, shim or device which results in concealing the degree of play or motion in the ball joints or tie rod ends.

7 M.P.T.L. ch. 3 § 4

§ 4. Brake Equipment of Motor Vehicles

a. Each motor vehicle, other than a motorcycle, shall be equipped, when operated on a highway, with at least two braking systems one of which shall be

a service brake system and the other a parking brake system. Each braking system shall have a separate means of application by the operator. Each braking system, including any power assist devices used to reduce operator braking effort, shall be maintained in good working order at all times.

b. The service brake system, upon actuation by the operator, shall be effective in directly applying braking action on all wheels except as provided in the Code of Federal Regulations Title 49, Section 393.42, as amended. The service brake system employed on vehicles manufactured after January 1, 1968, shall be so designed and constructed that the wheel brakes on at least one axle operate separately from the wheel brakes on at least one other axle in a manner that will provide braking effort on at least two wheels in the event of a failure in any singular part or component of the service brake system, excluding the common actuation pedal or lever and excluding a structural failure of the brake distribution mechanism housing, effectiveness indicator body or other housing common to the divided brake actuation system. The service brakes, upon application by the operator, shall be capable of bringing the motor vehicle to a controlled stop within such distance and under such conditions as prescribed by the commissioner of motor vehicles.

c. The parking brake system, upon actuation by the operator, shall be effective in applying braking action either directly or indirectly on at least two wheels. The parking brake system shall be capable of holding the motor vehicle or combination of vehicles attached thereto stationary under any condition of loading on any upgrade or downgrade on which it is operated.

d. If the service brake system or the parking brake system are functionally connected in any way, they shall be so constructed that failure of any one part of the operating mechanism shall not leave the motor vehicle without braking ability on at least two wheels.

e. No person may operate any vehicle with a gross vehicle weight of 10,000 pounds or more with a braking system which fails to conform with the safety standards established under the provisions of this subsection. Any regulations adopted by the Connecticut Commissioner of Motor Vehicles establishing safety standards for braking systems utilized on vehicles with a gross vehicle weight of 10,000 pounds or more, are hereby adopted as tribal law. Any person who operates any vehicle with any severe defect or combination of defects which in combination are deemed to be severe and in violation of this Section, or the regulations promulgated under this Section, shall be fined not less than \$250 nor more than \$500.

7 M.P.T.L. ch. 3 § 5

§ 5. Brake Equipment of Motorcycles

a. Each motorcycle or motorcycle and sidecar shall be equipped with at least one brake adequate to stop it within a proper distance as defined under the provisions of 7 M.P.T.L. ch. 3, § 4. Any motorcycle designated as a 1974 or later model and operated on the tribal highways of this tribal nation shall be equipped with brakes on both the front and rear wheels, except the wheel or

wheels on a sidecar if the motorcycle is so equipped. Motorcycle brakes shall be maintained in good working order at all times and shall be capable of bringing the motorcycle to a controlled stop in such distance and under such conditions as are prescribed by the Connecticut commissioner of motor vehicles.

b. No person shall operate a motorcycle on a tribal highway or in any parking area for 10 or more motor vehicles if the motorcycle is equipped with handlebars that are more than 15 inches in height above the uppermost portion of the seat when the seat is depressed by the weight of the operator.

7 M.P.T.L. ch. 3 § 6

§ 6. Brake Equipment of Trailers

Each trailer or semitrailer having a gross weight of 3,000 pounds or more shall, when operated on any tribal highway, be equipped with a braking system operating on all wheels. The braking system shall be adequate to safely control the movement of the trailer or semitrailer and, when set, to safely hold the trailer or semitrailer stationary. The brakes shall, at all times, be maintained in good and sufficient working order and shall be capable of being controlled or operated from the driver's seat of the towing vehicle by either the hand or the foot, except that brakes on trailers having a gross weight of 8,000 pounds or less need not be capable of being controlled or operated from the driver's seat by either the hand or the foot. Except with respect to pole trailers and boat trailers, any regulations promulgated by the Connecticut Commissioner of Motor Vehicles concerning the performance of such brakes when the trailer or semitrailer is operated in combination with a towing vehicle, are hereby adopted as tribal law.

7 M.P.T.L. ch. 3 § 7

§ 7. Hydraulic Brake Fluid

The term "hydraulic brake fluid" as used in this Section means the liquid medium through which force is transmitted to the brakes in the hydraulic brake system of a vehicle. No person shall distribute, have for sale, offer for sale, sell or service any motor vehicle upon tribal lands with any hydraulic brake fluid unless the label on its container clearly indicates that it meets the current standards of the Society of Automotive Engineers for heavy duty brake fluid.

7 M.P.T.L. ch. 3 § 8

§ 8. Restrictions on Used Brake Drums

The term "brake drum", as used in this Section, means the individual cupped metal drums to which motor vehicle wheels are each attached and against whose interior surface, brake shoe pressure is applied to effect stopping, holding or control of forward or backward vehicle movement. No person, firm or

corporation shall service, turn, grind, install, sell, give or offer for sale for passenger motor vehicle use any used brake drum, the interior braking surface diameter of which exceeds sixty-thousandths of one inch maximum oversize.

7 M.P.T.L. ch. 3 § 9

§ 9. Free Wheeling Devices

No motor vehicle shall be operated upon the tribal highways or other public places of this tribal nation having incorporated in the power transmitting mechanism thereof any device which renders the braking effect of the engine of such motor vehicle unavailable to the operator, at his option, in any of the transmission ratios with which such motor vehicle is provided or equipped. Any person who violates any provision of this Section shall be fined pursuant to the Fine Schedule and each violation hereof shall be deemed a separate offense.

7 M.P.T.L. ch. 3 § 10

§ 10. Lighted Lamps and Illuminating Devices Required, When

a. Every vehicle upon a highway within this jurisdiction shall display such lighted lamps and illuminating devices as may be required under the provisions of 7 M.P.T.L. ch. 3, §§ 10-38, inclusive,

(1) at any time from a half-hour before sunset to a half-hour after sunrise,

(2) at any time when, due to insufficient light or unfavorable atmospheric conditions, persons and vehicles on the highway are not clearly discernible at a distance of 500 feet ahead, and

(3) at any time during periods of precipitation, including, but not limited to, periods of snow, rain or fog.

b. Whenever in said sections any requirement is declared as to distance from which certain lamps and devices shall render objects visible or within which such lamps or devices shall be visible, such requirement shall apply during the times stated in subsection (a) in respect to a vehicle without load when upon a straight, level, unlighted highway under normal atmospheric conditions unless a different time or condition is expressly stated.

c. Whenever in said sections any requirement is declared as to the mounted height of lamps or devices, such requirement shall mean the height measured from the center of such lamps or devices to the level ground upon which the vehicle stands when such vehicle is without a load.

7 M.P.T.L. ch. 3 § 11

§ 11. Head Lamps

a. Every motor vehicle other than a motorcycle shall be equipped with at least two head lamps with at least one on each side of the front of the motor vehicle, which head lamps shall comply with the requirements and limitations set forth in 7 M.P.T.L. ch. 3, §§ 10-38, inclusive.

b. Every motorcycle shall be equipped with at least one and not more than two head lamps which shall comply with the requirements and limitations of said sections.

c. Every head lamp upon every motor vehicle, including every motorcycle, shall be located at a mounted height of not more than 54 inches nor less than 22 inches.

7 M.P.T.L. ch. 3 § 12

§ 12. Tail Lamps. Illumination of Rear Registration Plate

a. Every motor vehicle, trailer, semitrailer and pole trailer, and any other vehicle which is being drawn at the end of a combination of vehicles, shall be equipped with at least two tail lamps mounted on the rear, which, when lighted, shall emit a red light plainly visible from a distance of 1,000 feet to the rear, except that passenger cars manufactured or assembled prior to October 1, 1957, and motorcycles shall have at least one such tail lamp. On a combination of vehicles, only the tail lamps on the rearmost vehicle need actually be seen from the distance specified. On vehicles equipped with more than one tail lamp, the lamps shall be mounted on the same level and as widely spaced laterally as practicable.

b. Every tail lamp upon every vehicle shall be located at a mounted height of not more than 72 inches nor less than 15 inches.

c. The rear registration plate shall be so illuminated with a white light as to render it clearly legible from a distance of 50 feet to the rear. Any tail lamp or tail lamps, together with any separate lamp or lamps for illuminating the rear registration plate, shall be so wired as to be lighted whenever the head lamps or auxiliary driving lamps are lighted, except that any vehicle equipped by the manufacturer with daytime running lamps which meet federal requirements may have such daytime running lamps illuminated without illumination of the tail lamps or rear registration plate.

7 M.P.T.L. ch. 3 § 13

§ 13. Reflectors

a. Each motor vehicle, trailer, semitrailer and pole trailer shall carry on the rear, either as a part of the tail lamps or separately, two or more red reflectors meeting the requirements of this Section. Each motorcycle shall carry at least one such reflector.

b. Each such reflector shall be mounted on the vehicle at a height of not less than 15 inches nor more than 60 inches, and shall be of such size and characteristics and so mounted as to be visible at night from all distances within 350 feet to 100 feet from such vehicle when directly in front of upper beams of head lamps.

7 M.P.T.L. ch. 3 § 14

§ 14. Stop Lamps. Turn Signals

a. Each motor vehicle, trailer, semitrailer and pole trailer shall be equipped with two or more stop lamps meeting the requirements of 7 M.P.T.L. ch. 3, § 26(a), except that passenger motor vehicles manufactured or assembled prior to October 1, 1957, and motorcycles shall be equipped with at least one stop lamp.

On a combination of vehicles, only the stop lamps on the rearmost vehicle need actually be seen from the distance specified.

b. Each motor vehicle in use on a tribal highway shall be equipped with, and required signals shall be given by, a turn signal lamp or lamps or turn signal device when the distance from the center of the top of the steering post to the left outside limit of the body, cab or load of the motor vehicle exceeds 24 inches, or when the distance from the center of the top of the steering post to the rear limit of the body or load on the vehicle exceeds 14 feet. The latter measurement applies to any combination of vehicles.

7 M.P.T.L. ch. 3 § 15

§ 15. Special Requirements for Buses, Trucks, Trailers, Truck Tractors

The following vehicles shall be equipped in the following manner:

a. Buses and trucks 80 inches or more in overall width:

(1) on the front, two clearance lamps, one at each side, and on vehicles manufactured or assembled after October 1, 1967, three identification lamps meeting the specifications of subsection (f) of this Section;

(2) on the rear, two clearance lamps, one at each side, and after October 1, 1967, three identification lamps meeting the specifications of subsection (f) of this Section;

(3) on each side, two side marker lamps, one at or near the front and one at or near the rear;

(4) on each side, two reflectors, one at or near the front and one at or near the rear.

b. Trailers and semitrailers 80 inches or more in overall width:

(1) on the front, two clearance lamps, one at each side;

(2) on the rear, two clearance lamps, one at each side, and after October 1, 1967, three identification lamps meeting the specifications of subsection (f) of this Section;

(3) on each side, two side marker lamps, one at or near the front and one at or near the rear;

(4) on each side, two reflectors, one at or near the front and one at or near the rear.

c. Truck tractors: On the front, two cab clearance lamps, one at each side, and on vehicles manufactured or assembled after October 1, 1967, three identification lamps meeting the specifications of subsection (f) of this Section.

d. Trailers, semitrailers and pole trailers 30 feet or more in overall length: on each side, one amber side marker lamp and one amber reflector centrally located with respect to the length of the vehicle.

e. Pole trailers:

(1) on each side, one amber side marker lamp at or near the front of the load;

(2) one amber reflector at or near the front of the load;

(3) on the rearmost support for the load, one combination marker lamp showing amber to the front and red to the rear and side, mounted to indicate maximum width of the pole trailer.

f. Whenever required or permitted by 7 M.P.T.L. ch. 3, §§ 10-35, inclusive, identification lamps shall be grouped in a horizontal row, with lamp centers spaced not less than six nor more than 12 inches apart, and mounted on the permanent structure of the vehicle as closely as practicable to the vertical centerline; provided, where the cab of a vehicle is not more than 42 inches wide at the front roof line, a single identification lamp at the center of the cab shall be deemed to comply with the requirements for front identification lamps.

7 M.P.T.L. ch. 3 § 16

§ 16. Colors of Lamps and Reflectors. Reflective Sheeting on Certain Vehicles

a. Front clearance lamps, identification lamps and those marker lamps and reflectors mounted on the front or on the side near the front of a vehicle shall display or reflect an amber color.

b. Rear clearance lamps, identification lamps and those marker lamps and reflectors mounted on the rear or on the sides near the rear of a vehicle shall display or reflect a red color. Any motor vehicle or equipment owned by a

governmental agency which is engaged in construction or maintenance work may display red or white reflective sheeting on the rear of such vehicle or equipment.

c. All lighting devices and reflectors mounted on the rear of any vehicle shall display or reflect a red color, except that the stop light or other signal device may be red, amber or yellow, and except that the light illuminating the license plate shall be white and the light emitted by a back-up lamp shall be white or amber.

d. Each school bus or student transportation vehicle may display retro-reflective tape or reflective sheeting on the rear or on the sides of such vehicle in accordance with any relevant regulations adopted by the Connecticut Commissioner of Motor Vehicles.

7 M.P.T.L. ch. 3 § 17

§ 17. Mounting of Reflectors and Clearance Lamps

a. Reflectors shall be mounted at a height not less than 15 inches and not higher than 60 inches above the ground on which the vehicle stands, except that if the highest part of the permanent structure of the vehicle is less than 15 inches, the reflector at such point shall be mounted as high as that part of the permanent structure will permit. The rear reflectors on a pole trailer shall be mounted on each side of the bolster or load.

b. Clearance lamps shall be mounted on the permanent structure of the vehicle in such a manner as to indicate its extreme width and as near the top thereof as practicable. Clearance lamps and side marker lamps may be mounted in combination, provided illumination shall be given as required herein with reference to both.

7 M.P.T.L. ch. 3 § 18

§ 18. Visibility of Reflectors and Clearance, Identification and Side Marker Lamps

a. Each reflector upon any vehicle shall be of such size and characteristics and so maintained as to be readily visible at nighttime from all distances within 600 feet to 100 feet from the vehicle when directly in front of lawful upper beams of head lamps. Reflectors required to be mounted on the sides of the vehicle shall reflect the required color of light to the sides, and those mounted on the rear shall reflect a red color to the rear.

b. Front and rear clearance lamps and identification lamps shall be capable of being seen and distinguished under normal atmospheric conditions at the times lighted lamps are required at all distances between 550 feet from the front and rear, respectively, of the vehicle.

c. Side marker lamps shall be capable of being seen and distinguished under

normal atmospheric conditions at the times lighted lamps are required at all distances between 550 feet from the side of the vehicle on which mounted.

7 M.P.T.L. ch. 3 § 19

§ 19. Vehicles Operated in Combination

Whenever motor and other vehicles are operated in combination during the time that lighted lamps are required, no lamp, except tail lamps, need be lighted which, by reason of its location on a vehicle of the combination, would be obscured by another vehicle of the combination, but this shall not affect the requirement that lighted clearance lamps be displayed on the front of the foremost vehicle required to have clearance lamps or that all lights required on the rear of the rearmost vehicle of any combination shall be lighted.

7 M.P.T.L. ch. 3 § 20

§ 20. Projecting Loads. Carrying of Animals

No person shall, during the period from one-half hour before sunrise to one-half hour after sunset, operate upon any highway any vehicle except fire apparatus, the load of which extends more than four feet beyond the rear of the body of such vehicle unless there is attached to the rear end of such load a red flag or cloth not less than 12 inches square so hung that the entire area is visible to the driver of a vehicle approaching from the rear, or, during the period of one-half hour after sunset to one-half hour before sunrise, and at any other time when, due to insufficient light or unfavorable atmospheric conditions, persons and vehicles on the highway are not clearly discernible at a distance of 500 feet ahead, operate upon any highway any vehicle carrying a load which extends beyond the stationary floor of the body of such vehicle, unless a red light is attached to the rear end of such load, which light shall be plainly visible to the sides and rear for a distance of not less than 500 feet. No motor vehicle with a commercial registration shall be permitted to remain stationary or be operated upon any highway when an animal not confined is carried or projects laterally outside of the body of such vehicle, or when any load or load-supporting device projects laterally beyond the edge of the body thereof.

7 M.P.T.L. ch. 3 § 21

§ 21. Sufficiency of Head and Rear Lights. Parked Vehicles

a. Every vehicle, except a motorcycle, shall be equipped with one or more lamps which, when lighted, shall display a white or amber light visible from a distance of 1,000 feet to the front of the vehicle, and a red light visible from a distance of 1,000 feet to the rear of the vehicle. The location of such lamp or lamps shall always be such that at least one lamp or combination of lamps meeting the requirements of this Section is installed as near as practicable to the side of the vehicle which is closest to passing traffic.

b. Whenever a vehicle is lawfully parked upon a street or highway during the hours between a half hour after sunset and a half hour before sunrise and if there is sufficient light to reveal any person or object within a distance of 1,000 feet upon such street or highway, no lights need be displayed upon such parked vehicle.

c. Whenever a vehicle is parked or stopped upon a roadway or shoulder adjacent thereto, whether attended or unattended, during the hours between a half hour after sunset and a half hour before sunrise and there is insufficient light to reveal any person or object within a distance of 1,000 feet upon such highway, such vehicle so parked or stopped shall be equipped with and shall display lamps meeting the requirements of subsection (a) of this Section.

d. Any lighted head lamps upon a parked vehicle shall be depressed or dimmed.

7 M.P.T.L. ch. 3 § 22

§ 22. General Lighting Requirements

a. Every vehicle, including animal-drawn vehicles, not specifically required by the provisions of 7 M.P.T.L. ch. 3, §§ 10-38, inclusive, to be equipped with lamps or other lighting devices, shall, at all times specified in subsection (a) of 7 M.P.T.L. ch. 3, § 10, be equipped with at least one lamp displaying a white light visible from a distance of not less than 1,000 feet to the front of such vehicle, and shall also be equipped with two lamps displaying red light visible from a distance of not less than 1,000 feet to the rear of said vehicle, or, as an alternative, one lamp displaying a red light visible from a distance of not less than 1,000 feet to the rear and two red reflectors visible from all distances between 600 and 100 feet to the rear when illuminated by the upper beams of head lamps.

b. Each person driving or leading any animal on any public highway from one-half hour after sunset until one-half hour before sunrise shall carry a light, which shall be so displayed as to be visible a distance of 200 feet both in front and at the rear of such animal.

7 M.P.T.L. ch. 3 § 23

§ 23. Spot Lamps. Fog Lamps. Auxiliary Passing Lamps. Auxiliary Driving Lamps

a. Any motor vehicle may be equipped with not more than two spot lamps and every lighted spot lamp shall be so aimed and used that no part of the high-intensity portion of the beam will strike the windshield, or any windows, mirror or occupant of another vehicle in use.

b. Any motor vehicle may be equipped with not more than two fog lamps mounted on the front at a height not less than 12 inches nor more than 30 inches above the level surface upon which the vehicle stands and so aimed that, when the

vehicle is not loaded, none of the high intensity portion of the light to the left of the center of the vehicle shall, at a distance of 25 feet ahead, project higher than a level of four inches below the level of the center of the lamp from which it comes.

c. Any motor vehicle may be equipped with not more than two auxiliary passing lamps mounted on the front at a height not less than 24 inches nor more than 42 inches above the level surface upon which the vehicle stands. The provisions of 7 M.P.T.L. ch. 3, § 28, shall apply to any combination of head lamps and auxiliary passing lamps.

d. Any motor vehicle may be equipped with not more than two auxiliary driving lamps mounted on the front at a height not less than 16 inches nor more than 42 inches above the level surface upon which the vehicle stands. The provisions of 7 M.P.T.L. ch. 3, § 28, shall apply to any combination of head lamps and auxiliary driving lamps.

7 M.P.T.L. ch. 3 § 24

§ 24. Color of Lights. Flashing or Revolving White Lights. Authorized Use of Blue or Green Lights. Flashing White Head Lamps

a. No person shall display upon any motor vehicle any light visible from the front thereof other than white, yellow or amber, or any light other than red, yellow, amber or white visible from the rear thereof, except a light used with any school bus. Any vehicle accommodating 15 or less handicapped students may use a flashing red light or lights during the time such vehicle is stopped for the purpose of receiving or discharging such handicapped students, any motor bus may carry a purple light or lights, any interstate public service vehicle may carry a green light or lights, any taxicab may carry a lunar white light or lights, and any interstate commercial motor vehicle may display green identification lights, in front thereof, as the commissioner of the state of Connecticut Department of Motor Vehicles may permit. A vehicle being operated by the chief executive officer of an emergency medical service organization offering transportation or treatment services to patients under emergency conditions, or an ambulance specifically designed to carry patients, may use a flashing red light or lights or flashing white head lamps and a flashing amber light while on the way to the scene of an emergency, except that an ambulance may use flashing lights of other colors specified by federal requirements for the manufacture of such vehicle. Flashing or revolving white lights may not be displayed upon a motor vehicle except:

(1) on fire emergency apparatus,

(2) on motor vehicles of paid and volunteer fire chiefs and their first and second deputies or their first and second assistants should there be no deputies,

(3) as a means of indicating a right or left turn, or

(4) in conjunction with flashing red lights on an ambulance responding to an

emergency call.

For the purpose of this subsection, the term "handicapped students" means mentally retarded, hard of hearing, deaf, speech-impaired, visually handicapped, emotionally disturbed, orthopedically impaired or other health-impaired students, or students with specific learning disabilities, who by reason thereof, require special education and related services; and the term "flashing white lights" shall not include the simultaneous flashing of head lamps.

b. A blue light may not be illuminated upon a motor vehicle, except that a vehicle being operated by a tribal police officer or an active member of a fire department or company or an active member of an organized civil preparedness auxiliary fire company who has been authorized in writing by the chief executive officer of such department or company may use such a light, including a flashing blue light, while on the way to the scene of a fire or other emergency requiring his services.

c. A flashing green light may not be used upon a motor vehicle, except that a vehicle being operated by an active member of a volunteer ambulance association or company who has been authorized in writing by the chief executive officer of such association or company may use such a light while on the way to the scene of an emergency requiring his services. Such authorization may be revoked by such officer or his successor.

7 M.P.T.L. ch. 3 § 25

§ 25. Special Restrictions on Lamps. Flashing Lights

a. Any lighted lamp or illuminating device upon a motor vehicle, other than head lamps, spot lamps or auxiliary driving lamps, which projects a beam of light of an intensity greater than 300 candle power shall be so directed that no part of the beam will strike the level of the roadway on which the vehicle stands at a distance of more than 75 feet from the vehicle.

b. No person shall drive or move any vehicle or equipment upon any highway with any lamp or device thereon displaying a red light visible from directly in front of the center thereof. The provisions of this subsection and subsection (c) shall not apply to authorized tribal police, emergency and maintenance vehicles.

c. Flashing lights are prohibited on motor vehicles other than school buses, except:

- (1) as a means for indicating a right or left turn,
- (2) flashing blue lights used by members of fire companies,
- (3) on certain emergency and maintenance vehicles,
- (4) flashing or revolving yellow lights on vehicles of carriers in rural

mail-delivery service or vehicles transporting or escorting any vehicle or load or combinations of vehicles or vehicles and load which is or are either oversize or overweight or both, and operated or traveling under a permit issued by the Connecticut Commissioner of Transportation,

(5) flashing red lights:

(a) on a motor vehicle accommodating 15 or less handicapped students used only during the time such vehicle is stopped for the purpose of receiving or discharging such handicapped students,

(b) used by members of the fire or police on a stationary vehicle as a warning signal during traffic directing operations at the scene of a fire,

(c) on rescue vehicles,

(d) used by chief executive officers of emergency medical service organizations,

(e) ambulances specifically designed to carry,

(f) flashing green lights used by members of volunteer ambulance associations or companies, or

(g) flashing white lights or flashing lights of other colors specified by federal requirements for the manufacture of an ambulance used in conjunction with flashing red lights or flashing head lamps and a flashing amber light on an ambulance responding to an emergency call.

The prohibitions in this Section shall not prevent the operator of a motor vehicle who, while traveling on any tribal highway, is operating such motor vehicle at such slow speed as to obstruct or endanger following traffic, or the operator of a disabled vehicle stopped on a hazardous location on the highway, or in close proximity thereto, from flashing lights, installed on the vehicle primarily for other purposes, in any manner that he selects so as to indicate that such vehicle is traveling slowly, obstructing traffic or is disabled and is a hazard to be avoided.

7 M.P.T.L. ch. 3 § 26

§ 26. Color of Top Lamps. Turn Signal Lamps

a. Any vehicle, when required under 7 M.P.T.L. ch. 3, §§ 10-38, inclusive, shall be equipped with a stop lamp or lamps on the rear of the vehicle which shall display a red or amber light, or any shade of color between red and amber, visible from a distance of not less than 300 feet to the rear in normal sunlight, and which shall be activated upon application of the service or foot brake.

b. Any vehicle, when required under 7 M.P.T.L. ch. 3, § 14(b), shall be equipped with electric turn signals which shall indicate an intention to turn

by flashing lights showing to the front and rear of a vehicle or on a combination of vehicles on the side of the vehicle or combination toward which the turn is to be made. The lamps showing to the front shall be mounted on the same level and as widely spaced laterally as practicable and, when signaling, shall emit white or amber light, or any shade of light between white and amber.

The lamps showing to the rear shall be mounted on the same level and as widely spaced laterally as practicable, and, when signaling, shall emit a red or amber light, or any shade of color between red and amber. Turn signal lamps on vehicles 80 inches or more in overall width shall be visible from a distance of not less than 500 feet in normal sunlight. Turn signal lamps on vehicles less than 80 inches wide shall be visible at a distance of not less than 300 feet in normal sunlight.

7 M.P.T.L. ch. 3 § 27

§ 27. Fender, Running-board, Backup and Identification Lamps

a. Any motor vehicle may be equipped with not more than two side cowl or fender lamps which shall emit an amber or white light without glare.

b. Any motor vehicle may be equipped with not more than one running-board courtesy lamp on each side thereof which shall emit a white or amber light without glare.

c. Any motor vehicle may be equipped with one or more backup lamps either separately or in combination with other lamps, but any such backup lamp or lamps shall not be lighted when the motor vehicle is in forward motion.

d. Any vehicle 80 inches or more in overall width, if not otherwise required by 7 M.P.T.L. ch. 3, § 15, may be equipped with not more than three identification lamps showing to the front which shall emit an amber light without glare and not more than three identification lamps showing to the rear which shall emit a red light without glare. Such lamps shall be mounted as specified in subsection (f) of said section.

7 M.P.T.L. ch. 3 § 28

§ 28. Multiple-beam Road-lighting Equipment

Except as hereinafter provided, the head lamps or the auxiliary driving lamps or combinations thereof on motor vehicles, other than motorcycles, shall be so arranged that the driver may control the selection between distributions of light projected to different elevations, subject to the following requirements and limitations:

a. There shall be an uppermost distribution of light, or composite beam, so aimed and of such intensity as to reveal persons and vehicles ahead at a distance of at least 500 feet for all conditions of loading.

b. There shall be a lowermost distribution of light so aimed and of sufficient

intensity to reveal persons and vehicles at a distance of at least 100 feet ahead, and, on a straight level road under any condition of loading, none of the high-intensity portion of the beam shall be directed to strike the eyes of an approaching driver.

7 M.P.T.L. ch. 3 § 29

§ 29. Use of Multiple-Beam Road-Lighting Equipment

Whenever a motor vehicle is being operated on a roadway or shoulder adjacent thereto during the times specified in 7 M.P.T.L. ch. 3, § 10(a), the driver shall use a distribution of light, or composite beam, directed high enough and of sufficient intensity to reveal persons and vehicles at a safe distance in advance of the vehicle, subject to the following requirements and limitations:

a. Whenever a driver of a vehicle approaches an oncoming vehicle within 500 feet, such driver shall use a distribution of light, or composite beam, so aimed that the glaring rays are not projected into the eyes of the oncoming driver. The lowermost distribution of light, or composite beam, specified in 7 M.P.T.L. ch. 3, § 28(b) shall be dimmed to avoid glare at all times, regardless of road contour and loading.

b. Whenever the driver of a vehicle approaches another vehicle from the rear, within 300 feet, such driver shall use a distribution of light permissible under 7 M.P.T.L. ch. 3, §§ 10-38, inclusive, other than the uppermost distribution of light specified in 7 M.P.T.L. ch. 3, § 28(a).

7 M.P.T.L. ch. 3 § 30

§ 30. Single-Beam Road-Lighting Equipment

Head lamps arranged to provide a single distribution of light not supplemented by auxiliary driving lamps shall be permitted on motor vehicles manufactured and sold prior to July 1, 1940, in lieu of the multiple-beam road-lighting equipment specified in 7 M.P.T.L. ch. 3, § 28, if the single distribution of light complies with the following requirements and limitations: (1) The head lamps shall be so aimed that, when the vehicle is not loaded, none of the high-intensity portion of the light shall, at a distance of 25 feet in advance of such vehicle, project higher than a level of five inches below the level of the center of the lamp from which it proceeds, and in no case higher than 42 inches above the level on which the vehicle stands, at a distance of 75 feet in advance of such vehicle; (2) the intensity shall be sufficient to reveal persons and vehicles at a distance of at least 200 feet in advance of such vehicle.

7 M.P.T.L. ch. 3 § 31

§ 31. Distance Forward Lights to Illuminate

When there is not sufficient light within the limits of the traveled portion of the highway to make all vehicles, persons or objects clearly visible within a distance of at least 500 feet, the forward lights which a motor vehicle, and the forward light which a motorcycle, are required to display shall, when any such motor vehicle or motorcycle is in motion, throw sufficient light ahead to show any person, vehicle or object upon the roadway straight ahead of such motor vehicle or motorcycle for a distance of at least 200 feet.

7 M.P.T.L. ch. 3 § 32

§ 32. Head Lamp of Motorcycle

The head lamp or head lamps upon every motorcycle may be of the single-beam or multiple-beam type but, in either event, shall comply with the requirements and limitations as follows:

a. Every such head lamp on a motorcycle shall be of sufficient intensity to reveal a person or vehicle at a distance of not less than 100 feet when the motorcycle is operated at any speed less than 25 miles per hour and at a distance of not less than 200 feet when the motorcycle is operated at a speed of 25 or more miles per hour, and at a distance of not less than 300 feet when the motorcycle is operated at a speed of 35 or more miles per hour.

b. If the motorcycle is equipped with a multiple-beam head lamp or head lamps, the upper beam shall meet the minimum requirements set forth above and shall not exceed the limitations set forth in 7 M.P.T.L. ch. 3, § 28(a), and the lowermost beam shall meet the requirements applicable to a lowermost distribution of light as set forth in subsection (b) of said section.

c. If the motorcycle is equipped with a single-beam lamp or lamps, such lamp or lamps shall be so aimed that, when the vehicle is loaded, none of the high-intensity portion of light, at a distance of 25 feet ahead, shall project higher than the level of the center of the lamp from which it comes.

7 M.P.T.L. ch. 3 § 33

§ 33. Number of Head Lamps. Number in Combination with Other Lamps

a. At all times specified in 7 M.P.T.L. ch. 3, § 10(a), at least two lighted lamps shall be displayed, one on each side at the front of every motor vehicle other than a motorcycle, except when such vehicle is parked subject to the regulations governing lights on parked vehicles.

b. Whenever a motor vehicle equipped with head lamps as herein required is also equipped with any auxiliary lamps or a spot lamp or any other lamp on the front thereof projecting a beam of intensity greater than 300 candlepower, not more than a total of four of any such lamps on the front of a vehicle shall be lighted at any one time when upon a highway.

7 M.P.T.L. ch. 3 § 34

§ 34. Intensity of Certain Lamps. Location of Red Light

a. During the times specified in 7 M.P.T.L. ch. 3, § 10(a), any lighted lamp or illuminating device upon a motor vehicle, other than head lamps, spot lamps, auxiliary lamps, flashing turn signals, emergency vehicle warning lamps and school bus warning lamps, which projects a beam of light of an intensity greater than 300 candlepower shall be so directed that no part of the high intensity portion of the beam will strike the level of the roadway on which the vehicle stands at a distance of more than 75 feet from the vehicle.

b. Except as required in 7 M.P.T.L. ch. 3, § 25, no person shall drive or move any vehicle or equipment upon any highway with any lamp or device thereon displaying a red light visible from directly in front of the center thereof.

7 M.P.T.L. ch. 3 § 35

§ 35. Standards and Specifications for Lamps for Snow-Removal and Highway Maintenance Equipment

a. Standards and specifications adopted by the Connecticut Commissioner of Motor Vehicles applicable to head lamps, clearance lamps, identification and other lamps on snow-removal and other highway maintenance and service equipment when operated on tribal highways in lieu of the lamps otherwise required on motor vehicles by 7 M.P.T.L. ch. 3, §§ 10-38, inclusive, are hereby adopted as tribal law. Such standards and specifications may permit the use of flashing lights for purposes of identification on snow-removal and other highway maintenance and service equipment when in service upon the highways.

b. No person shall operate any snow-removal or other highway maintenance and service equipment on any highway unless the lamps thereon comply with and are lighted when and as required by the standards and specifications adopted as provided in this Section.

7 M.P.T.L. ch. 3 § 36

§ 36. Regulation of Hazardous Lighting Equipment

Any regulations adopted by the Connecticut Commissioner of Motor Vehicle prohibiting the use on any motor vehicle operating on the highways of Connecticut of any lighting equipment which he determines to be hazardous to either the operator of the vehicle equipped with such lighting devices or to the operators of other vehicles encountering a vehicle so equipped, are hereby adopted as tribal law.

Each school bus, as defined in 7 M.P.T.L. ch. 7, § 53(a), used for the transportation of school children and each motor vehicle used to transport passengers for hire shall be equipped with a defrosting device, in good working order and adequate to prevent the accumulation of snow, ice, frost or

condensation on the windshield.

7 M.P.T.L. ch. 3 § 37

§ 37. Reserved

7 M.P.T.L. ch. 3 § 38

§ 38. Emergency Lighting or Reflecting Devices on Motor Vehicles Used to Transport Passengers for Hire and Motor Vehicles with Commercial Registration

There shall be carried on each motor vehicle used to transport passengers for hire whose capacity is in excess of seven passengers, each motor vehicle with a commercial registration and a manufacturer's rated capacity in excess of 2,000 pounds and each combination of tractor and trailer, when it is operated on any highway during the period from one-half hour after sunset to one-half hour before sunrise, flares, flaring candles, torches, lanterns or other lighting or light reflecting devices designed for emergency use, which shall be ready for immediate use. The operator of any such motor vehicle shall cause such emergency equipment to be kept lighted or in the case of light reflecting devices to be situated in such manner as to be visible for at least 200 feet in front and in the rear of such motor vehicle, during any period between one-half hour after sunset and one-half hour before sunrise when such motor vehicle has become stalled or is in such condition that it cannot be operated on the highway.

7 M.P.T.L. ch. 3 § 39

§ 39. Tires

Each vehicle operated upon any tribal highway or bridge shall be equipped with tires of rubber, or other elastic substance and the wheels shall be so constructed that no metal part of the wheel or tire may be in contact with the surface of the road at any time when such vehicle is in motion upon the highway, except such vehicle may be equipped with tires incorporating a metal nonskid device during the period from November 15 to April 13, inclusive. Nothing in this Section shall apply to authorized emergency vehicles, to road-making machinery in use in the repair or construction of highways or to a tractor used in agricultural pursuits when necessarily traversing a highway or bridge for the purpose of access to agricultural lands, or to a truck, tractor, trailer or semitrailer for which a permit has been granted by the Commissioner of Transportation of any state.

7 M.P.T.L. ch. 3 § 40

§ 40. Tires to be in Safe Operating Condition

No person shall operate a motor vehicle or trailer upon tribal highways unless

such motor vehicle or trailer is equipped with tires in safe operating condition. This Section shall not apply to farm vehicles, self-propelled combines, self-propelled corn and hay harvesting machines and tractors used exclusively for agricultural purposes. Any tribal police officer, at any time, upon reasonable cause to believe that the tires of a vehicle are unsafe or it is equipped with tires in violation of the provision of this Section, may require the operator of such vehicle to stop and submit the tires of such vehicle to an inspection. If the inspection discloses the vehicle to be in violation, the officer may issue a citation for such violation.

7 M.P.T.L. ch. 3 § 41

§ 41. Mirror. Motor Vehicles with Commercial Registration to Allow others to Pass

Each motor vehicle shall be equipped with a mirror attached to and so located and adjusted on such vehicle as to give the operator thereof a clear reflected view of the highway directly to the rear of or on a line parallel to the left side of the body of such motor vehicle. Any person operating a motor vehicle with a commercial registration so constructed or which may be so loaded that the operator is prevented from having a free and unobstructed view of the highway immediately to the rear and at the left side of the same shall, by means of such mirror, make frequent observations of the approach of vehicles from the rear. When operating at below the posted speed limits and when so approached or overtaken, the operator of such motor vehicle shall drive to the extreme right of the traveled way as promptly as safety will permit, giving the vehicle approaching from the rear opportunity to pass.

7 M.P.T.L. ch. 3 § 42

§ 42. Windshield. Obstruction of View

a. Each motor vehicle shall be equipped with a windshield of a type prescribed by 7 M.P.T.L. ch. 3, § 42, and a windshield cleaner or wiper in effective working order located directly in front of the operator while in use on the highway. The windshield shall be reasonably free of defects and accumulations, inside and out, of snow, ice, condensation and dirt. The provisions of this subsection shall not apply to a motorcycle, a vehicle designed by the manufacturer for nonhighway operation without a windshield or a vehicle without a windshield and displaying a "Farm" number plate.

b. No person shall operate a motor vehicle required to be equipped with such a windshield if the windshield is in a condition to interfere with an unobstructed view of the highway.

c. No article, device, sticker or ornament shall be attached or affixed to or hung on or in any motor vehicle in such a manner or location as to interfere with the operator's unobstructed view of the highway or to distract the attention of the operator.

§ 43. Definitions. Tinted or Reflectorized Windows. Obstruction of View Prohibited. Exceptions. Stickers Required. Penalty. Window Tinting Businesses. Regulations

a. As used in this Section, unless the context otherwise requires:

(1) "Light transmission" means the ratio of the amount of total light, expressed in percentages, which is allowed to pass through a product or material including the glazing to the amount of total light falling on the product or material and the glazing.

(2) "Luminous reflectance" means the ratio of the amount of total light, expressed in percentages, which is reflected outward by a product or material to the amount of total light falling on the product or material.

b. No person may operate any motor vehicle which has any object or material placed, displayed, installed, affixed or applied in or on such vehicle in a manner so as to obstruct or reduce the operator's clear and full view of the road through the front windshield or the side or rear windows, except as provided in subsection (c) of this Section. No person may place, install, affix or apply any transparent material on the front windshield or the side or rear windows of any motor vehicle if such material alters the color or reduces the light transmittance of such windshield or side or rear windows, except as provided in subsection (c) of this Section. Any person required for medical reasons to be shielded from direct rays of the sun or any person operating a motor vehicle belonging to such person or in which such person is a usual passenger shall be exempt from the provisions of this subsection. Any such exemption granted by the issuing state or jurisdiction must be made available to tribal police for inspection upon demand.

c. The provisions of subsection (b) of this Section shall not apply to:

(1) front side wing vents and windows which are not mirror-like in appearance and have a substance or material in conjunction with glazing material that has a total light transmission of not less than 35% plus or minus 3% and a luminous reflectance of 27% plus or minus 3%;

(2) rearview mirrors;

(3) adjustable nontransparent sun visors which are mounted forward of the side windows and are not attached to the glass;

(4) signs, stickers or other materials which are displayed in a seven-inch square in the lower corner of the windshield farthest removed from the driver or signs, stickers or other materials which are displayed in a five-inch square in the lower corner of the windshield nearest the driver;

(5) the right and left side windows behind the driver and the rearmost window which shall not be mirror-like in appearance, having a substance or material in

conjunction with glazing material that has a total light transmission of not less than 35% plus or minus 3% and a luminous reflectance of 21% to plus or minus 3%;

(6) the windows behind the driver on any truck, motor bus, trailer, mobile manufactured home, or multipurpose passenger vehicle, as defined in the Code of Federal Regulations, Title 49, Section 571.3, as amended from time to time, provided said vehicle is equipped with outside mirrors on the left and right-hand sides which are so located as to reflect to the driver a view of the highway for a distance of at least 200 feet to the rear of such motor vehicle;

(7) direction, destination or termination signs upon a passenger common carrier motor vehicle, provided the signs do not interfere with the driver's clear view of approaching traffic;

(8) rear window wiper motors;

(9) rear trunk lid handle or hinges;

(10) the rearmost window or windows, provided the motor vehicle is equipped with outside mirrors on the left and right-hand sides of the vehicle which are so located as to reflect to the driver a view of the highway for a distance of at least 200 feet to the rear of such motor vehicle;

(11) transparent material which is installed, affixed or applied to the topmost portion of the windshield, provided:

(a) the bottom edge of the material is at least 29 inches above the undepressed driver's seat when measured from a point five inches in front of the bottom of the backrest with the driver's seat in its rearmost and lowermost position with the vehicle on a level surface and

(b) the material is not red or amber in color; or

(12) any sticker or certificate required to be affixed or applied to any window pursuant to federal or state statute or any municipal or tribal law.

d. No person shall sell, offer for sale or deliver to tribal lands any motor vehicle having a windshield or any window which exceeds the standards relative to light transmission and luminous reflectance specified in this Section.

e. Any person who violates any provision of subsection (b) of this Section shall remove such object or material which obstructs his clear and full view of the road and report within 60 days to the tribal police department to present his vehicle for inspection and to demonstrate compliance with the provisions of this Section. If such person fails to report to the tribal police department and is cited for a subsequent violation of this Section, his vehicle shall be impounded after notice and opportunity for hearing.

The provisions of subsections (b) to (e), inclusive, shall not apply to any motor vehicle in livery service. The term "motor vehicle in livery service" means and includes every motor vehicle used by any person, association, limited

liability company or corporation which represents itself to be in the business of transporting passengers for hire, except

(1) any motor bus and any taxicab operated under a certificate of public convenience and necessity issued by the Department of Transportation of the state of origin,

(2) any school bus, as defined in 7 M.P.T.L. ch. 7, § 53, or student transportation vehicle, as defined in 7 M.P.T.L. ch. 7, § 1, when used for the transportation of children under the age of 21 years, and

(3) any school bus, as defined in 7 M.P.T.L. ch. 7, § 53, when used for the transportation of passengers

(a) by virtue of a contract with any public or private institution of higher education,

(b) pursuant to a contract for service to a special event held at a location or facility which is not open for business on a daily basis throughout the year, not to exceed a period of 10 days, or

(c) pursuant to a contract with a municipality for which the carrier provides school transportation service.

f. Each person, firm or corporation which engages in the business of tinting windows of motor vehicles and which performs such work from a mobile facility shall provide a written statement to the purchaser which shall state the permissible standards relative to light transmission and luminous reflectance specified in this Section and the penalties for a violation of this Section.

7 M.P.T.L. ch. 3 § 44

§ 44. Seat Safety Belts. Child Restraint Systems

a. (1) The operator of and any front seat passenger in a private passenger motor vehicle, fire fighting apparatus or a vanpool vehicle equipped with seat safety belts complying with the provisions of the Code of Federal Regulations, Title 49, Section 571.209, as amended from time to time, shall wear such seat safety belt while the vehicle is being operated on tribal highways except that a child under the age of four years shall be restrained as provided in subsection (b) of this Section. Each operator of such vehicle shall secure or cause to be secured in a seat safety belt any passenger four years of age or older and under 16 years of age.

(2) The provisions of subsection (a)(1) of this subsection shall not apply to any person whose physical disability or impairment would prevent restraint in such safety belt, provided such person obtains a written statement from a licensed physician containing reasons for such person's inability to wear such safety belt and including information concerning the nature and extent of such condition. Such person shall carry the statement on his person or in the motor vehicle at all times when it is being operated.

(3) As used in this subsection, "private passenger motor vehicle" does not mean an authorized emergency vehicle, other than fire fighting apparatus, responding to an emergency call or a motor vehicle operated

(a) by a rural letter carrier of the United States postal service while performing his official duties, or

(b) by a person engaged in the delivery of newspapers.

(4) Failure to wear a seat safety belt may be considered as contributory negligence and such failure may be admissible evidence in any civil action in tribal court.

(5) For purposes of this Section "Private passenger motor vehicle" means a:

(a) private passenger type automobile;

(b) station-wagon-type automobile;

(c) camper-type motor vehicle;

(d) high-mileage-type motor vehicle;

(e) truck-type motor vehicle with a load capacity of 1,500 pounds or less, registered as a passenger motor vehicle, as defined in said Section, or as a passenger and commercial motor vehicle, as defined in said Section, or used for farming purposes; or

(f) a vehicle with a commercial registration. It does not include a motorcycle or motor vehicle used as a public or livery conveyance.

b. Any person who transports a child under the age of four years, weighing less than 40 pounds, in a motor vehicle on the tribal highways shall provide and require the child to use a child restraint system approved pursuant to regulations adopted by any state. Any person who transports a child under the age of four years, weighing 40 or more pounds, in a motor vehicle on the tribal highways shall either provide and require the child to use an approved child restraint system or require the child to use a seat safety belt. As used in this subsection, "motor vehicle" does not mean a bus having a tonnage rating of one ton or more. Failure to use a child restraint system shall not be considered as contributory negligence nor shall such failure be admissible evidence in any civil action in tribal or state court.

7 M.P.T.L. ch. 3 § 45

§ 45. Air Pollution Control Devices Required on Certain Passenger Motor Vehicles

All passenger motor vehicle designated as a 1968 or later model shall be equipped with an effective air pollution control device which complies with the

air pollution control statutes of the state wherein they are registered.

7 M.P.T.L. ch. 3 § 46

§ 46. Turn Signals

No person may operate on any tribal highway any motor vehicle so constructed or so loaded that the operator is unable to clearly indicate by hand signals to both approaching and following traffic his intention of stopping or turning, unless such motor vehicle is equipped with a turn signal or signaling device, or fails to cause such turn signal or device to be maintained, at all times, in good and sufficient working order, or fails to use the same when making any stop or turn, or the owner of any such motor vehicle who allows it to be so operated.

7 M.P.T.L. ch. 3 § 47

§ 47. View In and Exits from Motor Vehicles used to Transport Passengers for Hire

The passenger compartment in any motor vehicle used to transport passengers for hire shall, if enclosed or partly enclosed, be so constructed as to give an unobstructed view of the interior of the same from any point within such vehicle. Each such motor vehicle of a seating capacity of more than seven shall have exits on more than one side thereof.

7 M.P.T.L. ch.3 § 48

§ 48. Vehicles using any Pressurized Gas as Fuel. Regulations. Class C Misdemeanor

No motor vehicle which uses any pressurized gas except natural gas as a fuel for its engine may enter or be parked in any area that is under grade level. Any vehicle within the state which carries any pressurized gas as its fuel in a tank attached to the vehicle in any concealed area, including but not limited to, trunks, compartments or under such vehicle shall have displayed on its exterior the words "Pressurized Flammable Gas" or a standard abbreviation or symbol as determined by the Fire Chief of the Mashantucket Pequot Tribal Nation fire department, in block letters at least two inches high, which letters shall be of contrasting colors and shall be placed as near as possible to the area where the tank is located. No person may dispense any pressurized gas used as a vehicle fuel into any tank in a concealed area of a vehicle unless the vehicle is in compliance with the requirements of this subsection.

7 M.P.T.L. ch. 3 § 49

§ 49. Headerboards Required on Commercial Van-Type Motor Vehicles

No commercial van-type motor vehicle manufactured after January 1, 1975 shall be operated within tribal lands unless equipped with headerboards or similar devices of sufficient strength to prevent load shifting and penetration or crushing of the driver's compartment. Such headerboards or similar devices shall conform to the requirements of such devices set forth in the Motor Carrier Safety Regulations of the U.S. Department of Transportation, Federal Highway Administration.

CHAPTER 4. JURISDICTION AND PROCEDURE

7 M.P.T.L. ch. 4 § 1

§ 1. Liability of Owner, Operator, Lessee. Implied Consent

Any person who operates a motor vehicle on tribal highways shall be deemed to have given his consent to be subject to the jurisdiction and laws of the Mashantucket Pequot Tribal Nation. The owner, operator or lessee of any motor vehicle may be prosecuted jointly or individually for violation of any provision of this 7 M.P.T.L. Traffic Safety Code. Whenever there occurs a violation any parking or other non-moving violation of this 7 M.P.T.L. Traffic Safety Code, proof of the registration number of any motor vehicle therein concerned shall be prima facie evidence that the owner was the operator thereof, except in the case of a leased or rented motor vehicle, such proof shall be prima facie evidence in any action that the lessee was the operator thereof.

7 M.P.T.L. ch. 4 § 2

§ 2. Tickets, Summonses and Fine Schedule. Form, Special Parking Permits

a. Notwithstanding the provisions of any other tribal laws, the Public Safety Committee shall prescribe the form and content of parking tickets, summonses and the fine schedule for motor vehicle violations.

b. The Public Safety Committee shall have authority, without further Council action to modify the items set forth in subsection (a) of this Section.

7 M.P.T.L. ch. 4 § 3

§ 3. Uniform Investigation of Accident Report

a. The Public Safety Committee shall prescribe for the tribal police and other suitable agencies or individuals a uniform investigation of accident report, which form shall be followed in filing all such reports.

b. In each motor vehicle accident in which any person is killed or injured or in which damage to the property of any one individual, including the operator,

in excess of 1,000 dollars is sustained, the tribal police officer, agency or individual who, in the regular course of duty, investigates such accident, either at the time of or at the scene of the accident or thereafter, by interviewing the participants or witnesses, shall, within five days after completing such investigation, complete such report. Such report shall call for and contain all available detailed information to disclose the location and cause of the accident, the conditions then existing, the persons and vehicles involved and the names of the insurance companies issuing their automobile liability policies, as well as the enforcement action taken. Upon the request of the Commissioner of Transportation or Commissioner of Motor Vehicles of the state of origin of any vehicle, tribal police shall forward one copy of each report of

- (1) any accident in which any person is killed or
- (2) any accident involving a school bus or public service motor vehicle.

7 M.P.T.L. ch. 4 § 4

§ 4. Suspension or Revocation of Privilege to Operate

a. Suspension of right to operate. The tribal court, in addition to whatever penalty is applied pursuant to the Fine Schedule may restrict or suspend a driver's right to operate upon tribal highways as provided in this Law. The imposition of a fine and a suspension or restriction shall not prevent the award of damages in a separate civil action against the same driver or owner and arising from the same event. To be considered a subsequent violation the date of the most recent violation shall have occurred within two calendar years of any prior conviction.

b. Notice of revocation or suspension. Notice of the revocation or suspension of any right to operate upon tribal highways shall be transmitted forthwith by the tribal court to the driver, to the chief of tribal police and the tribal prosecutor.

7 M.P.T.L. ch. 4 § 5

§ 5. Possession of Controlled Substances or Alcoholic Liquors in Motor Vehicles

a. As used in this Section "Alcohol" means the product of distillation of any fermented liquid, rectified either once or more often, whatever may be the origin thereof, and includes synthetic ethyl alcohol which is considered nonpotable. As used in this Section "Beer" means any beverage obtained by the alcoholic fermentation of an infusion or decoction of barley, malt and hops in drinking water. As used in this Section "Spirits" means any beverage that contains alcohol obtained by distillation mixed with drinkable water and other substances in solution, including brandy, rum, whiskey and gin. As used in this Section "Wine" means any alcoholic beverage obtained by the fermentation of the natural sugar content of fruits, such as grapes or apples or other

agricultural products, containing sugar, including fortified wines such as port, sherry and champagne.

b. As used in this Section "alcoholic liquor" or "alcoholic beverage" includes the four varieties of liquor defined in this Section:

(1) alcohol,

(2) beer,

(3) spirits,

(4) wine and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer and capable of being consumed by a human being for beverage purposes.

Any liquid or solid containing more than one of the four varieties so defined is considered as belonging to that variety which has the higher percentage of alcohol, according to the following order: alcohol, spirits, wine and beer, except as provided in subsection (19) of this Section. The provisions of this chapter shall not apply to any liquid or solid containing less than 1.5% of alcohol by volume.

c. As used in this Section, "Controlled Substances" or "Drug" means any substance listed pursuant to 21 U.S.C. § 812.

d. Any person under the legal drinking age of 21 who is operating a motor vehicle, unless accompanied by his parent or guardian, in which a tribal police officer finds an open container of alcoholic liquor or a controlled substance, may be summoned by such officer to appear at a hearing before the tribal court, to show cause why his right to operate a motor vehicle on tribal highways should not be restricted or suspended. Persons found guilty of operating a motor vehicle containing an open container or a controlled substance shall, in addition to any penalty provided by the Fine Schedule developed by the Mashantucket Pequot Tribal Court, have their right to operate a motor vehicle on a tribal highway restricted or suspended for a minimum of 90 days and a maximum of one year upon a first offense. Upon a second conviction within any two year time period (commencing upon the date of the first conviction) the operator shall, in addition to the penalty provided by the Fine Schedule developed by the Mashantucket Pequot Tribal Court, shall have their right to operate a motor vehicle on a tribal highway suspended for a minimum of six months or a maximum of one year. Upon a third conviction within any two year time period, as defined in this Section, the operator shall, in addition to the penalty provided by the Fine Schedule developed by the Mashantucket Pequot Tribal Court, have their right to operate a motor vehicle on a tribal highway suspended for a minimum of one year and a maximum of three years. Upon a fourth conviction within any two year time period the operator shall, in addition to the penalty provided by the Fine Schedule developed by the Mashantucket Pequot Tribal Court, shall have their right to operate a motor vehicle on a tribal highway permanently revoked.

§ 6. Suspension of Privilege to Operate Following Conviction for Speeding

a. The tribal court may restrict, suspend or revoke a right to operate a motor vehicle on tribal highways as provided in this 7 M.P.T.L. Traffic Safety Code.

Nothing in this Section or any other section of this 7 M.P.T.L. Traffic Safety Code which imposes a penalty for a traffic violation shall prevent the award of damages as a result of a separate civil action in either tribal or state court.

b. The court shall notify the tribal prosecutor and the chief of tribal police and suspension or revocation of the right to operate a motor vehicle on tribal highways shall be effective from the date of the order of the court.

7 M.P.T.L. ch. 4 § 7

§ 7. Impounded and Immobilized Motor Vehicles

a. Any motor vehicle found at any time upon any tribal highway, against which the maximum penalty provided by the Fine Schedule has been reached may, by or under the direction of a tribal police officer, either by towing or otherwise, be removed or conveyed to and impounded in any place designated by the chief of the tribal police or immobilized in such a manner as to prevent its operation ("booted"); provided, that no such vehicle shall be immobilized by any means other than by the use of a device or other mechanism which will cause no damage to such vehicle unless it is moved while such device or mechanism is in place.

b. It shall be the duty of the tribal police officer, removing or immobilizing such motor vehicle, or under whose direction such vehicle is removed or immobilized, to inform as soon as practicable the owner of the vehicle of the nature and circumstances of the outstanding traffic violations, for which such vehicle was impounded or immobilized. In any case involving immobilization of a vehicle pursuant to this subsection, the tribal police shall cause to be placed in a conspicuous place on such vehicle, notice sufficient to warn any individual that said vehicle has been immobilized and that any attempt to move such vehicle may result in damage to said vehicle.

c. The owner, or his duly authorized representative, shall be permitted to reclaim or to secure the release of said vehicle only by first depositing with the tribal court clerk, the amount of the potential fines and penalties for any and all outstanding traffic violation.

d. In addition to any and all potential fines and penalties for each outstanding traffic violation or infraction, the owner of an immobilized vehicle shall be subject to a "booting" fee of \$50. The owner of an impounded vehicle shall be subject to a towing fee of \$75, plus a per diem fee for storage. In the event that the size and weight of the vehicle to be impounded necessitate using an outside contractor or special equipment to tow said vehicle, the owner shall be subject to a towing fee of \$175 plus a per diem storage fee. No vehicle shall be released from an impoundment lot unless proof

is shown that all court fines and penalties have been paid.

7 M.P.T.L. ch. 4 § 8

§ 8. Violation of Prohibition to Operate Motor Vehicle

Any person who is found operating a motor vehicle on tribal highways in violation of a tribal court order prohibiting or restricting the right to operate a motor vehicle on tribal roads, in addition to any other penalty provided by law, may have his vehicle booted and or towed to another location and retained by the tribal police for a period of time not to exceed 30 days.

CHAPTER 5. GENERAL PROVISIONS

7 M.P.T.L. ch. 5 § 1

§ 1. Towing or Removal of Motor Vehicle from Private or Tribal Property

a. An owner or lessee of private or tribal property, or his agent, may remove or cause to be removed any motor vehicle left without authorization on such property in accordance with the provisions of this Section and 7 M.P.T.L. ch. 5, §§ 2-4, inclusive. This Section shall not apply to law enforcement, fire-fighting, rescue, ambulance or emergency vehicles which are marked as such, or to the removal of motor vehicles from property leased by any governmental agency.

b. When such motor vehicle is towed or otherwise removed by a wrecker, the licensee or operator of the wrecker shall notify the tribal police department of the tow or removal within 24 hours. No such licensee or operator may charge a storage fee for such motor vehicle for the time it is stored prior to such notification. If the motor vehicle is not claimed by its owner within the time periods specified in 7 M.P.T.L. ch. 5, § 10(e), the licensee or operator of the wrecker or of the garage where such motor vehicle is stored may dispose of it in accordance with the provisions of 7 M.P.T.L. ch. 5, § 10(e).

7 M.P.T.L. ch. 5 § 2

§ 2. Express Instruction of Property Owner or Lessee Required for Towing or Removal of Motor Vehicle. Rebate Prohibited

a. No vehicle shall be towed or removed from private or tribal property except upon express instruction of the owner or lessee, or his agent, of the property upon which the vehicle is trespassing. Nothing in this subsection shall be construed to limit the right of tribal police to remove an abandoned motor vehicle in accordance with the provisions of 7 M.P.T.L. ch. 5, § 10.

b. No person or firm which tows or removes a motor vehicle from private property shall rebate or pay any money or other valuable consideration to the

owner or lessee, or his agent, of the property from which the vehicle is towed or removed for the privilege of towing or removing that vehicle.

7 M.P.T.L. ch. 5 § 3

§ 3. Storage and Release of Towed Motor Vehicles

a. Any vehicle towed or removed from private property pursuant to 7 M.P.T.L. ch. 5, §§ 1-4, inclusive, shall be stored at the site located on the tribal lands and designated by the chief of tribal police. The site shall be open during the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, and be reasonably available on Saturday, Sunday and holidays, for the purpose of vehicle redemption.

b. When a vehicle has been towed or removed pursuant to 7 M.P.T.L. ch. 5, §§ 1-4, inclusive, it shall be released to its owner, or a person authorized by the owner to regain possession, upon demand, provided the demand is made between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday or at a reasonable time on Saturday, Sunday or holidays and the owner or authorized person presents proof of registration, pays the costs of towing or removal and of storage, or signs a declaratory statement that the towed or removed vehicle was taken illegally. Any vehicle owner, or agent of the owner, shall have the right to inspect the vehicle before accepting its return, and no general release of any kind which would release the person or firm towing or removing or storing the vehicle from liability for damages may be required from any vehicle owner, or his agent, as a condition of release of the vehicle. A receipt showing the name of the person or firm towing or removing the vehicle and an itemization of the charges shall be provided to the person paying the towing or removal and storage costs at the time of payment.

7 M.P.T.L. ch. 5 § 4

§ 4. Liability of Property Owner or Lessee for Improper Towing or Removal of Motor Vehicle

Whenever an owner or lessee of private property, or his agent, improperly causes a motor vehicle to be towed or removed from such property, the owner or lessee of the property shall be liable to the owner of the vehicle for the costs of towing or removal and of storage of the vehicle and for reasonable attorney's fees and court costs, if applicable.

7 M.P.T.L. ch. 5 § 5

§ 5. Objects Not to be Thrown at Motor Vehicles

No person shall throw any object at a motor vehicle or at a person in such motor vehicle or on any highway, which may cause injury to such vehicle or the tires thereon or to any person therein.

7 M.P.T.L. ch. 5 § 6

§ 6. Improper Use of Marker, Registration, License or Parking Pass

a. Any person who counterfeits any number plate, marker or parking pass, or makes any substitute or temporary marker except as provided in 7 M.P.T.L. ch. 1, § 7, or who counterfeits or in any manner alters any motor vehicle registration, operator's license or parking pass, and any person who gives, loans or sells any such counterfeited or altered number plate, marker, motor vehicle registration, operator's license or parking pass, shall be fined.

b. Any person who loans or sells any operator's license, for use by any person, or any marker or certificate of registration, for use on any car, shall be fined.

c. No person shall use any motor vehicle registration or operator's license other than the one issued to him, except as provided in 7 M.P.T.L. ch. 1, § 7; and no person shall use a motor vehicle registration on any motor vehicle other than that for which such registration has been issued.

7 M.P.T.L. ch. 5 § 7

§ 7. Theft of Number Plate or Insert

Any person who takes any motor vehicle number plate or sticker denoting the expiration date of the registration from such number plate or possesses such number plate or sticker without the permission of the person to whom such number plate or sticker was issued shall be fined.

7 M.P.T.L. ch. 5 § 8

§ 8. Abandoned Markers

a. Any person who has found, or has in his possession, any number plate or number plates, or identifying part thereof, currently in use, which plate or plates were not issued to him, shall immediately deliver the same to any officer.

b. Any officer may remove any number plate or number plates from any motor vehicle when such motor vehicle is apparently abandoned or when such number plate or number plates have been or are being used illegally and shall forward them to the commissioner of the state of origin with a statement of the reason for such removal.

7 M.P.T.L. ch. 5 § 9

§ 9. Discovery of Vehicle Reported as Stolen

Any tribal police officer, upon discovery of any motor vehicle which has been reported as stolen, shall take such motor vehicle into his custody and have it returned to its rightful owner or, if such owner cannot be determined or if such motor vehicle is needed for evidence, shall have it taken to and stored in a suitable place.

7 M.P.T.L. ch. 5 § 10

§ 10. Abandoned or Unregistered Motor Vehicles and Motor Vehicles which are a Menace to Traffic. Notice. Removal. Storage. Hearing. Lien. Sale

a. No person shall abandon any motor vehicle within the limits of any highway or tribal roads upon property other than his own without the consent of the owner thereof for a period longer than 24 hours. The last owner of record of a motor vehicle found abandoned, as shown by the files of the Department of Motor Vehicles, shall be deemed prima facie to have been the owner of such motor vehicle at the time it was abandoned and the person who abandoned the same or caused or procured its abandonment.

b. Any tribal police officer upon discovery of any motor vehicle, located within tribal lands, which is a menace to traffic or public health or safety, shall take such motor vehicle into his custody and cause the same to be taken to and stored in a suitable place.

c. Any tribal police officer, upon discovery of any motor vehicle apparently abandoned or a motor vehicle without proper registration, whether situated within or without any highway located within tribal lands, shall affix to such motor vehicle a notification sticker in a manner so as to be readily visible. This notification sticker shall contain the following information:

(1) the date and time the notification sticker was affixed to the motor vehicle;

(2) a statement that pursuant to this Section, if the motor vehicle is not removed within 24 hours of the time the sticker was affixed, it shall be taken into custody and stored at the owner's expense;

(3) the location and telephone number where additional information may be obtained; and

(4) the identity of the affixing officer.

If the motor vehicle is not removed within such 24 hour period, the affixing department shall take such motor vehicle into its custody and cause the same to be stored in a suitable place, except that such department shall make a reasonable attempt to notify the owner of any such motor vehicle which is determined to be stolen prior to taking such vehicle into its custody and shall allow such owner to make arrangements for removal of such vehicle.

d. If the motor vehicle has no registration marker plates or invalid registration marker plates, and if such inspector or officer makes a determination in good faith that:

(1) the motor vehicle is apparently abandoned,

(2) the market value of such motor vehicle in its current condition is \$100 or less, and

(3) the motor vehicle is so vandalized, damaged, or in disrepair as to be unusable as a motor vehicle.

Title to such motor vehicle shall, upon taking custody of such motor vehicle, immediately vest in the tribe.

Within 48 hours of the time that such motor vehicle is taken into custody, the affixing department shall notify the chairman of the Public Safety Committee, in writing, of the vehicle identification number and a description of the motor vehicle. Upon sale or other disposition of the motor vehicle, the affixing department shall give written notice by certified mail to the person who was the owner of such motor vehicle at the time of abandonment, if known, which notice shall state that the motor vehicle has been sold or otherwise disposed of. The proceeds of the sale or disposition, or the fair market value of the motor vehicle in its current condition, whichever is greater, less the towing and sale or disposal expenses and the amount of any fines due, shall be paid to such person or his representatives, if claimed by him or them within one year from the date of sale. If such balance is not claimed within such period, it shall escheat to the tribe. If the expenses incurred by the tribe for towing and the sale or disposition of such motor vehicle and any such fines exceed the proceeds of such sale or disposition, such person shall be liable to the tribe for such excess amount.

e. Within 48 hours of the time that a motor vehicle is taken into custody and stored pursuant to subsection (b) or (c) of this Section, the affixing department shall give written notice by certified mail to the owner of such motor vehicle, if known, which notice shall state:

(1) that the motor vehicle has been taken into custody and stored,

(2) the location of storage of the motor vehicle,

(3) that, unless title has already vested in the tribe pursuant to subsection (d), such motor vehicle may be sold after 15 days if the market value of such motor vehicle does not exceed \$500 or after 90 days if the value of such motor vehicle exceeds \$500, and

(4) that the owner has a right to contest the validity of such taking by application, on a form prescribed by the Public Safety Committee, within 10 days of the filing of the notice the tribal court shall schedule a hearing to determine whether or not the taking was valid. Whenever a vehicle is towed the registered owner of the vehicle shall be notified by mail by the tribal police of the date and time of the towing, the location of the vehicle and the owners

right to contest the validity of the towing.

f. Tribal public works or such other place where such motor vehicle is stored shall have a lien upon the same for storage charges. Unless title has already vested in the tribe pursuant to subsection (d), if the current market value of such motor vehicle as determined in good faith by such owner or keeper does not exceed \$500 and such motor vehicle has been stored for a period of not less than 15 days, such owner or keeper may, unless an application filed by the owner pursuant to subsection (d) of this Section is pending and the owner of such motor vehicle has notified such owner or keeper that such application for hearing has been filed, sell the same for storage and towing charges owed thereon, provided a notice of intent to sell shall be sent to the chairman of the Public Safety Committee and the owner of such motor vehicle, if known, five days before the sale of such vehicle. If the current market value of such motor vehicle as determined in good faith by such owner or keeper exceeds \$500 dollars and if such motor vehicle has been so stored for a period of 90 days, such owner or keeper shall, unless an application filed by the owner pursuant to subsection (d) of this Section is pending and the owner of such motor vehicle has notified such owner or keeper that such application for hearing has been filed, sell the same at public auction for cash, at his place of business, and apply the avails of such sale toward the payment of his charges and the payment of any debt or obligation incurred by the officer who placed the same in storage, provided such sale shall be advertised in *The Pequot Times* three times, commencing at least five days before such sale; and, if the last place of abode of the owner of such motor vehicle is known to or may be ascertained by such garage owner or keeper by the exercise of reasonable diligence, notice of the time and place of sale shall be given him by mailing such notice to him in a registered or certified letter, postage paid, at such last usual place of abode, at least five days before the time of sale.

g. The garage owner or keeper shall report the sales price, storing, towing and repair charges, if any; buyer's name and address; and identification of the vehicle, to the Public Safety Committee within 15 days after the sale of the motor vehicle. The proceeds of such sale, after deducting the amount due such garage owner or keeper and all expenses connected with such sale, including the expenses of the officer who placed such motor vehicle in storage, shall be paid to the owner of such motor vehicle or his legal representatives, if claimed by him or them at any time within one year from the date of such sale. If such balance is not claimed within said period, it shall escheat to the tribe.

h. If the owner of such motor vehicle placed in storage in accordance with the provisions of this Section does not claim such motor vehicle within 30 days, the owner of such garage or other place of storage shall, within 45 days of the date such motor vehicle was placed in storage with him, send a written notice to the Public Safety Committee, stating the make, engine number and chassis number of such motor vehicle, the date such motor vehicle was left with him for storage and by whom and the registration number thereof if any number plates are on such motor vehicle, which notice shall be placed on file by the Public Safety Committee and shall be subject to public inspection. The fee for filing such notice shall be \$5. Any sale under the provisions of this Section shall be void, unless the notice required by this Section has been given to the Public Safety Committee.

7 M.P.T.L. ch. 5 § 11

§ 11. Refund of Money Paid to Tribal Court

The comptroller, upon order of the tribal court, may draw his order on the treasurer of the Mashantucket Pequot Tribal Nation in favor of any person equitably entitled to the refund of any money paid to the tribal court for the amount of such refund.

7 M.P.T.L. ch. 5 § 12

§ 12. Driving on Ice

No person shall drive any motor vehicle on the frozen surface of any public body of water. The presence of any motor vehicle on any such frozen surface shall be prima evidence of a violation of this Section. This Section shall not apply to motor vehicles owned and being used by or being operated pursuant to a contract with governmental agencies or owned and being used by an educational institution.

CHAPTER 6. MOTOR VEHICLE ANTITHEFT ACT

7 M.P.T.L. ch. 6 § 1

§ 1. Definitions

Except when the context otherwise requires, as used in this Chapter:

- a. "Identification Number" means the numbers and letters, if any, on a vehicle designated by the commissioner of the state of origin for the purpose of identifying the vehicle.
- b. "Implement of Husbandry" means a vehicle registered as a farm vehicle or a vehicle designated and adapted exclusively for agricultural, horticultural or livestock-raising operations or for lifting or carrying an implement of husbandry.
- c. "Lienholder" means a person holding a security interest in a vehicle.
- d. "Owner" means a person, other than a lienholder, having the property in or title to a vehicle. The term includes a person entitled to the use and possession of a vehicle subject to a security interest in another person, but excludes a lessee under a lease not intended as security.
- e. "Security Agreement" means an agreement which creates or provides for a security interest.

f. "Security Interest" means an interest in personal property or fixtures which secures payment or performance of an obligation. The retention or reservation of title by a seller of goods notwithstanding shipment or delivery to the buyer is limited in effect to a reservation of a "security interest." Whether a lease is intended as security is to be determined by the facts of each case; however,

(1) the inclusion of an option to purchase does not of itself make the lease one intended for security, and

(2) an agreement that upon compliance with the terms of the lease the lessee shall become or has the option to become the owner of the property for no additional consideration or for nominal consideration does make the lease one intended for security.

g. "State" means a state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico or a province of the Dominion of Canada.

h. "Vehicle" means a motor vehicle as defined by 7 M.P.T.L. ch. 1, § 1.

7 M.P.T.L. ch. 6 § 2

§ 2. Penalties

a. A person who, with fraudulent intent:

(1) alters, forges or counterfeits a certificate of title;

(2) alters or forges an assignment of a certificate of title, or an assignment or release of a security interest, on a certificate of title or other official document prescribed by the commissioner of the state of origin;

(3) has possession of or uses a certificate of title knowing it to have been altered, forged or counterfeited; or

b. A person who:

(1) with fraudulent intent, permits another, not entitled thereto, to use or have possession of a certificate of title;

(2) willfully fails to deliver to his transferee a certificate of title within 10 days after the time required by this chapter; or

(3) willfully violates any provision of this chapter, except as provided in subsection (a), shall be fined not less than \$500 and not more than \$1,000.

7 M.P.T.L. ch. 6 § 3

§ 3. Report of Stolen, Recovered, Unclaimed or Abandoned Vehicle

a. A tribal police officer, who learns of the theft of a vehicle not since recovered, or of the recovery of a vehicle whose theft or conversion he knows or has reason to believe has been reported to the tribal police, shall forthwith report the theft or recovery to the chief of the tribal police and to the tribal prosecutor who shall use their best efforts to ensure that the vehicle is returned to the owner thereof.

b. An operator of a place of business in which there is stored an abandoned or unclaimed vehicle for a period of 30 days, shall, within five days after the expiration of that period, report the vehicle as unclaimed or abandoned to the tribal police. A vehicle left by its owner whose name and address are known to the operator or his employee is not considered unclaimed.

c. The chief of the tribal police shall maintain public records of stolen, converted, recovered, abandoned and unclaimed vehicles reported to them.

7 M.P.T.L. ch. 6 § 4

§ 4. False Report

A person who knowingly makes a false report of the theft or conversion of a vehicle to a tribal police officer shall be fined not less than \$100 and not more than \$500.

7 M.P.T.L. ch. 6 § 5

§ 5. Impeachment of Credibility of Defendant

In a prosecution for a crime specified in this Chapter, a certified copy of a conviction under § 2(a) of this Chapter, is admissible to impeach the credibility of the defendant.

CHAPTER 7. VEHICLE HIGHWAY USE

7 M.P.T.L. ch. 7 § 1

§ 1. Definitions

Terms used in this chapter shall be construed as follows, unless another construction is clearly apparent from the language or context in which the term is used or unless the construction is inconsistent with the manifest intention of the general assembly:

a. "Carrier" means

(1) any local or regional school district, any educational institution providing elementary or secondary education or any person, firm or corporation under contract to such district or institution engaged in the business of transporting school children or children in transit to the tribal Community Center, Child Advocacy Center or, the Child Development Center.

(2) any person, firm or corporation providing transportation for compensation exclusively to persons under the age of 21 years; or

(3) any corporation, institution or nonprofit organization providing transportation as an ancillary service primarily to persons under the age of 18 years.

b. "Curb" includes the boundary of the traveled portion of any tribal highway, whether or not the boundary is marked by a curbstone.

c. "Intersection" means the area embraced within the prolongation of the lateral curb lines of two or more highways which join one another at an angle, whether or not one of the highways crosses the other.

d. "Motor Vehicle" includes all vehicles used on the public highways.

e. "Parking Area" means lots, areas or other accommodations for the parking of motor vehicles off the tribal highways and open to public use with or without charge;

f. "Student Transportation Vehicle" means any motor vehicle other than a registered school bus used by a carrier for the transportation of students, including children requiring special education; and

g. "Vehicle" is synonymous with "motor vehicle".

As used in 7 M.P.T.L. ch. 7, §§ 10, 32, 47, 48 and 49:

h. "Converter Dolly" means an axle to which is attached a hook engaged to an eye at the rear of a trailer and normally used in conjunction with the last trailer of a commercial vehicle combination.

i. "Commercial Vehicle Combination" means a combination of vehicles consisting of a truck tractor and two trailers, with the length of each trailer being not more than 28 feet, exclusive of safety and energy conservation devices, such as rear view mirrors, turn signal lamps, marker lamps, steps and handholds for entry and egress, flexible fender extensions, mudflaps and splash and spray suppressant devices, load-induced tire bulge, refrigeration units, air compressors or air shields and other devices, which the secretary of the federal Department of Transportation may interpret as necessary for the safe and efficient operation of such vehicles, provided no such device has by its design or use the capability to carry cargo.

j. "Class 1 License" means a license designated class 1 by the Connecticut Commissioner of Motor Vehicles.

k. "Commercial Driver's License" or "CDL" means a license issued by a state which has enacted into law legislation in conformity with the Commercial Motor Vehicle Safety Act of 1986, Title 12, P.L. 99-570, which has been issued to an individual in accordance with the standards specified in the Code of Federal Regulations Title 49, Part 383, as amended, and which authorizes such individual to operate a class of commercial motor vehicle.

l. "CDL Equivalent License" means a license issued by a state which has not enacted into law legislation in conformity with the Commercial Motor Vehicle Safety Act of 1986, Title 12, P.L. 99-570, but which, in the judgment of the Connecticut Commissioner of Motor Vehicles, has been issued to an individual in accordance with standards no less stringent than those specified in the Code of Federal Regulations Title 49, Part 383, as amended, with respect to the knowledge, skills and driving record necessary for the individual to safely operate a commercial vehicle combination.

m. "Endorsement" means an authorization to the commercial driver's license required to permit the individual to operate a commercial vehicle combination pursuant to the Code of Federal Regulations Title 49, Section 383.93, as amended.

n. "Endorsed Commercial Driver's License" or "endorsed CDL" means a commercial driver's license as defined in subsection (j) of this Section with an endorsement as defined in subsection (m).

o. "Fullmount" means a combination of vehicles as defined in the Code of Federal Regulations Title 23, Part 658, as amended.

p. "Saddlemount" means a combination of vehicles as defined in the Code of Federal Regulations Title 23, Part 658, as amended.

q. "Dromedary Box" means a cargo-carrying container mounted on the frame of a tractor and located behind the cab.

7 M.P.T.L. ch. 7 § 2

§ 2. Fines Doubled for Moving Motor Vehicle Violations Committed within Highway Construction Zones. Signs

a. The tribal court shall impose an additional fee equivalent to 100% of the fine established or imposed for the violation of the provisions of 7 M.P.T.L. ch. 7, §§ 3, 4, 5, 6, 7, 9, 10, 12, 13, 14, 15, 16, 17, 19, 25, 26, 27, 28, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 47, 50, 52, 58, 60, 7 M.P.T.L. ch. 7, §§ 62(e) or (g), 7 M.P.T.L. ch. 7, § 73 or 75, for any such violation committed while construction work is ongoing within a highway construction zone designated in a conspicuous manner by the Public Safety Committee, the tribal Public Works Department or the Planning Department.

b. The departments and committees as provided in section (a) herein shall cause or otherwise permit the posting of a sign (1) at the beginning of a highway construction zone which shall read as follows: "ROAD WORK AHEAD FINES DOUBLED"

and (2) at the end of such zone which shall read as follows: "END ROAD WORK".

The tribe or any agency or employee of the tribe shall not be civilly liable for any injuries or damages to any person or property which may result, either directly or indirectly, from failure on the part of the said departments or committees to post any sign required under subsection (b) of this Section.

7 M.P.T.L. ch. 7 § 3

§ 3. Operation Without Carrying Operator's License

Each operator of a motor vehicle shall carry his operator's license while operating such vehicle.

7 M.P.T.L. ch. 7 § 4

§ 4. Operation Prohibited when Insurance Coverage Fails to Meet Minimum Requirements. Penalty

No owner of any private passenger motor vehicle or a vehicle with a combination or commercial registration, as defined in 7 M.P.T.L. ch. 1, § 1, registered or required to be registered in their state of origin may operate or permit the operation of such vehicle without the security required by their state of origin or with security insufficient to meet the minimum requirements set forth by their state of origin. Failure of the operator to produce an insurance identification card as required by 7 M.P.T.L. ch. 7, § 8, shall constitute prima facie evidence that the owner has not maintained the security required by this Section.

7 M.P.T.L. ch. 7 § 5

§ 5. Instruction of Person who Holds a Motor Vehicle Learner's Permit

Any licensed operator, being 20 years of age or older and having had an operator's license to operate a motor vehicle of the same class as the motor vehicle being operated for at least four years preceding the date of such instruction, may instruct a person 16 or 17 years of age who holds a learner's permit issued by the state of Connecticut, or a person who is 18 years of age or older, in the operation of a motor vehicle. Any person so instructing another in the use of any motor vehicle shall be responsible for the operation thereof.

7 M.P.T.L. ch. 7 § 6

§ 6. Operation while Registration or License is Suspended or Revoked

a. No person to whom an operator's license has been suspended or revoked by the appropriate authority of any state or by the tribal court shall operate any

motor vehicle during the period of such refusal, suspension or revocation. No person shall operate or cause to be operated any motor vehicle, the registration of which has been suspended or revoked, or any motor vehicle, the right to operate which has been suspended or revoked.

b. Any person who operates any motor vehicle during the period his operator's license or right to operate a motor vehicle on tribal lands is under suspension or revocation on account of a violation of 7 M.P.T.L. ch. 7, § 19(a) or 7 M.P.T.L. ch. 7, § 20, shall be fined not less than \$500 nor more than \$1,000.

c. In addition to the fine as provided herein, such person shall have his right to operate on tribal highways immediately suspended for a period of not less than one year and not more than three years.

7 M.P.T.L. ch. 7 § 7

§ 7. Operation by Persons under Eighteen without Insurance

No person under the age of 18 years shall operate any motor vehicle upon the tribal highways, and no person shall cause or permit such operation of any motor vehicle by any such person, unless such motor vehicle has been insured for the amounts required by the state or jurisdiction where the motor vehicle is registered. This Section shall not apply to any motor vehicle bearing farm registration plates.

7 M.P.T.L. ch. 7 § 8

§ 8. Operator to give Name and Address and Show or Surrender License, Registration and Insurance Identification Card when Requested

Any person who is operating or in charge of any motor vehicle, when requested by any tribal police officer shall produce his drivers license and the registration of the vehicle he is operating. Any person who is involved in an accident which involves a motor vehicle he is operating or in charge of is concerned, when requested by any other person shall give his name and address or the name and address of the owner of the motor vehicle. No person involved in an accident may give a false name or address, or refuse, on demand of a tribal police officer, or other person, to produce his motor vehicle registration certificate, operator's license and any automobile insurance identification card for the vehicle or to permit such tribal police officer, or such other person to take the operator's license, registration certificate and any such insurance identification card in hand for the purpose of examination, or refuse, nor shall any person, on demand of such officer, or such other person, refuse to sign his name in the presence of such officer, agent or such other person. No person may refuse to surrender his license to operate motor vehicles or the certificate of registration of any motor vehicle operated or owned by him or such insurance identification card or fail to produce his license when requested by a court. Violation of any provision of this Section shall be subject to the Fine Schedule. No person shall be in violation of this Section if they are physically incapable, due solely to an injury resulting

from the accident, of producing a license, registration or insurance card provided that the said information is provided at the first reasonable opportunity.

7 M.P.T.L. ch. 7 § 9

§ 9. Traveling Unreasonably Fast

a. No person shall operate a motor vehicle upon any tribal highway, or road, or on any parking area as defined in 7 M.P.T.L. ch. 7, § 1, or upon a private road on which a speed limit has been established in accordance with this subsection, or upon any school property or on property where school-age children and or infants are cared for, at a rate of speed greater than is reasonable, having regard to the width, traffic and use of highway, road or parking area, the intersection of streets and weather conditions. The Public Safety Committee shall have sole and exclusive authority to determine speed limits which are reasonable and safe on any tribal highway, bridge or parkway built or maintained by the tribe, and differing limits may be established for different types of vehicles, and shall have sole and exclusive authority to erect or cause to be erected signs indicating such speed limits.

b. Any person who operates a motor vehicle at a greater rate of speed than is reasonable, other than speeding, as provided for in 7 M.P.T.L. ch. 7, § 10, shall be guilty of traveling unreasonably fast.

c. In addition to the penalty imposed by the Fine Schedule, any person found to be in violation of this Section shall have their right to operate a motor vehicle on a tribal highway restricted or suspended for a period of not less than 30 days and not more than 90 days, for a subsequent violation thereof, for a period of not less than six months and not more than one year.

7 M.P.T.L. ch. 7 § 10

§ 10. Speeding

a. No person shall operate any motor vehicle

(1) upon any highway, road or any parking area, at such a rate of speed as to endanger the life of any occupant of such motor vehicle; or

(2) at a rate of speed greater than the posted speed limit.

b. In addition to the penalty imposed by the Fine Schedule, any person found to be in violation of this Section shall have their right to operate a motor vehicle on a tribal highway restricted or suspended for a period of not less than 30 days and not more than 90 days. For a subsequent violation thereof, for a period of not less than six months and not more than one year.

c. No person shall be subject to prosecution for a violation of both subsection (a) of this Section and 7 M.P.T.L. ch. 67, § 13(a), because of the same

offense.

7 M.P.T.L. ch. 7 § 11

§ 11. Use of Speed Monitoring Devices to Support a Conviction

A prima facie presumption of accuracy sufficient to support a conviction under 7 M.P.T.L. ch. 7, § 10, will be accorded to a radar, speed monitoring laser, vascar device or any other speed monitoring device only upon testimony by a tribal police officer that:

- a. the tribal police officer operating the radar, laser, vascar device or other device has adequate training and experience in its operation;
- b. the radar, laser, vascar device or other device was in proper working condition at the time of the arrest, established by proof that suggested methods of testing the proper functioning of the device were followed;
- c. the radar, laser, vascar device or other device was used in an area where road conditions provide a minimum possibility of distortion;
- d. if moving radar was used, the speed of the patrol car was verified; and
- e. the radar, laser, vascar device or other device was expertly tested within a reasonable time following the arrest, and such testing was done by means which do not rely on the internal calibrations of such radar, laser, vascar device or other device.

7 M.P.T.L. ch. 7 § 12

§ 12. Slow Speed

a. No person shall operate a motor vehicle at such a slow speed as to impede or block the normal and reasonable movement of traffic except, in either case, when reduced speed is necessary for safe operation or in an emergency, or in compliance with the law or the direction of an officer. The provisions of this Section shall not apply to:

(1) maintenance vehicles or equipment of the tribe or any tribal highway department, or to such vehicles or equipment of a contractor under contract with any such department while engaged in maintenance operations; or to any such vehicle which while traveling on any other highway is being driven at such a slow speed as to obstruct or endanger following traffic, provided the operator thereof employs flashing lights on such motor vehicle.

b. In addition to the penalty imposed by the Fine Schedule, any person found to be in violation of this Section for a second time in a two year time period shall have their right to operate a motor vehicle on a tribal highway restricted or suspended for a period of not less than 30 days and not more than 90 days, for a subsequent violation thereof the right to operate a motor

vehicle on a tribal highway shall be suspended for a period of six months.

7 M.P.T.L. ch. 7 § 13

§ 13. Reckless Driving

a. No person shall operate any motor vehicle upon tribal highways on which a speed limit has been established in accordance with the provisions of 7 M.P.T.L. ch. 7, § 9, or upon any school or tribal day care property recklessly, having regard to the width, traffic and use of such road, school property or parking area, the intersection of streets and the weather conditions. The operation of a motor vehicle upon any such road or parking area at such a rate of speed as to endanger the life of any person other than the operator of such motor vehicle, or the operation knowingly of a motor vehicle with defective mechanism, shall constitute a violation of the provisions of this Section. The operation of a motor vehicle upon any such road or at a rate of speed greater than 75 miles per hour shall constitute a violation of the provisions of this Section.

b. Any person who violates any provision of this Section shall be fined pursuant to the fine schedule and shall have their right to operate a motor vehicle on tribal highways restricted or suspended for a period of time not less than 30 days nor more than 90 days and, for a subsequent violation thereof, shall have their right to operate a motor vehicle on a tribal highway suspended for a period of not less than six months and not more than one year.

7 M.P.T.L. ch. 7 § 14

§ 14. Negligent Homicide with a Motor Vehicle

Any person who, in consequence of the negligent operation of a motor vehicle, causes the death of another person shall be fined not less than \$500 and not more than \$1,000. In addition to the said fine such person shall also have their right to operate a motor vehicle on tribal highways suspended for a period of not less than one year and not more than five years.

7 M.P.T.L. ch. 7 § 15

§ 15. Failure to Bring Motor Vehicle to Full Stop when Signaled. Disregard of Signal. Penalty

a. No person shall fail to promptly bring his motor vehicle to a full stop upon the signal of any tribal police officer in uniform or prominently displaying the badge of his office, or disobeys the direction of such officer with relation to the operation of his motor vehicle.

b. No person, when signaled to stop by an officer in a police vehicle using an audible signal device or flashing or revolving lights, shall increase his speed in an attempt to escape or elude such tribal police officer.

c. Any person who violates any provision of this Section shall be fined pursuant to the fine schedule and shall have their right to operate a motor vehicle on tribal highways restricted or suspended for a period of time not less than 30 days nor more than 90 days and, for a subsequent violation thereof, shall have their right to operate a motor vehicle on a tribal highway suspended for a period of not less than six months and not more than one year.

7 M.P.T.L. ch. 7 § 16

§ 16. Evasion of Responsibility in Operation of Motor Vehicles. Racing. Required Removal of Motor Vehicle from Traveled Portion of Highway

a. Each person operating a motor vehicle who is knowingly involved in an accident which causes serious physical injury, as defined in 2 M.P.T.L., to or results in the death of any other person shall at once stop and render such assistance as may be needed and such operator shall immediately report such death or serious physical injury of any person to a tribal police officer, a constable, a state police officer or an inspector of motor vehicles or at the nearest police precinct or station, and shall state in such report the location and circumstances of the accident causing the death or serious physical injury of any person and his name, address, operator's license number and registration number.

b. Each person operating a motor vehicle who is knowingly involved in an accident which causes physical injury, as defined in 2 M.P.T.L., to any other person or injury or damage to property shall at once stop and render such assistance as may be needed and such operator shall immediately report such physical injury of any person or injury or damage to property to a tribal police officer, a constable, a state police officer or an inspector of motor vehicles or at the nearest police precinct or station, and shall state in such report the location and circumstances of the accident causing the physical injury of any person or the injury or damage to property and his name, address, operator's license number and registration number.

c. No person shall operate a motor vehicle upon any public highway for a wager or for any race or for the purpose of making a speed record.

d. Each person operating a motor vehicle who is knowingly involved in an accident on a public highway which causes damage to property only shall immediately move or cause his motor vehicle to be moved from the traveled portion of the highway to an untraveled area which is adjacent to the accident site if it is possible to move the motor vehicle without risk of further damage to property or injury to any person.

e. Any person who violates any provision of this Section shall be fined \$1,000 and shall have their right to operate a motor vehicle on tribal highways restricted or suspended for a period of time not less than six months nor more than one year and, for a subsequent violation thereof, shall be fined \$1,000 and have their right to operate a motor vehicle on a tribal highway suspended for a period of not less than one year nor more than three years.

§ 17. Evading Responsibility in Operation of Other Vehicles

a. Any person riding on, propelling, driving or directing any vehicle, except a motor vehicle, on a tribal highway or on any school or day care property, or on property where school-age children and or infants are cared for, who has knowledge of having caused injury to the person or property of another and neglects, at the time of the injury, to stop and ascertain the extent of the injury and to render assistance, or refuses to give his name and address, or gives a false name or address when the same is asked for by the person injured or by any other person in his behalf or by a tribal police officer, sheriff, deputy sheriff, motor vehicle inspector or constable, shall be fined not less than \$500 and not more than \$1,000.

b. In addition to the fine provided in subsection (a), any person who violates any provision of this Section shall have their right to operate a motor vehicle on tribal highways suspended for a period of time not less than one year nor more than five years and, for a subsequent violation thereof, shall have their right to operate a motor vehicle on a tribal highway suspended for a period of not less than five years.

§ 18. Operator to Report Injury to Dog

Any person who has knowledge of causing, by the operation of a motor vehicle, injury or death to a dog shall at once stop and render such assistance as may be possible, shall immediately report such injury or death to such dog's owner or such owner's representative and shall give his name, address and operator's license and registration numbers to such owner or representative or any witness or tribal police officer. If unable to ascertain and locate such owner or representative, such operator shall, at once, report the injury or death to a tribal police officer, or the tribal animal control officer, to whom he shall give the location of such accident and a description of the dog. No operator shall be convicted under the provisions of 7 M.P.T.L. ch. 7, § 16(b), when such operator has caused injury or death to a dog.

§ 19. Operation While under the Influence of Liquor or Drugs or while Impaired by Liquor

a. Operation while under the influence. No person shall operate a motor vehicle while under the influence of intoxicating liquor or any controlled substance or both. A person commits the offense of operating a motor vehicle while under the influence of intoxicating liquor or any controlled substance or both if he operates a motor vehicle within the exterior boundaries of tribal

lands on a tribal highway, or in any parking area or on any day care or school property or on property where school-age children and or infants are cared for:

(1) while under the influence of intoxicating liquor or any controlled substance or both, or

(2) while the ratio of alcohol in the blood of such person is ten-hundredths of 1% or more of alcohol, by weight.

b. Operation while impaired. No person shall operate a motor vehicle within the exterior boundaries of tribal lands on a tribal highway, or in any parking area or on any day care or school property or on property where school-age children and or infants are cared for while his ability to operate such motor vehicle is impaired by the consumption of intoxicating liquor or a controlled substance. A person shall be deemed impaired when at the time of the alleged offense the ratio of alcohol in the blood of such person was more than seven-hundredths of 1% of alcohol, by weight, but less than .010 of 1% of alcohol, by weight. A tribal police officer may detain any person suspected of operating a motor vehicle while impaired by the consumption of intoxicating liquor or while under the influence of any controlled substance. A tribal police officer may call in a member of the Connecticut state police to arrest any person so detained for prosecution in a state court and shall supply any evidence seized as a part of the detention and such tribal police officer shall cooperate in any subsequent state proceeding.

c. Admissibility of chemical analysis. Except as provided in subsection (d) of this Section, in any prosecution for violation of subsection (a) or (b) of this Section, evidence respecting the amount of alcohol or drug in the defendant's blood or urine at the time of the alleged offense, as shown by a chemical analysis of the defendant's breath, blood or urine shall be admissible and competent provided:

(1) the defendant was afforded a reasonable opportunity to telephone an attorney prior to the performance of the test and consented to the taking of the test upon which such analysis is made;

(2) a true copy of the report of the test result was mailed to or personally delivered to the defendant within 24 hours or by the end of the next regular business day, after such result was known, whichever is later;

(3) the test was performed by or at the direction of a tribal police officer according to methods and with equipment approved by the chief of the tribal police;

(4) if a blood test is taken, it shall be on a blood sample taken by a person licensed by any state to practice medicine and surgery, a phlebotomist, a qualified laboratory technician, an emergency medical technician 2 or a registered nurse;

(5) the device used for such test was checked for accuracy immediately before and after such test was performed by a person certified by any state or by the chief of the tribal police department;

(6) an additional chemical test of the same type was performed at least 30 minutes after the initial test was performed or, if requested by the tribal police officer for reasonable cause, an additional chemical test of a different type was performed to detect the presence of a drug or drugs other than or in addition to alcohol, provided the results of the initial test shall not be inadmissible under this subsection if reasonable efforts were made to have such additional test performed in accordance with the conditions set forth in this subsection and such additional test was not performed or was not performed within a reasonable time, or the results of such additional test are not admissible for failure to meet a condition set forth in this subsection; and

(7) evidence is presented that the test was commenced within two hours of operation. In any prosecution under this Section it shall be a rebuttable presumption that the results of such chemical analysis establish the ratio of alcohol in the blood of the defendant at the time of the alleged offense, except that if the results of the additional test indicate that the ratio of alcohol in the blood of such defendant is .012 of 1% or less of alcohol, by weight, and is higher than the results of the first test, evidence shall be presented that demonstrates that the test results and the analysis thereof accurately indicate the blood alcohol content at the time of the alleged offense.

d. Evidence of blood alcohol content. In any prosecution for operating a motor vehicle while under the influence of intoxicating liquor or any controlled substance drug or both, reliable evidence respecting the amount of alcohol in the defendant's blood or urine at the time of the alleged offense, as shown by a chemical analysis of the defendant's blood, breath or urine, otherwise admissible under subsection (c) of this Section, shall be admissible only at the request of the defendant.

e. Evidence of refusal to submit to test. In any prosecution for a violation of subsection (a) or (b) of this Section, evidence that the defendant refused to submit to a blood, breath or urine test requested in accordance with 7 M.P.T.L. ch. 7, § 20 shall be admissible provided the requirements of subsection (b) of said Section have been satisfied. If a case involving a violation of subsection (a) of this Section is tried to a jury, the court shall instruct the jury as to any inference that may or may not be drawn from the defendant's refusal to submit to a blood, breath or urine test.

f. Reduction, nolle or dismissal prohibited. If a person is charged with a violation of the provisions of subsection (a) of this Section, the charge may not be reduced, nolle or dismissed unless the prosecuting authority states in open court his reasons for the reduction, nolle or dismissal.

g. Penalties for operation while under the influence. Any person who violates any provision of subsection (a) of this Section shall:

(1) for conviction of a first violation be fined not less than \$500 nor more than \$1,000 and have his right to operate a motor vehicle on tribal highways restricted or suspended for not less than one year nor more than three years;

(2) for conviction of a second violation within three years after a prior conviction of subsection (a) or (b) of this Section, shall be fined not less than \$1,000 and have his motor vehicle operating privilege on tribal highways suspended for not less than two years nor more than five years;

(3) for conviction of a third violation within three years after a prior conviction of subsection (a) or (b) of this Section, be fined not less than \$1,000 and have his motor vehicle operating privilege on tribal highways suspended for five years; and

(4) for conviction of a fourth violation within three years after a prior conviction of subsection (a) or (b) of this Section, shall be fined not less than \$1,000 and have his motor vehicle operating privilege on tribal highways permanently revoked.

h. Penalties for operation while impaired. Any person who violates subsection (b) of this Section shall be fined not less than \$300 nor more than \$500. For a conviction of a second violation of subsection (b) of this Section within three years after a prior conviction of subsection (b) of this Section shall be fined not less than \$500 nor more than \$1,000. In addition to the fine for a second conviction of subsection (b) within a three year time period the violator shall also have their right to operate a motor vehicle on a tribal highway restricted or suspended for not less than six months nor more than one year. For any subsequent violations of subsection (b) of this Section within three years after a prior conviction of subsection (b) of this Section the violator shall be fined \$1,000 and shall have his motor vehicle operating privilege on tribal highways suspended for five years.

i. Suspension of operator's license.

(1) The suspension of a motor vehicle operator's operating privilege on tribal highways imposed under this Section shall take effect immediately upon the expiration of any period in which an appeal of any conviction under this Section may be taken; provided if an appeal is taken, the suspension shall be stayed during the pendency of such appeal.

(2) The motor vehicle operator's operating privilege of a person found guilty under subsection (a) of this Section who is under 18 years of age shall be suspended for the period of time set forth in this Section, or until such person attains the age of 18 years, whichever period is longer.

j. Seizure and admissibility of chemical analysis of blood sample of injured operator. Notwithstanding the provisions of subsection (c) of this Section, evidence respecting the amount of alcohol or drug in the blood of an operator of a motor vehicle involved in an accident who has suffered or allegedly suffered physical injury in such accident, which evidence is derived from a chemical analysis of a blood sample taken from such person after such accident at the scene of the accident, while en route to a hospital or at a hospital, shall be competent evidence to establish probable cause for the arrest by warrant of such person for a violation of subsection (a) of this Section and shall be admissible and competent in any subsequent prosecution thereof if:

(1) the blood sample was taken for the diagnosis and treatment of such injury;

(2) the blood sample was taken by a person licensed to practice medicine, a resident physician or intern in any hospital, a phlebotomist, a qualified laboratory technician, an emergency medical technician 2 or a registered nurse;

(3) a tribal police officer has demonstrated to the satisfaction of a judge of the tribal court that such officer has reason to believe that such person was operating a motor vehicle while under the influence of intoxicating liquor or drug or both and that the chemical analysis of such blood sample constitutes evidence of the commission of the offense of operating a motor vehicle while under the influence of intoxicating liquor or drug or both in violation of subsection (a) of this Section; and

(4) such judge has issued a search warrant authorizing the seizure of the chemical analysis of such blood sample.

k. "Phlebotomist" defined. For the purpose of this Section, "phlebotomist" means a staff member of a hospital, who performs venipunctures to obtain blood samples as ordered by a licensed physician and is under the jurisdiction of the chief of pathology.

7 M.P.T.L. ch. 7 § 20

§ 20. Implied Consent to Test. Suspension of Right to Operate for Refusing to Submit to Test or Having Elevated Blood Alcohol Content. Hearing

a. Any person who operates a motor vehicle on tribal lands shall be deemed to have given his consent to a chemical analysis of his blood, breath or urine and, if said person is a minor, his parent or parents or guardian shall also be deemed to have given his consent.

b. 20 M.P.T.L., Civil Rights Code shall apply to any person stopped or detained by the tribal police under suspicion that they are in violation of 7 M.P.T.L. ch. 7, § 19. If any such person is stopped or detained by the tribal police for operating a motor vehicle while under the influence of intoxicating liquor or any controlled substance or both or while his ability to operate such motor vehicle is impaired by the consumption of intoxicating liquor, and thereafter, after being apprised of his rights under 20 M.P.T.L., Civil Rights Code having been requested to submit to a blood, breath or urine test at the option of the tribal police officer, having been afforded a reasonable opportunity to telephone an attorney prior to the performance of such test and having been informed that his operating privilege may be suspended in accordance with the provisions of this Section if he refuses to submit to such test or if he submits to such test and the results of such test indicate that the ratio of alcohol in his blood was ten-hundredths of 1% or more of alcohol, by weight, and that evidence of any such refusal shall be admissible and may be used against him in any prosecution, refuses to submit to the designated test, the test shall not be given; provided, if the person refuses or is unable to submit to a blood test, the tribal police officer shall designate the breath or urine test as the test to be taken. The tribal police officer shall make a

notation upon the records of the police department that he informed the person that his operating privilege may be suspended if he refused to submit to such test or if he submitted to such test and the results of such test indicated that the ratio of alcohol in his blood was ten-hundredths of 1% or more of alcohol, by weight. The police department records shall be admissible in any subsequent prosecution.

c. The provisions of this Section shall apply with the same effect to the refusal by any person to submit to an additional chemical test as provided in Chapter 7.

d. The provisions of this Section shall not apply to any person whose physical condition is such that, according to competent medical advice, such test would be inadvisable.

e. The tribe shall pay the reasonable charges of any physician who, at the request of the tribal police department, takes a blood sample for purposes of a test under the provisions of this Section.

7 M.P.T.L. ch. 7 § 21

§ 21. Alcohol and Drug Addiction Treatment Program. Waiver. Appeal. Regulations

a. Any person whose motor vehicle operating privilege is suspended under 7 M.P.T.L. ch. 7, § 19(g) or (h), for a conviction of a second or subsequent violation of subsection (a) or (b) of said Section or under 7 M.P.T.L. ch. 7, § 20 for a second or subsequent time shall participate in a treatment program approved by the tribal court. The tribal court shall not reinstate the operating privilege of any such person until such person submits evidence to the tribal court that he has satisfactorily completed the treatment program.

7 M.P.T.L. ch. 7 § 22

§ 22. Suspension of Motor Vehicle Operating Privilege of Person under Twenty-One when Blood Alcohol Content Exceeds Two-Hundredths of 1%. Notice. Hearing

a. Any tribal police officer who stops or detains an operator of a motor vehicle who is under 21 years of age and who the officer reasonably believes has consumed alcoholic liquor and who exhibits some indicia of impairment from such consumption of alcoholic liquor may administer or cause to be administered a blood, breath or urine test to such person in accordance with the provisions of 7 M.P.T.L. ch. 7, § 20. The fact that the operator of a motor vehicle appears to be 16 years of age or over but under 21 years of age shall not constitute a reasonable and articulable suspicion that an offense has been or is being committed so as to justify an investigatory stop of such motor vehicle by a tribal police officer.

b. If the results of such test commenced within two hours of the time of

operation indicate that the ratio of alcohol in the blood of such person is more than .002 of 1% of alcohol, by weight, but less than .010 of 1% of alcohol, by weight, the tribal police officer shall issue a report to the tribal prosecutor who shall initiate a civil action against the operator. The Mashantucket Pequot Tribal Court shall provide notice and an opportunity for a hearing within 45 days of receiving such report. The hearing shall be limited to a determination of the following

(1) did the tribal police officer have cause to stop or detain the person;

(2) was such person placed under custodial arrest;

(3) did such person submit to such test or analysis and the results of such test or analysis commenced within two hours of the time of operation indicate that the ratio of alcohol in the blood of such person was more than two-hundredths of one 1% of alcohol, by weight, but less than .010 of 1% of alcohol, by weight; and

(4) was such person operating the motor vehicle.

c. If, after such hearing, the tribal court does not find any one of said issues in the negative or if such person fails to appear at such hearing, the tribal court shall suspend such person's motor vehicle operating privilege on tribal highways for a period of six months. The tribal court shall render a decision at the conclusion of such hearing or send a notice of the decision by certified mail to such person not later than 45 days from the date the tribal police department received the report of the tribal police officer. The notice of such decision sent by certified mail to the address of such person as shown by the records of the tribal court shall be sufficient notice to such person that his motor vehicle operating privilege is suspended. Such suspension shall be in addition to any other penalties under the law.

7 M.P.T.L. ch. 7 § 23

§ 23. Leaving Motor Vehicle without Setting Brake

No person shall leave a motor vehicle stationary on a tribal highway without setting the brake in such manner as to prevent such vehicle from moving, unless it is occupied by a person able to control the same.

7 M.P.T.L. ch. 7 § 24

§ 24. Driving in Right-Hand Lane

a. Upon all tribal highways each vehicle shall be driven upon the right, except:

(1) when overtaking and passing another vehicle proceeding in the same direction,

(2) when overtaking and passing pedestrians, parked vehicles, animals or obstructions on the right side of the highway,

(3) when the right side of a highway is closed to traffic while under construction or repair,

(4) on a highway divided into three or more marked lanes for traffic, or

(5) on a highway designated and signposted for one-way traffic.

b. Any vehicle proceeding at less than the normal speed of traffic shall be driven in the right-hand lane available for traffic, or as close as practicable to the right-hand curb or edge of the highway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn at an intersection or into a private road or driveway.

7 M.P.T.L. ch. 7 § 25

§ 25. Vehicles in Opposite Directions to Pass on Right

Drivers of vehicles proceeding in opposite directions shall pass each other to the right, and upon highways having width for not more than one line of traffic in each direction each driver shall give to the other at least one-half of the main-traveled portion of the highway as nearly as possible.

7 M.P.T.L. ch. 7 § 26

§ 26. Passing

Except as provided in 7 M.P.T.L. ch. 7, §§ 28 and 29:

a. the driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the highway until safely clear of the overtaken vehicle; and

b. the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle. No vehicle shall be driven to the left side of the center of the highway in overtaking and passing another vehicle proceeding in the same direction unless the left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be completely made without interfering with the safe operation of any vehicle approaching from the opposite direction or any vehicle overtaken.

7 M.P.T.L. ch. 7 § 27

§ 27. Passing on Right

The driver of a vehicle may overtake and pass upon the right of another vehicle only when conditions permit such movement in safety and under the following conditions:

- a. when the vehicle overtaken is making or has signified the intention to make a left turn;
- b. when lines of vehicles traveling in the same direction in adjoining traffic lanes have come to a stop or have reduced their speed;
- c. upon a one-way street free from obstructions and of sufficient width for two or more lines of moving vehicles.

7 M.P.T.L. ch. 7 § 28

§ 28. Determination of No-Passing Zones

The Public Safety Committee shall have the sole and exclusive authority to determine those portions of any highway where overtaking and passing or driving to the left of the highway would be especially hazardous and may by appropriate signs or markings on the highway indicate the beginning and end of such zones.

When such signs or markings are in place and clearly visible to an ordinarily observant person, each driver of a vehicle shall obey the directions thereof.

7 M.P.T.L. ch. 7 § 29

§ 29. Vehicle not to be Driven on Left Side of Highway on Curve or Upgrade

No vehicle shall be driven to the left side of a tribal highway:

- a. when approaching the crest of a grade or upon a curve or elsewhere in the highway where a free and unobstructed view of the highway ahead may not be had for a sufficient distance to insure driving with safety or
- b. when approaching within 100 feet of or crossing any intersection.

These limitations shall not apply on a one-way street or highway so designated by the Public Safety Committee.

7 M.P.T.L. ch. 7 § 30

§ 30. One-Way Streets

The Public Safety Committee shall have the sole and exclusive authority to designate streets and highways under their jurisdiction for one-way traffic and shall erect signs, devices or markings giving notice thereof. Upon any highway

so designated a vehicle shall be driven only in the direction indicated.

7 M.P.T.L. ch. 7 § 31

§ 31. Vehicles to be Driven Reasonable Distance Apart

a. No driver of a motor vehicle shall follow another vehicle more closely than is reasonable and prudent, having regard for the speed of such vehicles, the traffic upon and the condition of a tribal highway and weather conditions.

b. No person shall drive a vehicle in such proximity to another vehicle as to obstruct or impede traffic.

7 M.P.T.L. ch. 7 § 32

§ 32. Vehicles to be Driven Reasonable Distance Apart. Intent to Harass or Intimidate

No person operating a motor vehicle shall follow another vehicle more closely than is reasonable and prudent, having regard for the speed of such vehicles, the traffic upon and the condition of the roadway or highway and weather conditions, with the intent to harass or intimidate the operator of the preceding motor vehicle.

7 M.P.T.L. ch. 7 § 33

§ 33. Turns

a. Both the approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the tribal highway.

b. At any intersection where traffic is permitted to move in both directions on each tribal highway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the highway nearest the center line thereof and by passing to the right of such center line where it enters the intersection, and after entering the intersection the left turn shall be made so as to leave the intersection to the right of the center line of the highway being entered.

c. At any intersection where traffic is restricted to one direction on one or more of the highways, the driver of a vehicle intending to turn left shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle, and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left-hand lane lawfully available to traffic moving in such direction upon the tribal highway being entered.

7 M.P.T.L. ch. 7 § 34

§ 34. Turns Restricted. Signals to be Given. Stopping. U-turns. Left Turns

a. No person shall turn a vehicle at an intersection unless the vehicle is in a proper position on the tribal highway, or turn a vehicle to enter a private road or driveway or otherwise turn a vehicle from a direct course or move right or left upon a tribal highway unless such movement can be made with reasonable safety. No person shall so turn any vehicle without giving an appropriate signal.

b. A signal of intention to turn right or left shall be given continuously during not less than the last 100 feet traveled by the vehicle before turning.

c. No person shall stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal in the manner provided in 7 M.P.T.L. ch. 7, § 36 to the driver of any vehicle immediately to the rear when there is opportunity to give such signal.

d. No person shall turn a vehicle so as to proceed in the opposite direction upon any curve, or upon the approach to, or near the crest of, a grade, where such vehicle cannot be seen by the driver of any other vehicle approaching from either direction within 500 feet, or at any location where signs prohibiting U-turns are posted by the Public Safety Committee.

e. The driver of a vehicle intending to turn to the left within an intersection or into an alley, private road or driveway shall yield the right-of-way to any vehicle approaching from the opposite direction which is within the intersection or within the area formed by the extension of the lateral lines of the private alley, road or driveway across the full width of the public highway with which it intersects, or so close to such intersection of public highways or to the area formed by the extension of the lateral lines of said private alley, road or driveway across the full width of the public highway as to constitute an immediate hazard.

7 M.P.T.L. ch. 7 § 35

§ 35. Starting or Backing Vehicle

a. No person shall move a vehicle which is stopped, standing or parked unless such movement can be made with reasonable safety and without interfering with other traffic, nor without signaling.

b. No person shall back a vehicle unless such movement can be made with reasonable safety and without interfering with other traffic.

7 M.P.T.L. ch. 7 § 36

§ 36. Signals

Any stop or turn signal required by 7 M.P.T.L. ch. 7, § 34 or 35 may be given either by means of the hand and arm or by a signal lamp or lamps or mechanical

signal device. Hand signals shall be as follows:

a. to stop or decrease speed: hand and arm extended downward;

b. to turn left or to leave or draw away from a curb or the edge of the highway: hand and arm extended horizontally with forefinger pointed;

c. to turn right: hand and arm extended upward. Each operator of a motor vehicle who makes a turn signal by means of signal lamps or mechanical signal device shall turn in the direction indicated and return such signal to the nonoperating position immediately after completing the movement for which a signal has been given.

7 M.P.T.L. ch. 7 § 37

§ 37. Intersection. Right-of-Way

"Intersection" means the area common to two or more highways which cross each other.

Each driver of a vehicle approaching an intersection shall grant the right-of-way at such intersection to any vehicle approaching from his right when such vehicles are arriving at such intersection at approximately the same time, unless otherwise directed by a traffic officer.

7 M.P.T.L. ch. 7 § 38

§ 38. Right-of-Way at Junction of Highways

The driver of any vehicle on a highway which joins but does not cross another highway shall, unless otherwise directed by a tribal police officer, grant the right-of-way at the point where such highways join to any vehicle approaching on the other highway from either direction when such vehicles are arriving at approximately the same time at the area which would be common to both highways if they crossed each other.

7 M.P.T.L. ch. 7 § 39

§ 39. Right of Way at Driveway or Private Road

The driver of a vehicle about to enter or cross a highway from a private road or driveway shall yield the right of way to all vehicles approaching on such highway.

7 M.P.T.L. ch. 7 § 40

§ 40. Right-of-Way Yielded by One Emerging from Alley, Driveway or Building

The driver of a vehicle within a business or residence area, emerging from an alley, driveway or building, shall stop such vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across any alleyway or driveway, and shall yield the right-of-way to any pedestrian as may be necessary to avoid collision, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on such roadway.

7 M.P.T.L. ch. 7 § 41

§ 41. Vehicles Prohibited on Sidewalks

No person shall operate any motor vehicle upon, nor shall any motor vehicle be left parked, standing or stopped on or across, any public sidewalk except to cross such sidewalk to enter or leave adjacent areas or to perform necessary sidewalk construction, maintenance or snow removal.

7 M.P.T.L. ch. 7 § 42

§ 42. Parking Vehicles

No vehicle shall be permitted to remain stationary within 15 feet of any fire hydrant, or upon the traveled portion of any tribal highway except upon the right-hand side of such highway in the direction in which such vehicle is headed; and, if such highway is curbed, such vehicle shall be so placed that its right-hand wheels, when stationary, shall, when safety will permit, be within a distance of 12 inches from the curb. No vehicle shall be permitted to remain parked within 25 feet of an intersection or a marked crosswalk thereat, or within 25 feet of a stop sign caused to be erected by the Public Safety Committee. No vehicle shall be permitted to remain stationary upon the traveled portion of any highway at any curve or turn or at the top of any grade where a clear view of such vehicle may not be had from a distance of at least 150 feet in either direction. The Public Safety Committee has the sole and exclusive authority to post signs upon any highway at any place where the keeping of a vehicle stationary is dangerous to traffic, and the keeping of any vehicle stationary contrary to the directions of such signs shall be a violation of this Section. No vehicle shall be permitted to remain stationary upon the traveled portion of a tribal highway within 50 feet of the point where another vehicle, which had previously stopped, continues to remain stationary on the opposite side of the traveled portion of the same highway. No vehicle shall be permitted to remain stationary within the limits of a tribal highway in such a manner as to constitute a traffic hazard or obstruct the free movement of traffic thereon, provided a vehicle which has become disabled to such an extent that it is impossible or impracticable to remove it may be permitted to so remain for a reasonable time for the purpose of making repairs thereto or of obtaining sufficient assistance to remove it. Nothing in this Section shall be construed to apply to emergency vehicles and to maintenance vehicles displaying flashing lights or to prohibit a vehicle from stopping, or being held stationary by any officer, in an emergency to avoid accident or to

give a right-of-way to any vehicle or pedestrian.

7 M.P.T.L. ch. 7 § 43

§ 43. Parking so as to Obstruct Driveway

No person shall park or leave stationary on a tribal highway any vehicle in front of or so as to obstruct or interfere with the ingress to or egress from any private driveway or alleyway, except with the permission of the owner of such private driveway or alleyway. Such parking or stationary position of any vehicle with such permission shall be subject to existing parking regulations.

7 M.P.T.L. ch. 7 § 44

§ 44. Special License Plates and Removable Windshield Placards for Tribal Elders, Disabled Veterans, Blind Persons and Persons with Disabilities which Limit or Impair the Ability to Walk. Parking Spaces. Penalty

Regulations

a. For the purposes of this Section:

(1) "Special License Plate" means a license plate issued by a state, tribe or the United States for exclusive use by the handicapped, a veteran, or an otherwise disabled person;

(2) "Reserved Parking Placard" means a "Handicapped" parking placard that has been issued by the tribal clerk of the Mashantucket Pequot Tribe or by any state, a "Tribal Elders Parking" placard issued by the Elders Council of the Mashantucket Pequot Tribal Nation; a "Tribal Council" member parking placard issued by the secretary of the Tribal Council; a "Tribal Member Parking" placard issued by the Security Department of the Mashantucket Pequot Tribe, a "Tribal Employee Restricted Parking" placard issued by the Security Department of the Mashantucket Pequot Tribe or a "Restricted" parking placard issued by the management of the Gaming Enterprise;

(3) The CEO of the Gaming Enterprise shall appoint one person to be responsible for implementation of the policies and procedures that apply to the issuance of "Restricted" parking placards and all other parking matters at the Gaming Enterprise. The said person shall provide the Public Safety Committee with a copy of the policies and procedures that are proposed to apply to the issuance of a "Restricted" parking placard. The Public Safety Committee shall have authority to require modification of the said policies, and all amendments thereto, prior to implementation and shall have the authority to require their modification at any time thereafter.

(4) The designee of the CEO, as provided in Section (a)(3), above, shall provide a notice to the Public Safety Committee of an intent to establish a restricted parking area at the Gaming Enterprise. The Public Safety Committee shall have 30 days to approve or modify the notice. In the event that no

action is taken on the notice within the specified 30 day period, then the proposed action shall be deemed approved as submitted. The existing restricted areas which are located at the Gaming Enterprise shall be deemed approved provided that they are in existence on the effective date of this law.

(5) "Restricted Parking Area" means a parking area reserved by order of the Mashantucket Pequot Tribal Council or the Public Safety Committee for exclusive use by either a handicapped individual, a tribal elder, Tribal Council members, tribal members or certain designated tribal employees. Restricted Parking areas also may be established by the management of the Gaming Enterprise provided that such parking is to be used by Gaming Enterprise employees, those doing business with or regulating the Gaming Enterprise or for enterprise customers.

b. Vehicles displaying a special license plate or a reserved parking placard issued for the purpose of identifying vehicles permitted to utilize a Restricted Parking Area shall be allowed to park in a space specifically designated for their use in such areas provided;

(1) the operator of or a passenger in such motor vehicle is parked in an area reserved for their use and;

(2) the corresponding reserved parking placard or special license plate is prominently displayed.

c. Vehicles bearing a special license plate or a reserved parking placard shall not utilize parking spaces reserved for persons entitled thereto when such vehicles are not being operated by or carrying as a passenger the person to whom such special license plate or reserved parking placard was issued.

d. Only those motor vehicles displaying an original special license plate or reserved parking placard shall be authorized to park in a Restricted Parking Area except that any ambulance, which is transporting a patient, may park in such area for a period not to exceed 15 minutes while assisting such patient.

e. Any motor vehicle parked in violation of the provisions of this subsection for the third or subsequent time shall be subject to being booted or towed from such designated area. Such vehicle shall be impounded until payment of any fines incurred is received. No person, firm or corporation engaged in the business of leasing or renting motor vehicles without drivers may be held liable for any acts of the lessee constituting a violation of the provisions of this subsection.

f. The Tribal Council and the Public Safety Committee and the management of the Gaming Enterprise shall have the authority to establish restricted parking areas.

g. Parking spaces in which parking shall be prohibited to all motor vehicles except vehicles displaying a handicapped special plate or placard shall be established according to the following schedule:

Total Number of Parking Lot

Spaces	Number of Special Parking Required	Number of Special Parking Required Van Spaces	Spaces
0-25	1		1
26-50	2		1
51-75	3		1
76-100	4		1
101-150	5	1	
151-200	6	1	
201-300	7	1	
301-400	8	1	
401-500	9	2	
501-1000	2% of total *		
Over 1000	20 plus 1 for each 100 spaces over 1000 *		

* Van parking spaces shall be provided at a ratio of 1 van space for every 8 total accessible spaces.

All such spaces shall be designated as reserved for exclusive use by handicapped persons and identified by the use of signs in accordance with subsection (e) of this Section. Such parking spaces shall be adjacent to curb cuts or other unobstructed methods permitting sidewalk access to a blind or handicapped person and shall be 15 feet wide, including three feet of cross hatch, or be parallel to a sidewalk.

h. Parking spaces designated for the handicapped shall be as near as possible to a building entrance or walkway and shall be a minimum of 15 feet (4.57m) wide and shall contain a six foot (1.83m) wide cross hatch aisle located on the right side of the vehicular approach to the space. Each single van space shall be a minimum of 16 feet (4876mm) in width and shall contain a seven foot (2134mm) wide cross hatch aisle located on the right side of the vehicular approach to the space. Such spaces shall be designated by above grade signs with white lettering against a blue background and shall bear the words "handicapped parking permit required" and "violators will be fined." Each pair of adjacent handicapped parking spaces shall be a minimum of nine feet (2.74m) in width and share a seven foot (2.97m) wide cross hatch aisle located between each pair of spaces. Shared parking spaces shall only be permitted where a vehicle can back into either space from the normal vehicular circulation pattern.

i. Nothing in this Section may be construed to allow a blind person or a person with disabilities to park in a public or private area reserved for the

exclusive use of handicapped persons as provided in this Section if such person does not display upon or within his vehicle a plate or placard defined in this Section.

j. Nothing in this Section may be construed to allow the photocopying and use of a photocopied or duplicated removable windshield placard.

7 M.P.T.L. ch. 7 § 45

§ 45. Crowded Seats. Riders on Outside of Vehicle. Aisle Seats

No person shall operate any vehicle upon any tribal highway or other public place when the operator thereof is crowded or hampered by any person beside or in front of him or by reason of having in such vehicle more than the number of persons for whom reasonable and safe seating is provided. No person shall operate any motor vehicle when any person is riding upon the running board, fender, hood or top of such vehicle except one in use by a tribal fire or police department or in the regular conduct of business by any tribal utility, maintenance or private refuse collection service.

7 M.P.T.L. ch. 7 § 46

§ 46. Towing and Pushing of Vehicles. Double Trailers and Semitrailers

When any occupied vehicle is drawn or towed by another vehicle upon any tribal highway, the distance between the towing vehicle and the vehicle being towed shall not exceed 20 feet. A rigid tow bar shall be used when towing any unoccupied vehicle on any tribal highway. Except as provided under 7 M.P.T.L. ch. 7, § 48, no person shall operate on any tribal highway any vehicle which draws or tows at the same time more than one vehicle, including, but not limited to, a trailer which is designed or constructed so that no part of its weight except the towing device rests upon the towing vehicle, a semitrailer or a semitrailer equipped with an auxiliary front axle, but excluding a pole trailer, except that such limitation shall not apply to:

a. a vehicle, other than a tractor or truck tractor which tows a non-cargo-carrying vehicle having a gross weight not exceeding 5,000 pounds coupled to the towing vehicle by a towing device designed exclusively for the towing of another vehicle, provided the overall length of the two vehicles and the towing device does not exceed 55 feet; or

b. a combination of vehicles coupled together by a saddlemount device used to transport motor vehicles in drive-away service when no more than three saddlemounts and one fullmount are used, provided equipment used in such combination shall comply with the safety regulations of the United States Department of Transportation; or

c. specialized equipment, as defined in the Code of Federal Regulations, Title 23, Part 658, as amended. No occupied vehicle shall be pushed or otherwise propelled from the rear by another vehicle except for the purpose of obtaining

emergency service to start the engine of such vehicle or to perform the immediate function of removing such vehicle from the travel lanes to a place of safety at the roadside.

7 M.P.T.L. ch. 7 § 47

§ 47. Regulation of Commercial Vehicle Combinations

A commercial vehicle combination may be operated by any person who holds any of the following licenses provided that the license has been issued by any state of the United States or any foreign jurisdiction:

- a. an endorsed commercial driver's license,
- b. a CDL equivalent license issued by any state,
- c. an endorsed class 1 license issued by any state, or
- d. an operator's license issued by any state authorizing such person to operate a commercial vehicle combination, together with an endorsement issued by the Connecticut commissioner of motor vehicles, on highways which are part of the National System of Interstate and Defense Highways and those sections of the Federal-Aid Primary System which are divided highways with four or more lanes and full control of access, which highways and sections are designated by the secretary of the federal Department of Transportation pursuant to the Surface Transportation Assistance Act of 1982, as amended.

7 M.P.T.L. ch. 7 § 48

§ 48. Width and Length of Vehicles. Exceptions. Permits

a. The following vehicles shall not be operated upon any tribal highway or bridge unless they are in compliance with tribal law and are in possession of a special written permit issued by the tribe or by any state, specifying the conditions under which they may be so operated:

(1) A vehicle, combination of vehicle and trailer or commercial vehicle combination which is wider than 102 inches or its approximate metric equivalent of 2.6 meters or 102.36 inches, including its load, but not including the following safety devices: reasonably sized rear view mirrors, turn signals, steps and handholds for entry and egress, spray and splash suppressant devices, load-induced tire bulge and any other state-approved safety device which the Connecticut Commissioner of Transportation determines is necessary for the safe and efficient operation of such a vehicle or combination, provided no such state-approved safety device protrudes more than three inches from each side of the vehicle or provided no such device has by its design or use the capability to carry cargo; and

(2) A combination of vehicle and trailer which is longer than 60 feet except:

(a) a trailer designed and used exclusively for transporting boats when the gross weight of such boats does not exceed \$4,000 pounds,

(b) a tractor-trailer unit,

(c) a commercial vehicle combination,

(d) combinations of vehicles considered as specialized equipment in the Code of Federal Regulations, Title 23, Part 658.13(d), as amended, or

(e) a tractor equipped with a dromedary box operated in combination with a semitrailer which tractor and semitrailer do not exceed 75 feet in overall length.

b. The maximum length of a single unit vehicle shall be 45 feet and the maximum length of the semitrailer portion of a tractor-trailer unit shall be 48 feet. A trailer greater than 48 feet and less than or equal to 53 feet in length may be operated on the national system of interstate and defense highways and on state and local roads for up to one mile from the system, for access to terminals, facilities for food, fuel, repair and rest, and points of loading and unloading, provided the distance from the kingpin to the center of the rearmost axle may not exceed 41 feet.

7 M.P.T.L. ch. 7 § 49

§ 49. Securing of Loads

a. No vehicle shall be driven or moved on any tribal highway unless such vehicle is so constructed or loaded as to prevent any of its load from dropping, sifting, leaking or otherwise escaping therefrom in such manner or quantity as to constitute a hazard or nuisance to other users of the highway, except that sand may be dropped for the purpose of securing traction, or water or other substance may be sprinkled on a roadway in cleaning or maintaining such roadway.

b. No person shall operate on any tribal highway any vehicle with any load unless such load and any covering thereon is securely fastened so as to prevent such covering or load from becoming loose, detached or in any manner a hazard to other users of the highway.

c. No person shall operate on any tribal highway any vehicle having a gross weight of 5,000 pounds or more which is designed and used exclusively for the collection and transportation of refuse and which has a separable container with an open top unless the contents of such container are secured by the use of a screen or other material having perforations of a size not greater than two square inches when such container is attached to such vehicle.

d. The provisions of this Section shall not apply to motor vehicles registered as farm motor vehicles or vehicles used for farming purposes.

7 M.P.T.L. ch. 7 § 50

**§ 50. Carrying of Children in Pick-Up Trucks or Open-Bed Vehicles.
Restrictions**

No person may operate on any tribal highway any truck type motor vehicle with a gross vehicle weight rating not exceeding 7,500 pounds having an open rear section or any motor vehicle having an open bed when a child under the age of 16 years is in such open rear section or open bed unless such child wears a properly adjusted and fastened safety belt which conforms to the provisions of the Code of Federal Regulations Title 49, Section 571.209, as amended from time to time. The provisions of this subsection shall not apply to any person who operates such a vehicle:

- a. in a parade or pow wow authorized by the tribe, or
- b. in a recreational hayride conducted between the months of August and December.

7 M.P.T.L. ch. 7 § 51

§ 51. Operation of Motor Vehicles Requiring a Passenger Endorsement or Passenger and School Endorsement

No person operating a motor vehicle for which a passenger endorsement or passenger and school endorsement is required shall carry any person upon the running board, mudguard, hood, roof or any exterior portion of such vehicle. No motor bus shall carry more passengers than the seating capacity thereof. The total number of persons carried at any time by any motor vehicle for which a passenger endorsement or passenger and school endorsement is required, other than a motor bus, shall not exceed the number specified in the certificate of registration. No motor vehicle used for the transportation of school children shall carry any number of passengers in excess of the seating capacity specified by the manufacturer of such vehicle. No motor vehicle used for the transportation of school children shall be equipped with a longitudinal center seat.

7 M.P.T.L. ch. 7 § 52

§ 52. Equipment and Color of School Buses

a. The term "school bus" means any motor bus, painted, constructed, equipped and registered as hereinafter provided, which is regularly used for transporting school children to and from school or school activities whether or not for compensation or under contract to provide such service.

b. Each school bus shall be painted a uniform yellow color known as "National School Bus Chrome", except for the fenders and trim which may be painted black and the roof which may be painted white, and shall have conspicuously painted on the rear and on the front thereof, in black lettering the words "School Bus-

Stop on Signal", except that each school bus equipped with an eight-light warning system shall have the words "School Bus" painted on the rear and on the front thereof in such lettering. The sides of such vehicles may be inscribed with the words "School Bus", the school name or such other legend or device as may be necessary for purposes of identification or safety.

c. Each school bus shall be equipped with special automatic, electrically-operated flashing stop signals, which shall be independent and separate from the braking, stop and tail lights of standard equipment. Such flashing lights may include automatic traffic signaling devices showing red and amber lights and shall be so located that adequate warning will be afforded to both oncoming and overtaking traffic, and shall be equipped with an eight-light warning system, showing two red flashing stop signals and two amber flashing warning signals on the front and rear of the bus, and a stop semaphore. Each school bus shall be equipped with emergency lighting equipment as provided by 7 M.P.T.L. ch. 3, § 38, with a defrosting device as provided by 7 M.P.T.L. ch. 3, § 36, with a system of mirrors as provided in the Code of Federal Regulations Title 49, Section 571.111, as amended, or with an outside mirror as provided by 7 M.P.T.L. ch. 3, § 41 and a system of crossover mirrors designed and mounted so as to give the driver a view of the road from the front bumper forward to a point where direct observation is possible and along the left and right sides of the bus, with a signaling device and with chain nonskid devices for immediate use on at least one outside or inside rear tire on each side or tires designed to prevent skidding on all rear wheels when weather and highway conditions require such use.

7 M.P.T.L. ch. 7 § 53

§ 53. Use of Standard School Bus Required, when. Use of Mass Transportation Permitted, when. Use of Certain Motor Vehicles Prohibited

a. No town or regional school district shall transport or enter into a contract for the transportation of students under the age of 21 years to and from school in any motor vehicle accommodating more than 15 students other than a school bus conforming to the provisions of 7 M.P.T.L. ch. 7.

b. No motor vehicle with a seating capacity of more than 10 passengers other than a school bus conforming to the provisions of 7 M.P.T.L. ch. 7 may be used for the transportation of students under the age of 21 years to and from school.

c. No motor vehicle having a wheel base of less than 101 inches, or a convertible top or an open body may be used by a carrier for the transportation of students under the age of 21 years to and from school.

7 M.P.T.L. ch. 7 § 54

§ 54. Reserved

7 M.P.T.L. ch. 7 § 55

§ 55. Operator's Duties on Stopping Bus

Notwithstanding the provisions of 7 M.P.T.L. ch. 7, § 36(a) to (c), inclusive, the operator of any school bus, when about to bring his bus to a stop to receive or discharge passengers, shall signal his intention to do so by causing the flashing signal lights to be displayed for not less than 50 feet before he brings the bus to a stop so as to be clearly visible to the operator of any oncoming or overtaking vehicle or motor vehicle, except that the operator of any school bus equipped with amber flashing signal lights shall signal such intention by causing the amber flashing signal lights to be displayed for not less than 100 feet before he brings the bus to a stop. The operator of any school bus, having brought his vehicle to a stop, shall not open the door to receive or discharge passengers until all vehicles approaching from the front and overtaking from the rear have stopped in compliance with the indicated signal to stop. The operator of any school bus equipped with amber flashing signal lights and a stop semaphore, having brought his vehicle to a stop, shall cause the red flashing signal lights to be displayed and the stop semaphore to be extended and shall not open the door until all vehicles approaching from the front and overtaking from the rear have stopped in compliance with the indicated signal to stop. After all passengers are safely aboard or discharged and safely off the highway, the operator shall extinguish the stop lights and the operator of any school bus equipped with a stop semaphore shall withdraw the stop semaphore. He may then permit all standing traffic to pass before resuming forward progress. While such school bus is in motion the doors shall remain closed at all times and all passengers shall be required to remain seated. No operator of any school bus shall stop his vehicle on the main traveled portion of the highway to receive or discharge passengers when existing highway shoulders or adequate highway width is available or where curbs, bus stops or special facilities exist. No such operator may receive or discharge any passenger on a highway with separate roadways unless (1) a boarding passenger may reach the bus stop and a discharged passenger may reach his residence or other destination without crossing such highway or (2) he stops the bus at a location having a traffic control signal or crossing guard.

7 M.P.T.L. ch. 7 § 56

§ 56. Hours of Operation. Placement of Seats. No Extra Exemption or Authority for Operators

Nothing in 7 M.P.T.L. ch. 7, §§ 53 to 59, inclusive, shall exempt the operator of any school bus from compliance with all laws governing the operation of motor vehicles upon the public highway, including the passing of other school buses similarly engaged. Nothing in said sections shall be construed as giving the operator of any school bus the authority to control traffic manually or by any other means than those specifically stated herein.

7 M.P.T.L. ch. 7 § 57

§ 57. Vehicles to Stop for School Bus. Penalties. Written Warning or Summons

a. The operator of any vehicle or motor vehicle shall immediately bring his vehicle to a stop not less than 10 feet from the front when approaching and not less than 10 feet from the rear when overtaking or following any registered school bus on any highway or private road or in any parking area or on any school property when such bus is displaying flashing red signal lights, except at the specific direction of a traffic officer. Vehicles so stopped for a school bus shall not proceed until such bus no longer displays flashing red signal lights. At the intersection of two or more highways vehicular turns toward a school bus receiving or discharging passengers are prohibited. The operator of a vehicle upon a highway with separate roadways need not stop upon meeting or passing a school bus which is on a different roadway.

b. Upon receipt of a written report from any school bus operator specifying the license plate number, color and type of any vehicle observed violating any provision of subsection (a) and the date, approximate time and location of such violation, a tribal police officer shall issue a written warning or a summons to the owner of any such vehicle.

7 M.P.T.L. ch. 7 § 58

§ 58. Speed of School Buses. Display of Head Lamps

a. Every school bus shall be operated at a safe rate of speed, consistent with the volume of traffic, intersections, curves, railway crossings and any other condition requiring special caution.

b. Each school bus and student transportation vehicle shall display lighted head lamps while transporting school children.

7 M.P.T.L. ch. 7 § 59

§ 59. Summons Issued to Holder of License Endorsement while Operating School Bus or Student Transportation Vehicle; Copy to be Sent to Employer and Local Board of Education; Notification of Disposition of Case

a. Within two days after a summons is issued to a holder of a license endorsement while the holder is operating a school bus or student transportation vehicle, a copy of the summons shall be transmitted to the employer of the license endorsement holder and the board of education for which such school bus or student transportation vehicle is performing contract services.

b. Within five days of the conviction, forfeiture, nolle or other disposition of a holder of a license endorsement for any violation while operating a school bus or student transportation vehicle, a report of the conviction, forfeiture, nolle or other disposition shall be transmitted by the court to the employer of the license endorsement holder and the board of education for which such school bus or student transportation vehicle is performing contract services.

7 M.P.T.L. ch. 7 § 60

§ 60. Report of Serious Accidents Involving School Buses or Student Transportation Vehicles

In each serious accident involving a school bus or a student transportation vehicle as defined in 7 M.P.T.L. ch. 7, § 1, the tribal police officer who, in the regular course of duty, investigates such accident, shall immediately report such accident by telephone or otherwise to the Commissioner of Motor Vehicles in the state where such school bus or a student transportation vehicle is registered. In the event of any accident in which an occupant of a school bus or student transportation vehicle is injured resulting in admission of such occupant to a hospital overnight, the tribal police officer investigating the accident shall report such accident to said commissioner within 24 hours thereafter. For the purposes of this Section, the term "serious accident" means any accident in which (1) any occupant of the school bus or student transportation vehicle is killed, or (2) a fire occurs in, or there is a roll-over of, the school bus or student transportation vehicle.

7 M.P.T.L. ch. 7 § 61

§ 61. Duties of Operators of Student Transportation Vehicles, Re: Receipt or Discharge of School; Children

No operator of a student transportation vehicle, as defined in 7 M.P.T.L. ch. 7, § 1, while engaged in the transportation of school children to and from school or school activities may receive or discharge any child in a location where such child may cross any highway to board the vehicle or to reach his residence or other destination.

7 M.P.T.L. ch. 7 § 62

§ 62. Rights of Emergency Vehicles

a. "Emergency Vehicle", as used in this Section, means any ambulance or emergency medical service organization vehicle responding to an emergency call, any vehicle used by a fire department or by any officer of a fire department while on the way to a fire or while responding to an emergency call but not while returning from a fire or emergency call, or any state or local police vehicle operated by a tribal police officer answering an emergency call or in the pursuit of fleeing law violators.

b. The operator of any emergency vehicle may:

- (1) park or stand such vehicle, irrespective of the provisions of this chapter,
- (2) proceed past any red light or stop signal or stop sign, but only after slowing down or stopping to the extent necessary for the safe operation of such

vehicle,

(3) exceed the posted speed limits or other speed limits, as long as he does not endanger life or property by so doing, and

(4) disregard statutes, laws or regulations governing direction of movement or turning in specific directions.

c. The exemptions herein granted shall apply only when an emergency vehicle is making use of an audible warning signal device, including but not limited to a siren, whistle or bell which meets the requirements of Chapter 3, and visible flashing or revolving lights and to any tribal, state or local police vehicle properly and lawfully making use of an audible warning signal device only.

d. The provisions of this Section shall not relieve the operator of an emergency vehicle from the duty to drive with due regard for the safety of all persons and property.

e. Upon the immediate approach of an emergency vehicle making use of such an audible warning signal device and such visible flashing or revolving lights or of any tribal, state or local police vehicle properly and lawfully making use of an audible warning signal device only, the operator of every other vehicle in the immediate vicinity shall immediately drive to a position parallel to, and as close as possible to, the right-hand edge or curb of the roadway clear of any intersection and shall stop and remain in such position until the emergency vehicle has passed, except when otherwise directed by a tribal, state or local tribal police officer or fireman.

f. Any officer the tribal fire department may remove, or cause to be removed, any vehicle upon any public or private way which obstructs or retards any fire department, or any officer thereof, in controlling or extinguishing any fire.

g. No person shall willfully or negligently obstruct or retard any ambulance or emergency medical service organization vehicle while answering any emergency call or taking a patient to a hospital, or any vehicle used by a fire department or any officer or member of a fire department while on the way to a fire, or while responding to an emergency call, or any vehicle used by the tribal, state police or any local police department while on the way to an emergency call or in the pursuit of fleeing law violators.

h. Nothing in this Section shall be construed as permitting the use of a siren upon any motor vehicle other than an emergency vehicle or a rescue service vehicle which is registered with the tribe or with any state.

7 M.P.T.L. ch. 7 § 63

§ 63. Pursuit Defined. Policy for Handling High-Speed Chases to be Adopted

a. As used in this Section, "pursuit" refers to an attempt by a tribal police officer in an authorized emergency vehicle to apprehend one or more occupants of another moving motor vehicle, when the driver of the fleeing vehicle is

attempting to avoid apprehension by maintaining or increasing his speed or by ignoring the tribal police officer's attempt to stop him.

b. The chief of the tribal police department shall adopt a policy for handling pursuits. Such policy shall specify which driving, support and other police tactics may be employed in the case of a pursuit. The chief of police shall inform each officer within his department of the existence of the policy of pursuit to be employed by any such officer and he shall take whatever measures that are necessary to assure that each such officer understands the pursuit policy established.

7 M.P.T.L. ch. 7 § 64

§ 64. Use of Restricted Highway by Hired Vehicles

The restriction of any tribal highway to use by passenger motor vehicles shall not prohibit the use thereof by motor vehicles in livery service when such vehicles have a maximum capacity of seven passengers.

7 M.P.T.L. ch. 7 § 65

§ 65. Use of Mirrors by Vehicles other than Motor Vehicles

Each vehicle, except a motor vehicle, which is so constructed or which is so loaded that the driver is prevented from having a free and unobstructed view of the highway immediately to the rear and at the sides of the same, shall be equipped with a mirror or reflector attached to and so located and adjusted on such vehicle as to give the operator thereof a clear reflected view of the highway directly to the rear on a line parallel to the side of the body of such vehicle. Any person operating such a vehicle shall make observations for the approach of vehicles from the rear and, when so approached, shall drive to the right of the center line of the traveled way as promptly as safety will permit, giving the vehicle approaching from the rear opportunity to pass in safety.

7 M.P.T.L. ch. 7 § 66

§ 66. Use of Bicycles and Bicycles with Helper Motors. Regulations re: Bicycles on Bridges. Use of High-Mileage Vehicles

a. Each person operating a bicycle upon and along a sidewalk or across any tribal highway upon and along a crosswalk shall yield the right-of-way to any pedestrian and shall give an audible signal within a reasonable distance before overtaking and passing a pedestrian. Each person operating a bicycle upon a tribal highway shall within a reasonable distance give an audible signal before overtaking and passing a pedestrian or another bicycle operator.

b. No person shall ride a bicycle with a helper motor unless that person holds a valid motor vehicle operator's license or motorcycle operator's license. No person shall operate a bicycle with a helper motor at a rate of speed exceeding

30 miles per hour; nor shall any bicycle with a helper motor be operated on any sidewalk.

c. As used in this Section:

(1) "Sidewalk" means any sidewalk laid out as such at the direction of the Public Safety Committee, Planning Department or Department of Public Works, and any walk which is reserved by custom for the use of pedestrians, or which has been specially prepared for their use. "Sidewalk" does not include crosswalks and does not include footpaths on portions of public highways outside thickly settled parts of the reservation, which are worn only by travel and are not improved;

(2) "Bicycle" includes all vehicles propelled by the person riding the same by foot or hand power or a helper motor;

(3) "Helper motor" means a motor having a capacity of less than 50 cubic centimeters piston displacement, rated not more than two brake horsepower, capable of a maximum speed of no more than 30 miles per hour and equipped with automatic transmission.

(4) No person may operate a high-mileage vehicle as defined in 7 M.P.T.L. ch. 1, § 1, on any sidewalk.

7 M.P.T.L. ch. 7 § 67

§ 67. Rights, Duties and Regulation of Cyclists

a. Every person riding a bicycle, upon the traveled portion of a tribal highway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of any vehicle subject to the requirements of the statutes relating to motor vehicles, except as to those provisions which by their nature can have no application. No parent of any child and no guardian of any ward shall authorize or knowingly permit any such child or ward to violate any provision of the general statutes or Laws relating to bicycles.

b. Every person operating a bicycle solely by hand or foot power upon and along any sidewalk or across any tribal highway upon and along any crosswalk shall be granted all of the rights and shall be subject to all of the duties applicable to pedestrians walking in such areas as provided by the general statutes, except as provided otherwise by any law issued or adopted pursuant to the provisions of 7 M.P.T.L. ch. 7, § 74.

7 M.P.T.L. ch. 7 § 68

§ 68. Operation of Bicycles; Attaching to Moving Vehicle Prohibited; Carrying of Passengers, Packages, Bundles and Other Articles Restricted; at least One Hand to be kept on Handle Bars. Operators of Roller Skates, Sleds, Skateboards, Coasters and Toy Vehicles Prohibited from Attaching to Moving Vehicle. Penalty

a. Every person operating a bicycle upon a tribal highway shall ride as near to the right side of the highway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.

b. Persons riding bicycles upon a tribal highway shall not ride more than two abreast except on paths or parts of roadways set aside for the exclusive use of bicycles. Persons riding two abreast, as provided in this subsection, shall not impede the normal and reasonable movement of traffic, and, on a laned roadway, shall ride within a single lane.

c. No person riding upon any bicycle, roller skates, sled, skateboard, coaster or toy vehicle shall attach the same or himself to any vehicle moving or about to move on a tribal highway nor shall the operator of such vehicle knowingly permit any person riding a bicycle, roller skates, skateboard, coaster, sled or toy vehicle to attach the same or himself to such vehicle so operated or about to be operated, provided any person operating a bicycle solely by foot or hand power may attach a bicycle trailer or semitrailer thereto, provided such trailer or semitrailer is designed for such attachment.

d. No person operating a bicycle upon a tribal highway, path or part of roadway set aside for exclusive use of bicycles shall carry on such bicycle a passenger unless such bicycle is equipped or designed to carry passengers, provided any person who has attained the age of 18 years may carry any child while such person is operating a bicycle propelled solely by foot or hand power, provided such child is securely attached to his person by means of a back pack, sling or other similar device. The term "child", as used in this subsection, means any person who has not attained the age of four years.

e. No person operating a bicycle shall carry any package, bundle or other article which prevents such person from using both hands in the operation of such bicycle. Each person operating such bicycle shall keep at least one hand on the handlebars thereof when such bicycle is in motion.

7 M.P.T.L. ch. 7 § 69

§ 69. Left and Right Turns

a. Each person riding a bicycle upon the traveled portion of a tribal highway and intending to make a left turn after proceeding pursuant to the provisions of 7 M.P.T.L. ch. 7, § 37 or subsection (b) of this Section, may in lieu of the procedure prescribed by 7 M.P.T.L. ch. 7, § 34, approach as close as practicable to the right-hand curb or edge of the highway, proceed across the intersecting roadway and make such turn as close as practicable to the curb or edge of the tribal highway on the far side of the intersection.

b. Each person riding a bicycle upon the traveled portion of a tribal highway and intending to make a right turn may in lieu of the procedure prescribed by 7 M.P.T.L. ch. 7, § 37, before turning and while in motion or if stopped while waiting to turn signal such turn by extending his right hand and arm horizontally with forefinger extended.

c. No person operating a bicycle upon the traveled portion of a tribal highway and intending to make a right or left turn shall be required when making a signal of such intention to make such signal continuously.

7 M.P.T.L. ch. 7 § 70

§ 70. Bicycle Helmets. Children. Renting Bicycles

a. For the purposes of this Section, "bicycle" means any vehicle propelled by the person riding the same by foot or hand power.

b. No child 15 years of age or under shall operate a bicycle on the traveled portion of any tribal highway unless such child is wearing protective headgear which conforms to the minimum specifications established by the American National Standards Institute or the Snell Memorial Foundation's Standard for Protective Headgear for Use in Bicycling. Failure to wear protective headgear as required by this subsection shall not be considered to be contributory negligence on the part of the parent or the child nor shall such failure be admissible in any civil action.

c. A tribal police officer may issue a verbal warning to the parent or guardian of a child that such child has failed to comply with the provisions of subsection (b) of this Section. In the event that a child of a parent who has been warned, pursuant to this Section, has been observed by a tribal police officer operating a bicycle without wearing protective headgear shall be fined pursuant to the fine schedule.

7 M.P.T.L. ch. 7 § 71

§ 71. Tribal Police Officers on Bicycles

a. A tribal police officer operating a bicycle in response to an emergency call or while engaged in rescue operations or in the immediate pursuit of an actual or suspected violator of the law shall be exempt from the provisions of 7 M.P.T.L. ch. 7, §§ 68, 69, 70, 71, and 73, provided:

(1) the tribal police officer is wearing a distinctive uniform; and

(2) the tribal police officer has completed a course of instruction in basic police bicycle patrol certified by the Connecticut State Police Officer Standards and Training Council or an equivalent course of instruction.

b. The exemptions granted in subsection (a) of this Section shall apply only when such bicycle is making use of an audible warning signal device, including,

but not limited to a siren, whistle or bell.

c. The provisions of this Section shall not relieve the operator of a bicycle from the duty to drive with due regard for the safety of all persons and property.

7 M.P.T.L. ch. 7 § 72

§ 72. Lights, Reflectors and Brakes on Bicycles. Whistle Emitting Devices Prohibited

Each bicycle operated upon the tribal highway, during the times or under the conditions as provided in 7 M.P.T.L. ch. 3, § 10(a), shall display a lighted lamp upon the forward part of such bicycle. Such lamp shall, when lighted, emit a white light which in clear weather shall be visible at a distance of not less than 500 feet in the direction in which such bicycle is proceeding. Each bicycle shall also, at all times, be equipped with a reflector or reflecting tail light lens, which reflector or lens shall be attached to the rear of such bicycle in such manner as to reflect rays of light thrown upon the same, and such reflector or reflecting tail shall be visible at a distance of not less than 600 feet from the rear when illuminated by the head lamps of a motor vehicle. Such bicycle shall also be equipped with reflective material so placed and of sufficient size and reflectivity to be visible from both sides of such bicycle at a distance of not less than 600 feet when illuminated by the head lamps of a motor vehicle. Each bicycle shall also, at all times, be equipped with a braking device sufficient to enable the operator thereof to stop within 25 feet on dry, level and clean pavement when moving at a speed of 10 miles per hour. No person shall equip a bicycle with a siren or device which emits a whistle or use a siren or device which emits a whistle while operating a bicycle.

7 M.P.T.L. ch. 7 § 73

§ 73. Regulation of Use of Bicycles by Public Safety Committee

The Public Safety Committee shall have the sole and exclusive authority to make any law not inconsistent with 7 M.P.T.L. ch. 7, § 67 or 73, respecting governing and controlling the use of bicycles with appropriate penalties for violation thereof, which laws may include provisions requiring annual licensing of bicycles and providing for registration of any sale of, or change of ownership in, a bicycle.

7 M.P.T.L. ch. 7 § 74

§ 74. Riding on Motorcycle. Carrying of Passenger

A person operating a motorcycle shall ride only upon the permanent and regular seat attached thereto, and such operator shall not carry any other person nor shall any other person ride on a motorcycle unless such motorcycle is properly

equipped to carry more than one person, in which event a passenger may ride upon the permanent and regular seat if designed for two persons, or upon another seat firmly attached to the rear or side of the operator. No operator of a motorcycle who has not held a license to operate a motorcycle for a period of three months shall carry any other person on such motorcycle.

7 M.P.T.L. ch. 7 § 75

§ 75. Operation of Motorcycles

a. The operator of a motorcycle shall be entitled to the full use of any single traffic lane, but the operation of more than two motorcycles abreast in any single traffic lane is prohibited.

b. The operator of a motorcycle shall not:

(1) overtake and pass, in the same single traffic lane occupied by such motorcycle, any motor vehicle other than a motorcycle; or

(2) operate a motorcycle between lanes of traffic.

c. Any person operating a motorcycle manufactured after January 1, 1980, on a tribal highway, shall illuminate the head lamp of such motorcycle at all times it is being operated.

d. No provision of this Section shall apply to a tribal police officer during the performance of his official duties.

7 M.P.T.L. ch. 7 § 76

§ 76. Riding Motorcycle Sidesaddle; Carrying of Passenger on Motorcycle not so Designed

No operator of a motorcycle may permit a passenger to ride side-saddle or may carry a passenger on any motorcycle not designed for passengers.

7 M.P.T.L. ch. 7 § 77

§ 77. Vision-Protecting Devices for Motorcyclists

No person shall fail to wear either goggles, glasses or a face shield of a type which conforms to the minimum specifications as called for by regulations promulgated by the Connecticut Commissioner of Motor Vehicle. The provisions of this subsection shall not apply to operators of motorcycles equipped with a wind screen or windshield which conforms to the minimum specifications called for by such regulations.

7 M.P.T.L. ch. 7 § 78

§ 78. Liability Insurance Required for Motorcycles

No owner of any motorcycle, as defined in 7 M.P.T.L. ch. 1, § 1, may operate or permit the operation of such motorcycle unless it has been insured for the statutory amounts required by the state where said motorcycle is registered.

7 M.P.T.L. ch. 7 § 79

§ 79. Protective Headgear for Motorcyclists and Passengers under 18 years old. Regulations. Penalty

a. No person under 18 years of age may operate a motorcycle, as defined in Chapter 1, Section 1, and no person under the age of 18 may be a passenger on a motorcycle, unless such person is wearing protective headgear of a type which conforms to the minimum specifications established by regulations adopted under subsection (b) of this Section.

b. The tribe hereby adopts the regulations promulgated by the Connecticut Commissioner of Motor Vehicles establishing specifications for protective headgear for use by operators and passengers of motorcycles.

7 M.P.T.L. ch. 7 § 80

§ 80. Exemptions from Motor Vehicle Laws

Motor vehicles in the custody and use of tribal police officers and fire department personnel in the performance of their duties shall be exempt from any traffic regulations so far as such exemption is necessary for the effective enforcement of any of the provisions of the statutes.

7 M.P.T.L. ch. 7 § 81

§ 81. Traffic Regulations for Special Occasions

The Public Safety Committee shall have sole and exclusive authority to make and provide for the enforcement of traffic regulations for such time or times as unusually heavy traffic conditions may be anticipated upon any tribal highway.

7 M.P.T.L. ch. 7 § 82

§ 82. Marking of Vehicle Operated by Student Driver

When any motor vehicle is in use on any tribal highway of this tribe for the purpose of instructing any person in the operation of a motor vehicle, for compensation or as a part of any school program, the person giving such instruction shall cause to be displayed in a conspicuous place on the front and rear thereof a distinctive marker, not less than 12 inches long nor six inches high, in such form as the Connecticut Commissioner of Motor Vehicles

prescribes, and bearing the inscription "Student Driver".

7 M.P.T.L. ch. 7 § 83

§ 83. Riding Animals on Tribal Highways

Any person who rides any horse or other animal upon a tribal highway shall conform to the provisions of this Chapter, unless such provisions clearly do not apply from the language or context or such application would be inconsistent with the manifest intention of tribal law. The fines established for violations of the provisions of this Chapter, with respect to a motor vehicle, shall apply if the same violation of a provision is committed in the riding of a horse or other animal.

7 M.P.T.L. ch. 7 § 84

§ 84. Responsibilities of Motor Vehicle Operators when Approaching Equestrians

The tribe hereby adopts by reference Connecticut state regulations specifying the responsibilities of an operator of a vehicle when approaching a person riding a horse on a tribal highway, which responsibilities shall include, but not be limited to, the obligation to reduce speed appropriately or to stop, if necessary, to avoid endangering the equestrian or frightening or striking the horse.

7 M.P.T.L. ch. 7 § 85

§ 85. Double or Treble Damages for Persons Injured as a Result of Certain Traffic Violations

In any civil action to recover damages resulting from personal injury, wrongful death or damage to property, the trier of fact may award double or treble damages if the injured party has specifically pleaded that another party has deliberately or with reckless disregard operated a motor vehicle in violation of 7 M.P.T.L. ch. 7, §§ 9, 10, 13, 19, 27, 29, 30, 31, or 33, and that such violation was a substantial factor in causing such injury, death or damage to property.

7 M.P.T.L. ch. 7 § 86

§ 86. House Trailer not to be Occupied When on Tribal Highway

No person or persons shall occupy a house trailer while it is being moved upon a tribal highway.

7 M.P.T.L. ch. 7 § 87

§ 87. Following or Parking near Fire Apparatus, Driving over Hose Prohibited

a. No driver of a vehicle other than one on official business relating to the emergency shall follow any fire apparatus traveling in response to a fire alarm closer than 500 feet or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm.

b. No vehicle shall be driven over any unprotected hose of a fire department when laid down on any street or private driveway to be used at any fire or alarm of fire, without the consent of the fire department official in command.

CHAPTER 8. TRAFFIC CONTROL AND HIGHWAY SAFETY

7 M.P.T.L. ch. 8 § 1

§ 1. Definitions

Terms used in this Chapter shall be construed as follows, unless another construction is clearly apparent from the language or context in which the term is used or unless the construction is inconsistent with the manifest intention of the general assembly:

The following terms shall be construed as they are defined in Chapter 1, Section 1: "Authorized emergency vehicle", "driver", "head lamp", "tribal highway", "intersection", "motor vehicle", "number plate", "operator", "person", "rotary traffic island", "shoulder", "stop", "truck", "vehicle".

a. "Crosswalk" means that portion of a tribal highway ordinarily included within the prolongation or connection of the lateral lines of sidewalks at intersections, or any portion of a tribal highway distinctly indicated, by lines or other markings on the surface, as a crossing for pedestrians, except such prolonged or connecting lines from an alley across a street.

b. "Official Traffic Control Devices" means all signs, signals, markings and devices consistent with the provisions of this chapter and placed or erected, for the purpose of regulating, warning or guiding traffic, by authority of a public body or official having jurisdiction.

c. "Parking" means the standing of a vehicle, whether occupied or not, on a tribal highway, except it shall not include the temporary standing of a vehicle for the purpose of and while engaged in receiving or discharging passengers or loading or unloading merchandise or while in obedience to traffic regulations or traffic signs or signals.

d. "Traffic" means pedestrians, vehicles and other conveyances while using any tribal highway for the purpose of travel.

e. "Traffic Control Sign" means any sign bearing a message with respect to the stopping or to the rate of speed of vehicles.

f. "Traffic Control Signal" means any device, whether operated manually, electrically or mechanically, by which traffic is alternately directed to stop and to proceed.

7 M.P.T.L. ch. 8 § 2

§ 2. Traffic Control Signals. Right Turn on Red

a. For the purpose of standardization and uniformity, no installation of any traffic control signal light or sign shall be made by any entity, department or arm of the tribal government (including but not limited to the Gaming Enterprise), or any corporation until the same has been approved by the Public Safety Committee. Such approval shall be based on necessity for, location of and type of such signal light and shall be applied for on a form supplied by the Public Safety Committee and shall be submitted to said Committee by the Department of Public Works. Approval of any such signal light or sign may be revoked by said Committee at any time if it deems such revocation to be in the interest of public safety, and thereupon such signal lights or signs shall be removed by the Department of Public Works.

b. When traffic at an intersection is alternately directed to proceed and to stop by the use of signals exhibiting colored lights or lighted arrows, successively one at a time or in combination, only the colors green, red and yellow shall be used, except for special pedestrian control signals carrying word legends, said lights shall apply to drivers of vehicles and pedestrians and shall indicate the following:

(1) Circular green alone: Vehicular traffic facing a green signal may proceed straight through or turn right or left unless a sign or marking at such place prohibits either such turn or straight through movement, except that such traffic shall yield the right-of-way to pedestrians and vehicles lawfully within a crosswalk or the intersection at the time such signal was exhibited; pedestrians facing the green signal, except when directed by separate pedestrian-control signals, may proceed across the tribal highway within any marked or unmarked crosswalk.

(2) Yellow: Vehicular traffic facing a steady yellow signal is thereby warned that the related green movement is being terminated or that a red indication will be exhibited immediately thereafter, when vehicular traffic shall stop before entering the intersection unless so close to the intersection that a stop cannot be made in safety; pedestrians facing a steady yellow signal, except when directed by separate pedestrian-control signals, are thereby advised that there is insufficient time to cross the roadway before a red indication is shown and no pedestrian shall then start to cross the roadway.

(3) Red alone: Vehicular traffic facing a steady red signal alone shall stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and remain standing until the next indication is shown; provided, on or after July 1, 1979, vehicular traffic traveling in the travel lane nearest the right hand curb or other defined edge of the roadway, unless a sign has been erected in the appropriate place

prohibiting this movement, may cautiously enter the intersection to make a right turn onto a two-way street or onto another one-way street on which all the traffic is moving to such vehicle's right after such vehicle has stopped as required in this subsection and yielded the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection. Pedestrians facing a steady red signal alone, except when directed by separate pedestrian-control signals, shall not enter the roadway.

(4) Green Arrow: Vehicular traffic facing a green arrow signal, shown alone or in combination with another indication, may cautiously enter the intersection only to make the movement indicated by such arrow, or such other movement as is permitted by other indications shown at the same time, but such vehicular traffic shall yield the right-of-way to pedestrians lawfully within a crosswalk and to other traffic lawfully within the intersection.

(5) Whenever special pedestrian-control signals exhibiting the words "Walk" or "Don't Walk" are in place such signals shall indicate as follows: "Walk" Pedestrian facing such signals may proceed across the roadway in the direction of the signal and shall be given the right of way by the drivers of all vehicles; "Don't Walk": No pedestrian shall start to cross the roadway in the direction of such signal, but any pedestrian who has partially completed his crossing on the walk signal shall proceed to a sidewalk or safety island while the "Don't Walk" signal is showing.

c. When an illuminated flashing red or yellow signal is used in a traffic sign or signal, it shall require obedience by vehicular traffic as follows:

(1) Flashing red: When a red lens is illuminated by rapid intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection, or at a limit line when marked or, if none, then before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

(2) When a yellow lens is illuminated with rapid intermittent flashes, drivers of vehicles facing such signal may proceed through the intersection or past such signal only with caution.

d. Lenses of the following colors only shall be used and shall be arranged vertically in the signal face or, when necessary, horizontally, and shall conform to the following positions: When arranged vertically, red shall be located at the top, yellow shall be located directly below red and the remaining indications below the yellow in the following order: Flashing yellow, circular green, vertical arrow, left-turn arrow and right-turn arrow, as needed; when arranged horizontally, red shall be located at the left, yellow shall be located directly to the right of red and the remaining indications to the right of yellow in the following order: Flashing yellow, left-turn arrow, circular green, vertical arrow and right-turn arrow, as needed.

e. When lane-direction-control signals are placed over the individual lanes of a street or tribal highway, vehicular traffic may travel in any lane over which a green arrow signal is shown, but shall not enter or travel in any lane over

which a red 10 signal is shown.

f. If a traffic control signal, approved by the Public Safety Committee, is erected and maintained at a place other than an intersection, the provisions of this Section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any sign or marking the stop shall be made at the signal.

7 M.P.T.L. ch. 8 § 3

§ 3. Crosswalks. Pedestrian-Control Signals. Regulation of Pedestrians and Motor Vehicles at Crosswalks

a. The Public Safety Committee shall have power to designate, by appropriate devices or markers or by lines upon the surface of the tribal highway, such crosswalks and intersections as, in its opinion, constitute an especial danger to pedestrians crossing the tribal highway including, but not limited to, specially marked crosswalks in the vicinity of day care facilities, government facilities or the Gaming Enterprise areas, which crosswalks shall have distinctive markings, to denote use of such crosswalks; and may maintain suitable signs located at intervals along tribal highways, particularly where there are no sidewalks, directing pedestrians to walk facing vehicular traffic.

b. At any intersection where special pedestrian-control signals bearing the words "Walk" or "Don't Walk" are placed, pedestrians may cross the tribal highway only as indicated by the signal. At any intersection where traffic is controlled by other traffic control signals or by tribal police officers, pedestrians shall not cross the tribal highway against a red or "Stop" signal and shall not cross at any place not a marked or unmarked crosswalk. A pedestrian started or starting across the tribal highway on a "Walk" signal or on any such crosswalk on a green or "Go" signal shall have the right of way over all vehicles, including those making turns, until such pedestrian has reached the opposite curb or safety zone.

c. Except as provided in 7 M.P.T.L. ch. 8, § 6(c), at any crosswalk marked as provided in 7 M.P.T.L. ch. 8, § 3(a) or any unmarked crosswalk, provided such crosswalks are not controlled by tribal police officers or traffic control signals, each operator of a vehicle shall grant the right-of-way, and slow or stop such vehicle if necessary to so grant the right-of-way, to any pedestrian crossing the roadway within such crosswalk, provided such pedestrian steps to the curb at the entrance to a crosswalk or is within that half of the roadway upon which such operator of a vehicle is traveling or such pedestrian steps to the curb at the entrance to a crosswalk or is crossing the roadway within such crosswalk from that half of the roadway upon which such operator is not traveling. No operator of a vehicle approaching from the rear shall overtake and pass any vehicle the operator of which has stopped at any crosswalk marked as provided in subsection (a) of this Section or any unmarked crosswalk to permit a pedestrian to cross the roadway. The operator of any vehicle crossing a sidewalk shall yield the right-of-way to each pedestrian and all other traffic upon such sidewalk.

d. In any civil action arising under subsection (c) of this Section or 7 M.P.T.L. ch. 8, §§ 4-7, inclusive, the doctrine of negligence per se shall not apply.

7 M.P.T.L. ch. 8 § 4

§ 4. Pedestrian Street Markings Near Housing Projects for Elderly Persons

The Public Safety Committee shall, on tribal highways, provide special pedestrian street or sidewalk markings at intersections and streets in proximity to projects designated for or containing a high proportion of elderly persons.

7 M.P.T.L. ch. 8 § 5

§ 5. Pedestrian Use of Crosswalks and Roadways

a. Each pedestrian crossing a roadway at any point other than within a crosswalk marked as provided in 7 M.P.T.L. ch. 8, § 3(a), or any unmarked crosswalk or at a location controlled by tribal police officers shall yield the right-of-way to each vehicle upon such roadway. Each pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right-of-way to each vehicle upon such roadway.

b. No pedestrian shall cross a roadway intersection diagonally unless authorized by a pedestrian-control signal or tribal police officer. When authorized by a pedestrian-control signal or tribal police officer to cross an intersection diagonally each pedestrian shall cross only in accordance with such signals or as directed by such tribal police officer. No pedestrian shall cross a roadway between adjacent intersections at which traffic or pedestrian-control signals are in operation except within a marked crosswalk.

c. Each pedestrian crossing a roadway within a crosswalk shall travel whenever practicable upon the right half of such crosswalk.

7 M.P.T.L. ch. 8 § 6

§ 6. Pedestrian use of Roads and Sidewalks. Required to Yield to Emergency Vehicle

a. No pedestrian shall walk along and upon a roadway where a sidewalk adjacent to such roadway is provided and the use thereof is practicable. Where a sidewalk is not provided adjacent to a roadway each pedestrian walking along and upon such roadway shall walk only on the shoulder thereof and as far as practicable from the edge of such roadway. Where neither a sidewalk nor a shoulder adjacent to a roadway is provided each pedestrian walking along and upon such roadway shall walk as near as practicable to an outside edge of such

roadway and if such roadway carries motor vehicle traffic traveling in opposite directions each pedestrian walking along and upon such roadway shall walk only upon the left side of such roadway.

b. No pedestrian shall suddenly leave a curb, sidewalk, crosswalk or any other place of safety adjacent to or upon a roadway and walk or run into the path of a vehicle which is so close to such pedestrian as to constitute an immediate hazard to such pedestrian. No pedestrian who is under the influence of alcohol or any drug to a degree which renders himself a hazard shall walk or stand upon any part of a roadway.

c. Each pedestrian shall yield the right-of-way to any authorized emergency vehicle, as defined by 7 M.P.T.L. ch. 1, § 1, approaching such pedestrian and emitting any audible signal or displaying or making any visual signal reasonably indicating that such vehicle is being operated in an emergency situation. Nothing in this subsection shall be construed to relieve the driver of such an authorized emergency vehicle from any duty to drive with due regard for the safety of all persons using the tribal highway or from the duty to exercise due care to avoid colliding with any pedestrian.

d. Except as provided by 7 M.P.T.L. ch. 8, §§ 2, 3, 5-8, inclusive, each pedestrian upon a roadway shall yield the right-of-way to each vehicle upon such roadway.

7 M.P.T.L. ch. 8 § 7

§ 7. Operator of a Vehicle Required to Exercise Due Care to Avoid Pedestrian

Notwithstanding any provisions of tribal law or any regulations issued thereunder, each operator of a vehicle shall exercise due care to avoid colliding with any pedestrian or person propelling a human powered vehicle and shall give a reasonable warning by sounding a horn or other lawful noise emitting device to avoid a collision.

7 M.P.T.L. ch. 8 § 8

§ 8. Pedestrians Walking on Tribal Highways. Prohibition

Nothing contained in 7 M.P.T.L. ch. 8, §§ 2, 3, 5-8, inclusive, shall be construed to permit any pedestrian to walk upon or along any tribal highway where pedestrians are prohibited by any provision of tribal law or any regulations issued thereunder.

7 M.P.T.L. ch. 8 § 9

§ 9. Through Ways. Stop Signs

a. The Public Safety Committee may designate any tribal highway or part thereof or any bridge upon any such tribal highway as a through way, and may, after

notice, revoke any such designation.

b. No designation of a through way shall become effective as to regulation of traffic at any intersection thereon until said committee has caused signs to be erected at such intersections. Each such sign shall bear the word "stop", which shall be self-illuminated at night or so placed as to be illuminated by street lights or by headlights of approaching motor vehicles, and each such sign shall be located as near as practicable to the traveled portion of the tribal highway at the entrance to which the stop is to be made, or at the nearest line of the crosswalk thereat, and shall be clearly visible for a distance of 100 feet along the street intersecting the through way.

c. The Public Safety Committee shall have the sole and exclusive authority to establish the location of all stop signs. The driver of a vehicle shall stop in obedience to a stop sign at such clearly marked stop line or lines as may be established by the Public Safety Committee or, in the absence of such line or lines, shall stop in obedience to a stop sign at the entrance to a through tribal highway and shall yield the right-of-way to vehicles not so obliged to stop which are within the intersection or approaching so closely as to constitute an immediate hazard.

d. Nothing herein contained shall prevent said Public Safety Committee from erecting such stop signs on all corners of any intersection within its jurisdiction, and thereafter the provisions of subsection (c) of this Section, relating to the stopping of motor vehicles and the right-of-way within such intersection, shall apply to the operation of motor vehicles on each of the intersecting streets.

7 M.P.T.L. ch. 8 § 10

§ 10. "Yield" Signs

The Public Safety Committee, on any tribal highway, under its control, shall have the sole and exclusive authority to designate intersections at which signs bearing the words "Yield" may be erected. The driver of a vehicle approaching a "Yield" sign shall, in obedience to such sign, slow down to a speed reasonable for the existing conditions, and shall yield the right-of-way to any vehicle in the intersection or approaching on another tribal highway so closely as to constitute an immediate hazard during the time such driver is moving across or within the intersection, provided, if such driver is involved in a collision, such collision shall be deemed prima facie evidence of such driver's failure to yield the right-of-way.

7 M.P.T.L. ch. 8 § 11

§ 11. Designation of One-Way Streets/Travel Lanes

Subject to the provisions of this Chapter, the Public Safety Committee shall have the sole and exclusive authority to designate streets as one-way streets/travel lanes and to place and maintain on each street/travel lane

intersecting a street designated as a one-way street, at or near the property line of such one-way street, appropriate signs upon or in the street; such signs, devices or marks to bear the word "one-way" with an arrow pointing in the direction that all vehicular traffic shall travel when using such designated one-way street/travel lane. No person shall operate or drive any vehicle upon or through any one-way street contrary to the directions as indicated by such signs, devices or marks established under the provisions of this Section.

7 M.P.T.L. ch. 8 § 12

§ 12. Safety Zones

a. The Public Safety Committee shall have the sole and exclusive authority to establish safety zones of such character and at such places as it deems necessary for the protection of pedestrians.

b. No person shall operate or drive any vehicle over or through any safety zone established under the provisions of this Section.

7 M.P.T.L. ch. 8 § 13

§ 13. Bus Stops and Public Service Motor Vehicle Stands

a. The Public Safety Committee shall have the sole and exclusive authority to establish bus stops. The Public Safety Committee shall also have the sole and exclusive authority to establish stands for other motor vehicles used for the transportation of passengers for hire and designate the same by appropriate signs and markings.

b. No person other than an operator of a motor vehicle used for the transportation of passengers for hire shall park any vehicle in any officially designated public service motor vehicle stand, and no operator of any such motor vehicle shall park such vehicle upon any tribal highway in any business district at any place other than a public service motor vehicle stand; but this provision shall not prevent the operator of any such motor vehicle from temporarily stopping such vehicle in accordance with parking regulations at any place for the purpose of and while actually engaged in receiving or discharging passengers.

7 M.P.T.L. ch. 8 § 14

§ 14. Taxi Stands in Front of Hotels

The management of the Gaming Enterprise is authorized to establish a public taxi stand in connection with any hotel within the limits of tribal lands and may, limit the use of such public taxi stand to cabs of a company selected by the management of the Gaming Enterprise.

§ 15. Parking Restrictions

a. The Public Safety Committee shall have the sole and exclusive authority to prohibit, limit or restrict the parking of vehicles and to erect and maintain signs designating the time or terms of such prohibition or restriction on any tribal highway, thoroughfare, public or tribal parking lot or other public place within the exterior boundaries of tribal lands provided, however, that the CEO of the Gaming Enterprise shall designate one individual, pursuant to 7 M.P.T.L. ch. 7, § 44(a)(3), who shall provide an application to the Public Safety Committee which restricts or limits parking at the Gaming Enterprise. The Public Safety Committee shall have 30 days to modify or deny any such application. Unless denied or modified within 30 days, the application shall be deemed approved. The Public Safety Committee may remove from tribal highways, any vehicles parked in violation of any regulation of said Committee established in accordance with subsection (b) of this Section. The Public Safety Committee shall adopt regulations to establish procedures for the removal of such vehicles by such Public Safety Committee and for the storage of such vehicles. The regulations shall, at a minimum:

(1) require that such Public Safety Committee provide written notice by certified mail to the owner of any vehicle removed;

(2) provide any such owner with an opportunity for a hearing before the tribal court,

(3) provide that the owner or keeper of any garage or other place where any such vehicle is stored shall have a lien on the vehicle for his storage charges; and

(4) specify procedures for the sale at public auction of any vehicle placed in storage which is not claimed within a specified period of time by the owner thereof.

b. The Public Safety Committee shall have the sole and exclusive authority to prohibit, limit or restrict the parking of vehicles on any portion of any tribal highway, any bridge, or on any public or tribal parking lot and to erect and maintain signs designating the terms of such prohibition or restriction.

c. No person shall park any vehicle in any place where parking is prohibited or in any manner restricted or park any vehicle for a longer period than that indicated as lawful by any sign erected and maintained in accordance with the provisions of this Chapter, except that a person operating an armored car vehicle may, while in the performance of his duties, park for a period not to exceed 10 minutes in a place where parking is prohibited, provided such vehicle does not obstruct or impede the normal and reasonable movement of traffic.

§ 16. Loading and Unloading

a. The Public Safety Committee shall have the sole and exclusive authority to determine the location of loading and unloading zones and shall erect and maintain signs designating the same.

b. No operator of any vehicle shall park for a period of time longer than is necessary for the loading or unloading of materials or merchandise in any place marked as a loading or unloading zone.

7 M.P.T.L. ch. 8 § 17

§ 17. Traffic Safety Measures and Control Devices; Approval of Public Safety Committee

No traffic safety measure or traffic control device, sign or marking shall be installed or maintained on any tribal highway or on any bridge on any tribal highway or within the right-of-way of any such tribal highway or bridge, or on any roadway used by the Gaming Enterprise or customers of the Gaming Enterprise, except by consent and written approval of the Public Safety Committee, including the naming of all roadways and creation of such signage.

7 M.P.T.L. ch. 8 § 18

§ 18. Fraudulent or Obstructive Signs and Signals

a. No person, firm or corporation shall place, maintain or display upon or in view from any tribal highway any unauthorized sign, signal, marking or device which purports to be or is in imitation of or resembles an official traffic control device, or which attempts to direct the movement of traffic or which hides from view or interferes with the effectiveness of any official traffic control device and no person, firm or corporation shall place or maintain, nor shall any public authority permit, upon any tribal highway any traffic sign or signal bearing thereon any commercial advertising.

b. The Public Safety Committee is authorized, without notice, to cause any such prohibited sign, signal or marking to be removed as a public nuisance.

7 M.P.T.L. ch. 8 § 19

§ 19. Traffic Controls for Certain Parking Areas and Commercial Establishments

The Public Safety Committee shall have the sole and exclusive authority to, in any parking area having an exit or entrance on or abutting or adjoining any tribal highway, (including all roadways used by Gaming Enterprise employees or customers) establish traffic controls by signal or device, for access to and egress from and for traffic within such parking area. The owner or operator of any parking area where such traffic controls have been established, pursuant to this Section, shall erect and maintain the necessary uniform traffic control

signals or devices, which shall conform to the specifications established and approved by the Public Safety Committee, provided no traffic control signal or device shall be installed, operated or maintained until a permit for such installation, operation or maintenance has been procured from the Public Safety Committee.

7 M.P.T.L. ch. 8 § 20

§ 20. Regulations

The Public Safety Committee shall have power to make regulations necessary to make effective the provisions of this Chapter, and may make and enforce temporary regulations to cover emergencies and special conditions.

7 M.P.T.L. ch. 8 § 21

§ 21. Appeal

Any person aggrieved by any order or regulation made by the Public Safety Committee under the provisions of this Chapter, relating to the establishment of through streets, the making of safety zones, the establishment of parking restrictions or the location of loading and unloading zones, or by the performance of any act pursuant to any provision of this Chapter, may take an appeal therefrom to tribal court. Such appeal shall be to the next session of tribal court which will allow sufficient time for the service of the notice required herein. A written notice of such appeal, addressed to the Public Safety Committee, shall be deposited with, or forwarded by registered or certified mail to the Public Safety Committee at least 10 days before the return day thereof. Upon such hearing, the tribal court shall determine whether the order or regulation appealed from is reasonable, and shall thereupon sustain or revoke such order or regulation.

7 M.P.T.L. ch. 8 § 22

§ 22. Injury to or Removal of Traffic Control Devices, Signs or Lights

Any person who, without lawful authority, attempts to or in fact alters, defaces, injures, knocks down or removes any official traffic control device, signal light, railroad sign, portable warning light or barricade, or any other sign or light or any part thereof, shall be fined pursuant to the Fine Schedule.

7 M.P.T.L. ch. 8 § 23

§ 23. Erection of Signs to Warn Operators of Presence of Deaf Persons

a. The Public Safety Committee, on any tribal highway, shall, upon receipt of

an application on behalf of any person under the age of 18 who is deaf, as certified by a physician, erect one or more signs in the person's neighborhood to warn motor vehicle operators of the presence of the deaf person.

b. The Public Safety Committee may adopt regulations to carry out the purposes of this Section.

CHAPTER 9. SNOWMOBILES AND ALL-TERRAIN VEHICLES

7 M.P.T.L. ch. 9 § 1

§ 1. Definitions

As used in 7 M.P.T.L. ch. 9, §§ 1-7, inclusive, unless the context otherwise requires: "snowmobile" means any self-propelled vehicle designed for travel on snow or ice, except vehicles propelled by sail; "snowmobile dealer" means a person engaged in the business of manufacturing and selling new snowmobiles or selling new or used snowmobiles, or both, having an established place of business for the sale, trade and display of such snowmobiles. "All-terrain vehicle" or "ATV" means a self-propelled vehicle designed to travel over unimproved terrain and which is not eligible for registration; "all-terrain vehicle dealer" means any person engaged in the business of manufacturing and selling new all-terrain vehicles, or both, having an established place of business for the manufacture, sale, trade and display of such all-terrain vehicles; "operate" means to control the course of or otherwise use a snowmobile or all-terrain vehicle.

7 M.P.T.L. ch. 9 § 2

§ 2. Operation Prohibited without Valid Registration. Exceptions

No person shall operate and no owner shall permit the operation of any snowmobile or all-terrain vehicle unless the owner holds a valid, effective registration awarded by a state or by the United States. No person under 13 years of age may operate any snowmobile or all-terrain vehicle. The provisions of this Section shall not apply:

a. to the operation of a snowmobile or all-terrain vehicle on premises owned or leased by the owner of such snowmobile or all-terrain vehicle; or

b. to the operation of a snowmobile or ATV in any organized contest as long as such snowmobile is operated in the contest area, provided the owner of such snowmobile holds a valid, effective registration awarded by a state or the United States.

7 M.P.T.L. ch. 9 § 3

§ 3. Reserved

7 M.P.T.L. ch. 9 § 4

§ 4. Enforcement. Failure to Stop Snowmobile or All-Terrain Vehicle Upon Request

a. Any tribal police officer of the Tribe may enforce the provisions of 7 M.P.T.L. ch. 9, §§ 1-7, inclusive.

b. No person operating a snowmobile or all-terrain vehicle shall refuse to stop his snowmobile or all-terrain vehicle after being requested or signaled to do so by an authorized tribal police officer, or the owner or the agent of the owner of the property upon which such snowmobile or all-terrain vehicle is being operated. No person shall refuse to stop his snowmobile or his all-terrain vehicle upon being signaled to do so by an authorized tribal police officer.

7 M.P.T.L. ch. 9 § 5

§ 5. Speed. Operating Under the Influence. Endangering Person or Property

No person shall operate a snowmobile or all-terrain vehicle in the following manner:

a. at an unreasonable or imprudent rate of speed for existing conditions;

b. in a negligent manner so as to endanger any person or property; or

c. while under the influence of intoxicating liquor or any drug, as defined by 7 M.P.T.L. ch. 7, § 19.

Any person who violates any provision of this Section, or any regulation relating hereto shall be fined pursuant to the Fine Schedule. In addition thereto, the operator or owner, or both, of a snowmobile or all-terrain vehicle, shall be responsible and held accountable to the owner of any land where trees, shrubs, crops, fences or other property have been damaged as a result of travel of such snowmobiles or all-terrain vehicles over such land, or where consequential damage has resulted from such travel. A subsequent violation of any provision of this Section resulting in damage to trees, shrubs, crops, fences or other property, shall result in liability for treble damages. Proof of the registration number of the snowmobile or all-terrain vehicle shall be prima facie evidence in any prosecution or action for damages that the owner was the operator.

7 M.P.T.L. ch. 9 § 6

§ 6. Rules of Operation. Violations

No person shall operate a snowmobile or all-terrain vehicle in the following manner:

a. on any tribal highway, except such snowmobile or all-terrain vehicle, if operated by a licensed motor vehicle operator, may cross a tribal highway if the crossing is made at an angle of approximately 90 degrees to the direction of the tribal highway and at a location where no obstruction prevents a quick and safe crossing, the snowmobile or all-terrain vehicle is completely stopped before entering the traveled portion of the tribal highway and the driver yields the right-of-way to motor vehicles using the tribal highway;

b. in such a manner that the exhaust of the snowmobile or all-terrain vehicle makes an excessive or unusual noise;

c. without a functioning muffler, properly operating brakes, sufficient and adequate front and rear lighting and reflecting devices, except an all-terrain vehicle with an engine size of 90 cubic centimeters or less shall not be required to be equipped with front and rear lighting and shall not be operated after dark; or

d. in any manner which would cause harassment of any game or domestic animal; on any private land, fenced agricultural land or posted land without the written permission of the owner, or the agent of the owner.

Nothing in 7 M.P.T.L. ch. 9, §§ 1-7, inclusive, shall preclude the operation of a snowmobile or all-terrain vehicle in any place or upon any land specifically designated for the operation of snowmobiles and all-terrain vehicles by statute, regulation or law.

7 M.P.T.L. ch. 9 § 7

§ 7. Penalties. Liability

In addition to the penalty provided for violation of this Chapter of the Traffic Safety Code, the operator or owner, or both, of a snowmobile or all-terrain vehicle, shall be responsible and held accountable to the owner of any land where trees, shrubs, crops, fences or other property have been damaged as a result of travel of such snowmobiles or all-terrain vehicles over such land, or where consequential damage has resulted from such travel. A subsequent violation of any provision of Chapter 9 resulting in damage to trees, shrubs, crops, fences or other property, shall result in liability for treble damages. Proof of the registration number of the snowmobile or all-terrain vehicle shall be prima facie evidence in any prosecution or action for damages that the owner was the operator.

CHAPTER 10. MISCELLANEOUS

7 M.P.T.L. ch. 10 § 1

§ 1. Repeal of Prior Law

The provisions of TCR070595-02 and any other tribal law that is inconsistent with this law are hereby repealed. It is the intent of the Council that the provision of this Law shall govern all matters relating to the regulation of motor vehicles and traffic.

7 M.P.T.L. ch. 10 § 2

§ 2. Title

This Law shall be known as the Traffic Safety Code.

7 M.P.T.L. ch. 10 § 3

§ 3. Application of Tribal Law

Any matter brought pursuant to this law shall be determined in accordance with tribal law. The court may be guided, but shall not be bound by the common law of other jurisdictions.

7 M.P.T.L. ch. 10 § 4

§ 4. Severability

If any part of this Law is invalidated by the tribal court all valid parts that are severable from the invalid part remain in effect. If a part of this Law is invalid in one or more of its applications, that part remains in effect in all valid applications that are severable from the invalid applications.

7 M.P.T.L. ch. 10 § 5

§ 5. Adoption of Schedule of Fines

The attached Schedule of Fines as approved and recommended by the Public Safety Committee is hereby approved as tribal law. Future adjustments to the Schedule of Fines may be made by the Public Safety Committee without further approval of Council.

7 M.P.T.L. ch. 10 § 6

§ 6. Effective Date

This Law shall take effect upon signing by the chairman of the Tribal Council.

SCHEDULE OF FINES

7 M.P.T.L. ch. 10 Sched. A

Schedule A.

All offenses within this Schedule shall constitute an infraction. Infractions are civil in nature and do not require an appearance in tribal court. The person issued an infraction ticket may, however, contest the matter before the tribal court. All such matters shall be decided by a judge sitting without a jury. The penalty for an infraction, as provided herein, shall be set forth on a ticket issued by tribal police and shall be paid by mail within 10 days of the issuance of the ticket. In the event that the ticket and appropriate fine are not mailed within 10 days then the fine shall triple and interest shall accrue at the rate of 12% per annum up to a maximum of \$250. Those who fail to appear to contest the ticket or who fail to mail in their ticket and fine are, 30 days after the maximum penalty provided for herein is reached, subject to having their car booted or towed.

For each offense.....\$25.00

7 M.P.T.L. ch. 10 Sched. B

Schedule B.

All offenses within this Schedule shall constitute an infraction. Infractions are civil in nature and do not require an appearance in tribal court. The person issued an infraction ticket may, however, contest the matter before the tribal court. All such matters shall be decided by a judge sitting without a jury. The penalty for an infraction, as provided herein, shall be set forth on a ticket issued by tribal police and shall be paid by mail within 10 days of the issuance of the ticket. In the event that the ticket and appropriate fine are not mailed within 10 days then the fine shall double and interest shall accrue at the rate of 12% per annum up to a maximum of \$500. Those who fail to appear to contest the ticket or who fail to mail their ticket and fine are, 30 days after the maximum penalty provided for herein is reached, subject to having their car booted or towed as provided in this Law.

For each offense.....\$150.00

7 M.P.T.L. ch. 10 Sched. C

Schedule C.

Persons alleged to be speeding by 20 miles per hour or less over the posted speed limit may plead guilty by mail to an infraction. Infractions are civil in nature and do not require an appearance in tribal court. The person issued an infraction ticket may contest the matter before the tribal court. All such matters shall be decided by a judge sitting without a jury. The penalty for an

infraction, as set forth below, shall be noted on a ticket issued by tribal police and, if paid by mail, shall be mailed within 10 days of the issuance of the ticket. In the event that the ticket and appropriate fine is not mailed within 10 days then the fines shall double and interest shall accrue at the rate of 12% per annum up to a maximum of \$500. Those who fail to appear to contest the ticket or who fail to mail in their ticket and fine are, 30 days after the maximum penalty provided for herein is reached, subject to having their car booted or towed.

Five miles per hour or less over posted speed limit	\$ 50.00
Between five and 10 miles per hour over posted speed limit	\$ 75.00
Between 10 and 15 miles per hour over posted speed limit	\$120.00
Between 15 and 20 miles per hour over posted speed limit	\$250.00

Persons found to be traveling more than 20 miles per hour over the speed limit shall be subpoenaed into tribal court and shall be subject to having their driving privileges suspended or restricted for a minimum of 30 days and a maximum of one year and a fine of no less than \$350 and no more than \$1,000.

Unless otherwise specifically provided in the Traffic Safety Code, the Fine Schedules shall apply as herein set forth:

Chapter One.....	Schedule A
Chapter Two.....	Schedule A
Chapter Three (except as provided below).....	Schedule A
Section 44.....	Schedule B
Chapter Four.....	(no references needed)
Chapter Five (except as provided below).....	Schedule B
Sections 6 and 8.....	Schedule A
Chapter Six.....	As provided
Chapter Seven (except as provided below).....	Schedule B
Section 9.....	Schedule C
Section 10.....	Schedule C
Section 13.....	Schedule C
Section 18.....	Schedule A
Sections 34-37.....	Schedule A

Sections 42-44.....	Schedule A*
Sections 66-74.....	Schedule A
Sections 84-87.....	Schedule A
Chapter Eight (except as provided below).....	Schedule B
Sections 3-8.....	Schedule A
Sections 14-16.....	Schedule A
Chapter Nine.....	Schedule B

*Except violations of Handicapped or Tribal Elders parking which shall be subject to Schedule B.

TITLE 8. EMPLOYMENT

CHAPTER 1. EMPLOYEE REVIEW CODE

8 M.P.T.L. ch. 1 § 1

§ 1. Definitions

Unless otherwise required by the context, the following words and phrases shall be defined as follows:

- a. "Benefits" means vacation, sick leave, medical coverage or other employment enhancements provided to employees.
- b. "Board of Review" or "Panel" means a randomly selected impartial panel of employees who are assembled to review the Disciplinary Action and then provide an advisory recommendation to the President/CEO of the Gaming Enterprise ("President/CEO") or Chief Operating Officer of the Tribal Government ("COO").
- c. "Board of Review Record" or "Record" means the evidence presented or to be presented to the Board of Review.
- d. "Day" means calendar day. Whenever a deadline falls on a weekend or holiday observed by the Mashantucket Pequot Tribe, the deadline shall be extended to the next business day.
- e. "Disciplinary Action" means any violation of the Employer's policies or procedures resulting in termination or a suspension of five or more days.
- f. "Employee" means an employee who has been the subject of Disciplinary Action and who properly requested a Board of Review. References to the Employee will

pertain, if necessary, to the Employee's attorney. The term "Employee" will not include the following categories: probationary employees; political appointees; casual and part time employees; any employee who is voluntarily or involuntarily separated from employment as a direct result of the implementation of the Staffing Reorganization Reassignment Policy; any employee who is terminated due to a violation of a condition of employment, e.g., licensing requirement or is excluded by the Tribal Gaming Commission.

g. "Employer" means the Mashantucket Pequot Tribal Nation, the Mashantucket Pequot Gaming Enterprise, or any other enterprise of the Tribe.

h. "File" means to physically place into the possession of the Mashantucket Pequot Tribal Court Clerk. Filing is not effective upon mailing.

i. "Final Decision" means the determination by either the President/CEO of the Gaming Enterprise for Gaming Enterprise employees or the COO, or their designees, for all other employees, upon review of the advisory recommendation of the Board of Review, as defined by the Employer's policies and procedures.

8 M.P.T.L. ch. 1 § 2

§ 2. Jurisdiction

a. The tribal court is hereby granted jurisdiction to review a Final Decision of the President/CEO or COO of an employee Disciplinary Action that has progressed through the Board of Review process.

b. The Tribe hereby expressly waives its sovereign immunity and the sovereign immunity of the Gaming Enterprise from suit in the tribal court for actions founded upon a review of a Final Decision of an employee Disciplinary Action, provided that the Employee has exhausted all remedies available under the Employer's policies and procedures.

c. An action pursuant to this Law shall be the Employee's exclusive cause of action against the Employer provided that the Employee has first exhausted all administrative remedies.

8 M.P.T.L. ch. 1 § 3

§ 3. Filing an Action

a. An Employee who has progressed through the Board of Review process to a Final Decision by the President/CEO or COO may seek review thereof with the Mashantucket Pequot Tribal Court by filing an appeal as provided herein.

b. Within 30 days of mailing the Final Decision to the Employee's last known address (by certified mail, return receipt requested) or within 30 days after personal delivery of the Final Decision upon the Employee, an Employee may file a notice of appeal in the office of the tribal court clerk on a form provided by the tribal court clerk. Service of the appeal on the President/CEO or COO

shall be made by the tribal court clerk by registered or certified mail.

No filing fee is required by the tribal court for such claims.

c. The filing of an appeal should not stay implementation of a Final Decision of the President/CEO or COO.

d. An Employee may seek review of a violation(s) of procedural due process rights, as that term is defined herein, in an appeal under this Title only, provided the Employee alleges such a claim(s) in the notice of appeal by stating the following information: (1) date of Disciplinary Action; (2) date of the Board of Review; (3) date of Decision of Board of Review; (4) each and every specific procedural error which the Employee claims constitutes a violation of the Employee's procedural due process rights, specifying the date on which such act occurred and who committed such act; and (5) the injury suffered by the Employee due to the alleged violations of procedural due process rights.

e. In an appeal under this Title, the tribal court may consider only whether an Employee's procedural due process rights, as that term is defined herein, were violated and shall not review, any other violations of rights enumerated in 20 M.P.T.L. Civil Rights Code, or in any other tribal or federal statute. Claims based upon rights, other than procedural due process rights, shall be pursued under 20 M.P.T.L. Civil Rights Code and shall be brought against the Tribe.

f. Under this title, "procedural due process rights" means the right to: (1) adequate notice of the Disciplinary Action, including the basis for such action; (2) a meaningful opportunity to be heard including an opportunity for the Employee or the Employee's representative to present witnesses and to question witnesses at the Board of Review; and (3) representation by counsel in the Board of Review, if desired by the Employee at the Employee's expense.

8 M.P.T.L. ch. 1 § 4

§ 4. Record before the Court

The record shall consist of:

a. a transcript of all recorded proceedings before the Board of Review regarding the Disciplinary Action;

b. a copy of all evidence and documentation presented to the Board of Review, the President/CEO, or COO;

c. a copy of the advisory recommendation issued by the Board of Review;

d. a copy of any recorded proceedings before the President/CEO or COO;

e. a copy of any documentary or other evidence considered by the President/CEO or COO which was not considered by the Board of Review; and

f. a copy of the Final Decision rendered by the President/CEO or COO.

8 M.P.T.L. ch. 1 § 5

§ 5. Assembly of the Record

a. Within 30 days of filing of the appeal, the Employer shall accumulate the record on appeal and shall certify to the tribal court that it is a true and correct copy of the original documents on file with the Employer, and shall file the record with the tribal court. The Employer shall bind and consecutively number pages of the record and shall provide an index indicating the identity and page location of each significant document relied upon to support a suspension or termination.

b. A copy of the certified record shall be provided to the Employee at no charge.

c. An Employee may, within five days of receiving a copy of the record, file a request to the court to include additional documents that were not part of the records, be included in the record before the court. The Employee shall serve a copy of the request identifying the specific documents upon the Employer, who, within five days of receipt of the request, may file an objection. If it is shown, to the satisfaction of the court, that the additional documents are relevant and probative, and that there were good and sufficient reasons for failure to present it in the Board of Review proceedings, the court may order that some or all of the additional documents be included as a part of the record before the court.

d. The parties may stipulate to the record.

8 M.P.T.L. ch. 1 § 6

§ 6. Pre-Hearing Conference

a. Within 30 days of the filing of the record, the court shall schedule and conduct a pre-hearing conference to deal with the following matters:

- (1) augmentation or reduction of the record;
- (2) clarification of issues;
- (3) preparation of stipulations;
- (4) scheduling of briefs or other written argument;
- (5) setting of the trial date and such other deadlines as the court deems appropriate;
- (6) setting a date for an additional pre-hearing conference; or

(7) other matters that may facilitate the resolution of the matter.

b. At the conclusion of the pre-hearing conference, the court may issue any necessary orders.

c. The court may extend or shorten deadlines in the interest of fairness or expediting the proceedings.

8 M.P.T.L. ch. 1 § 7

§ 7. Briefs

a. No later than 60 days from the filing of the record, the Employee shall file two copies of a typed or clearly legible copies of a brief which shall clearly and concisely set forth the specific reasons for requesting a review of the Final Decision. The brief shall not exceed 25 double spaced pages in length and shall include proper citations for any legal authorities relied upon, and specific references to the record.

b. The Employer's brief shall be filed within 30 days of the filing of the Employee's brief and shall conform to the rules as described above.

c. The Employee shall have the right to submit a reply brief within 10 days of the filing of the Employer's brief. The reply brief shall not exceed 10 double spaced pages in length and limited to the issues raised in the Employer's brief.

d. At the conclusion of the hearing, the court may order additional briefs, as the court deems necessary.

8 M.P.T.L. ch. 1 § 8

§ 8. Hearing

a. The hearing shall be held within 10 days of the filing due date of the Employee's reply brief.

b. The hearing shall be limited to the record before the court, any briefs, written documents or any additional evidence admitted by the court and oral argument presented by the parties.

c. The court shall not substitute its judgment for that of the Employer as to the weight of the evidence.

d. Notwithstanding the provisions of Section 5(c) of this Law, and in the interest of a fair review of the Employee's appeal, upon a showing of exceptional circumstances, the court may remand the matter to the President/CEO or COO to review new or additional evidence, provided that such new or additional evidence has been shown not to have been available for consideration at the Board of Review hearing through no fault of either party and that such

new evidence is relevant and probative of the Employee's appeal.

e. The court may compel the attendance of necessary witnesses.

f. In reviewing the Employee's claim, the court shall determine whether the President/CEO or COO's Final Decision was arbitrary and capricious by considering whether:

(1) the President/CEO or COO had a reasonable basis for concluding that the Employee violated the policies or procedures established by the Employer for the position held by the Employee, provided that in evaluating such basis the court shall recognize the discretion of the Employer's management to evaluate the weight of the evidence and credibility of the Employee and/or witnesses;

(2) the Employer substantially complied with the Policies or Procedures regarding discipline;

(3) the Employee was given a description of the offense or conduct that was the basis for the Disciplinary Action and a reasonable opportunity to refute the offense or conduct and present any mitigating circumstances relating thereto;

(4) the form of discipline was appropriate for the offense or conduct and did not constitute an abuse of discretion, provided, that the court shall recognize the necessity for the Employer's management to exercise judgment and discretion in electing the form and level of discipline appropriate to the particular offense or conduct in the light of all facts and circumstances pertinent to the matter.

8 M.P.T.L. ch. 1 § 9

§ 9. Miscellaneous

a. All actions brought pursuant to this Title shall be heard by the court and not a jury. No costs shall be taxed against the Tribe or its enterprises.

b. In all actions where it is alleged that the liability of the Employer is based upon or related to the action of an agent, servant, or employee of the Employer acting within the scope of his or her employment, there shall be no separate cause of action existing against said agent, servant, or employee, and nothing in this Law shall be construed to waive the sovereign immunity of the Tribe to the extent that sovereign immunity would be applicable to such individual.

c. With respect to any action brought hereunder, damages awarded by the tribal court shall be limited to actual damages consisting of ascertainable loss of salary or wages, and/or benefits sustained as a result of a Disciplinary Action.

d. The following shall not apply to appeals against the Tribe or its enterprise: (i) any rule of law imposing absolute or strict liability; (ii) any award or other judgment imposing consequential, punitive or exemplary

damages; (iii) any award for loss of consortium; (iv) any award for pain and suffering or mental anguish; and (v) any order for injunctive relief.

e. Attorney's fees may be awarded in the discretion of the court upon a showing of substantial abuse of discretion by the Employer. Attorney's fees shall be supported by contemporaneous records of hours billed and shall be consistent with prevailing billing rates of attorneys practicing before the Mashantucket Pequot Tribal Court.

8 M.P.T.L. ch. 1 § 10

§ 10. Rulings

a. Upon the consideration of the factors listed in Section 8(f), if the court finds that the President/CEO or COO's decision was arbitrary and capricious, it shall render a decision in favor of the Employee pursuant to subsection (b) of this Section.

b. The court may order reinstatement of the Employee and/or award lost wages and benefits as provided by this Law. Where appropriate, the court may hold a closed hearing with the parties so that the terms of an appropriate employment arrangement may be made part of any final order of the court.

c. The court shall issue a written reasoned decision supported by references to the record.

8 M.P.T.L. ch. 1 § 11

§ 11. Appeal

The decision of the court may be appealed to the Mashantucket Pequot Court of Appeals. The decision of the Court of Appeals shall be final.

8 M.P.T.L. ch. 1 § 12

§ 12. Application of Law

Any matter brought pursuant to this law shall be determined in accordance with tribal law. The court may be guided, but shall not be bound by the common law of other jurisdictions.

8 M.P.T.L. ch. 1 § 13

§ 13. Effective Date

This Law shall apply to any Disciplinary Action which occurs on or after its enactment.

TITLE 9. COMMERCIAL

CHAPTER 1. ADOPTION OF ARTICLE 9 OF UCC

9 M.P.T.L. ch. 1 § 1

§ 1. Adoption of Provisions of the Uniform Commercial Code

Notwithstanding any provision of the laws of the Tribe to the contrary, the provisions of Article 9 of the Uniform Commercial Code as enacted in Title 42a of the Connecticut General Statutes and as the same may be amended from time to time by the General Assembly of Connecticut, shall be deemed adopted and incorporated by reference as if set out in full herein as the laws of the Mashantucket Pequot Tribe applicable to all security interests granted by the Tribe, including any agency, enterprise or other instrumentality of the Tribe; provided, however, that the provisions of C.G.S. § 42a-9-104(e)¹ or any corresponding successor provision of the laws of the state of Connecticut which would exempt security interests granted by a government from the scope of Article 9 of the Uniform Commercial Code shall not be adopted by the Tribe; and further provided, that security interests granted by TCR021392-01, the Tribe shall be deemed perfected under the laws of the Tribe when perfected in the manner provided for perfection of security interests under the laws of the state of Connecticut, including the place of filing for any financing statement as provided in such laws of the State; and further provided, that the laws of the Tribe as herein enacted with respect to such security interests granted by the Tribe shall be applicable to such security interests to the extent, and only to the extent that the provisions of Title 42a of the Connecticut General Statutes are deemed inapplicable to such security interests by virtue of C.G.S. § 42a-9-104(e) or any corresponding successor provision of the laws of the state of Connecticut which would exempt security interests granted by a government from the scope of Article 9 of the Uniform Commercial Code.

9 M.P.T.L. ch. 1 § 2

§ 2. Enforcement of Gaming Debts

Any other provision of law notwithstanding, obligations for the repayment of debts incurred for the purpose of participating in lawful gaming activities within the Mashantucket Pequot Reservation are declared valid and enforceable in accordance with the public policy of the Mashantucket Pequot Tribe. All persons entering upon the Reservation for the purpose of participating in lawful gaming activities are deemed by such entry and participating to consent to the exercise of jurisdiction by the Tribe over such persons in any civil action to enforce obligations arising from any transaction which arises within the Mashantucket Pequot Reservation, including the jurisdiction of the tribal courts of the Mashantucket Pequot Tribe, and except where otherwise prohibited

by the laws of the Tribe the tribal court of the Mashantucket Pequot Tribe shall have jurisdiction over such actions and persons to enforce such obligations.

9 M.P.T.L. ch. 1 § 3

§ 3. Applicability of Other Laws

Except as modified by the provisions of this Law or other laws of the Tribe, the laws of the Tribe applicable to any commercial transaction arising within the Mashantucket Pequot Reservation shall be deemed to be those laws of the state of Connecticut which are generally applicable to similar commercial transactions occurring elsewhere within the State, and such laws are hereby adopted and incorporated by reference as the laws of the Tribe applicable to such transactions.

9 M.P.T.L. ch. 1 § 4

§ 4. Applicability of this Law to Prior Transactions

The provisions of this Law shall be applicable to all security interests granted by the Tribe prior to the enactment of this Law, unless such application would be inconsistent with rights vested in any party other than the Tribe by operation of the provisions of any existing contract between the Tribe and such party.

CHAPTER 2. HOTEL AND INNKEEPERS LIABILITY

9 M.P.T.L. ch. 2 § 1

§ 1. Loss of Valuables of Guests and Patrons

The proprietor of a hotel located on the Mashantucket Pequot Reservation shall not be liable for the loss of or damage to any securities, bank notes, money, jewelry, precious stones, watches or other valuables belonging or brought to such hotel by a guest of such hotel unless such guest has delivered such property to the person in charge of the office of such hotel for safekeeping and taken a written receipt therefor, provided such proprietor shall have posted in the room of such guest or in the registration area of such hotel a notice to the effect that such proprietor has provided a safe for the keeping of valuables, and such proprietor shall not be liable for more than \$500 damages for the loss of or damage to such property so delivered unless such guest has declared a greater value and such proprietor has given a written receipt stating such value.

9 M.P.T.L. ch. 2 § 2

§ 2. Loss of Other Property

The proprietor of a hotel located on the Mashantucket Pequot Reservation shall not be liable for the loss of or damage to any property belonging to or brought to such hotel by a guest of such hotel, other than the property described in Section 1 of this Chapter and not in the room assigned to such guest, unless such loss or damage is caused by the negligence of such proprietor or any of his employees, and such proprietor shall not be liable for more than \$1,000 damages in the aggregate for any loss or damage so caused; provided, if any such property is deposited in the checkroom or baggage room of any such hotel and a check or written receipt taken therefor, the proprietor of such hotel shall be liable for the loss of or damage to such property to the extent of \$350, and provided such proprietor shall not be liable for more than \$1,000 damages for the loss of property from the room assigned to such guest.

9 M.P.T.L. ch. 2 § 3

§ 3. Definitions

For purposes of this Chapter, the "proprietor" of a hotel located on the Mashantucket Pequot Reservation shall be the Mashantucket Pequot Gaming Enterprise.

TITLE 10. ARBITRATION

CHAPTER 1

10 M.P.T.L. ch. 1 § 1

§ 1. Scope of Law

This Law applies to any written contract, agreement or other instrument entered into by:

- a. the Mashantucket Pequot Tribe, or
- b. any other person in a transaction that is subject to the jurisdiction of the Mashantucket Pequot Tribe, in which the parties thereto agree to settle by arbitration any controversy arising out of such contract, agreement or other instrument, or any other controversy existing between them at the time of the agreement.

10 M.P.T.L. ch. 1 § 2

§ 2. Agreements to Arbitrate are Enforceable

An agreement in any written contract, agreement or other instrument, or in a separate writing executed by the parties to any written contract, agreement or other instrument, to settle by arbitration any controversy thereafter arising out of such contract, agreement or other instrument or any other transaction contemplated thereunder, including the failure or refusal to perform the whole or any part thereof, or a written agreement between two or more persons to submit to arbitration any controversy existing between them at the time of the agreement, shall be valid, irrevocable and enforceable.

10 M.P.T.L. ch. 1 § 3

§ 3. Law to be Applied

a. In any contract, agreement or instrument described in Section 1 of this Law, the parties may agree upon the jurisdiction whose substantive law shall govern the interpretation and enforcement of the contract, agreement, instrument or controversy. Such choice of law shall be valid and enforceable, and not subject to revocation by one party without the consent of the other party or parties hereto, provided that the subject matter of the contract, agreement instrument or controversy, and at least one of the parties thereto, shall have some contact with the jurisdiction so selected.

b. In any proceeding under this Law, whenever the contract, agreement or other instrument sets forth a choice of law provision, the tribal court shall apply the procedural rules of the tribal court and the substantive law of the jurisdiction selected in such choice of law provision; provided that no procedural rule of the tribal court shall be effective to bar, delay or impair any action, proceeding or remedy where such action, proceeding or remedy would not be barred, delayed or impaired by the procedural rules of the courts of the jurisdiction whose substantive law applies.

c. In any proceeding under this Law, whenever the contract, agreement or other instrument does not set forth a choice of law provision, the tribal court shall first apply the substantive law of the Tribe, including any applicable choice of law principles, and then the substantive law of the state of Connecticut, including any applicable choice of law principles, provided that such law does not conflict with this Law or other applicable tribal law.

10 M.P.T.L. ch. 1 § 4

§ 4. Stay of Proceedings and Order to Proceed with Arbitration

a. If any action for legal or equitable relief or other proceeding is brought by any party to any contract, agreement or instrument described in Section 1 of this Law, the tribal court judge who is presiding over the pending action or proceeding shall not review the merits of the pending action or proceeding, but shall stay the action or proceeding until an arbitration has been had in compliance with the agreement.

b. A party to any contract, agreement or instrument described in Section 1 of

this Law claiming the neglect or refusal of another party thereto to proceed with an arbitration thereunder may make application to the tribal court for an order directing the parties to proceed with the arbitration in compliance with their agreement. In such event, the tribal court shall order the parties to submit to arbitration in accordance with the provisions of the contract, agreement or instrument and the question of whether an obligation to arbitrate the dispute at issue exists shall be decided by the arbitrator(s).

10 M.P.T.L. ch. 1 § 5

§ 5. Advice of the Court

At any time during an arbitration, upon request of all the parties to the arbitration, the arbitrator(s) may make application to the tribal court for advice on any question of tribal or state law arising in the course of the arbitration, provided that such parties shall agree in writing that the advice of the court shall be final as to the question presented and that it shall bind the arbitrator(s) in rendering any award.

10 M.P.T.L. ch. 1 § 6

§ 6. Time within which Award Shall be Rendered

a. If the time within which an award is rendered has not been fixed in the arbitration agreement, the arbitrator(s) shall render the award within thirty days from the date the arbitration has been completed. The parties may expressly agree to extend the time in which the award may be made by an extension or ratification thereof in writing.

b. An arbitration award shall be in writing and signed by the arbitrator(s). The arbitrator(s) shall provide written notice of the award to each party by certified or registered mail, return receipt requested.

10 M.P.T.L. ch. 1 § 7

§ 7. Application for Order Confirming Award; Record to be Filed with Clerk of Court; Effect and Enforcement of Judgment

a. At any time within one year after an arbitration award has been rendered and the parties thereto notified thereof, any party to the arbitration may make application to the tribal court for an order confirming the award.

b. Any party applying for an order confirming an arbitration award shall, at the time the order is filed with the clerk of the tribal court for entry of judgment thereon, file the following papers with the clerk:

(1) the agreement to arbitrate;

(2) the selection or appointment, if any, of the arbitrator(s);

- (3) any written agreement requiring the reference of any question as provided in Section 5;
- (4) each written extension of the time, if any, within which to make the award;
- (5) the award;
- (6) each notice and other paper used upon an application to confirm; and
- (7) a copy of each order of the tribal court upon such an application.

c. An arbitration award shall not be subject to review or modification by the tribal court, but shall be confirmed strictly as provided by the arbitrator(s). The judgment confirming an award shall be docketed as if it were rendered in a civil action. The judgment so entered shall have the same force and effect in all respects as, and be subject to all the provisions of law relating to, a judgment in a civil action, and it may be enforced as if it has been rendered in a civil action in the tribal court. When the award requires the performance of any other act than payment of money, the tribal court may direct the enforcement thereon in the manner provided by law.

10 M.P.T.L. ch. 1 § 8

§ 8. Arbitration Award Not Appealable

No further appeal may be taken from an order issued by the tribal court pursuant to this Law enforcing an agreement to arbitrate or an award issued by an arbitrator.

10 M.P.T.L. ch. 1 § 9

§ 9. Jurisdiction of the Tribal Court in Actions to which the Mashantucket Pequot Tribe is a Party. Qualifications of Judges

a. The Mashantucket Pequot Tribal Court of Appeals shall have exclusive tribal court jurisdiction over any action to enforce an agreement to arbitrate, to compel arbitration pursuant to such an agreement to arbitrate and to enforce an award made by an arbitrator pursuant to such agreement to arbitrate, contained in any contract, agreement or other instrument described in Section 1 of this Law to which the Mashantucket Pequot Tribe is a party; provided that the Mashantucket Pequot Tribal Council has explicitly waived the defense of tribal sovereign immunity in the contract, agreement or other instrument; and provided further that the said contract, agreement, or other instrument does not expressly prohibit the tribal court from exercising jurisdiction thereunder.

b. The jurisdiction of the tribal Court of Appeals under this Law shall be concurrent with the jurisdiction of any state or federal court to the jurisdiction of which the Council shall have explicitly consented in such

contract, agreement or other instrument. Any consent to the jurisdiction of a state or federal court contained in a contract, agreement or other instrument described in Section 1 of this Law to which the Mashantucket Pequot Tribe is a party shall be valid and enforceable in accordance with its terms.

c. In addition to the general qualifications for tribal court judges, a tribal Court of Appeals judge that may be assigned to preside over an action brought under this Law to enforce an agreement to arbitrate, to compel arbitration pursuant to such an agreement to arbitrate or to enforce an arbitration award in connection with a contract described in subparagraph (a) of this Section 9 shall, whenever possible, also have had substantial experience as a federal district court judge or magistrate or shall have been a judge in a federal court of appeals.

TITLE 11. JUVENILE [RESERVED]

Reserved

TITLE 12. CIVIL ACTIONS

CHAPTER 1. CIVIL ACTIONS LAW

12 M.P.T.L. ch. 1 § 1

§ 1. Tribal Forum

a. The Mashantucket Pequot Tribal Council recognizes that it is in the best interest of the Tribe to provide a forum to address civil causes of action, including civil actions by or against the Tribe, tribal enterprises, tribal members and any other person or entity who, through their residence, presence, business dealings, other actions or failures to act, or other significant minimum contacts with the Tribe or on tribal lands, are entitled to civil redress or incur civil obligations. For purposes of this law, "tribal lands" means Indian country, as that term is defined in 18 U.S.C. § 1151. The intent of this law is that the jurisdictional powers of the Mashantucket Pequot Tribal Court shall be exercised to the fullest extent possible and construed to serve the ends of justice.

b. Jurisdiction. Except as may be limited by tribal or federal law, the tribal court shall have jurisdiction over all civil causes of action and the tribal court shall have the power to fashion any equitable or legal remedy reasonably required to enforce judgments, including but not limited to, attachments, garnishments and executions. The Tribal Court shall have jurisdiction to hear and decide, through a declaratory judgment action, matters pertaining to the legal sufficiency or validity of a petition presented pursuant to Article 8 Section 1 of the Mashantucket (Western) Pequot Constitution, and the sovereign immunity of the Tribe is hereby waived for the limited purpose of such a

declaratory judgment action in Tribal Court provided such action is commenced within 20 days from the time the Tribal Council does not accept the validity or sufficiency of the petition.

c. Personal Jurisdiction. As to a cause of action arising from any of the acts enumerated in this section, the tribal court may exercise personal jurisdiction over any person, Indian or non-Indian, or any entity:

(1) who is served with process on tribal lands;

(2) who consents to such jurisdiction;

(3) who in person or through an agent;

(a) transacts any business or activity on tribal lands;

(b) commits a tortious act on tribal lands;

(c) commits a tortious act outside tribal lands causing injury to person or property within tribal lands if the person either regularly does or solicits business, or engages in any other regular course of conduct, or derives substantial revenue from goods used or consumed or services rendered on tribal lands, or otherwise expects or should reasonably expect the act to have consequences on tribal lands;

(d) owns, uses, or possesses any property real or personal, or any interest therein, within tribal lands;

(e) enters into any contract made on tribal lands or to be performed on tribal lands;

(f) engages in any business solicited on tribal lands by mail, telecommunication, or otherwise if the person has repeatedly so solicited business, whether the orders or offers relating thereto were accepted within or without tribal lands; or

(g) engages, directly or indirectly, in the production, manufacture or distribution of goods by a person with the reasonable expectation that such goods are to be used or consumed on tribal lands and are so used or consumed, regardless of how or where the goods were produced, manufactured, marketed or sold or whether or not through the medium of independent contractors or dealers.

(4) who violates the civil rights of any person, as defined in the 20 M.P.T.L. Civil Rights Code. None of the foregoing bases of jurisdiction is exclusive or exhaustive, and jurisdiction may be established upon any one or more bases as applicable.

d. Limitation on Jurisdiction.

(1) As provided in the tribal law establishing the Tribal Court, 1 M.P.T.L. ch. 1, § 2(c), the tribal court shall not exercise civil jurisdiction over any

action arising from a contract or agreement to which the Tribe is a party or by which it may be bound if such contract contains an express provision prohibiting the exercise of jurisdiction by the tribal court, whether approved prior to or subsequent to the enactment of this law, provided that the tribal court shall have jurisdiction to enforce an agreement to arbitrate or an arbitration award relating to such contract if the contract provides for such action.

(2) Nothing provided in this law shall be deemed to be a waiver of the sovereign immunity of the Tribe or a tribal enterprise unless such immunity has been waived in the context of the particular case before the tribal court, or has been expressly waived by this law. Nothing contained in this law shall be construed to be a waiver of the sovereign immunity of the Tribe or any tribal enterprise from suit in state or federal court or in any action before any state or federal agency, or in any other forum or context.

(3) There shall be no cause of action in the tribal court for alleged gaming losses, the jurisdiction of which has been specifically reserved for consideration by the Mashantucket Pequot Gaming Commission. For purposes of this section, "gaming loss" means any claim brought to recover damages for pecuniary loss resulting from the engagement by any person in activities classified as "class I gaming," "class II gaming," or "class III gaming," as those terms are defined in the Indian Gaming Regulatory Act, 25 U.S.C. §§ 2701-2721.

(4) There shall be no cause of action in the tribal court relating to, or which may affect, banishments or exclusions, except that this provision shall not prohibit the tribal court from imposing civil or criminal penalties for the violation of a banishment or exclusion order.

12 M.P.T.L. ch. 1 § 2

§ 2. Tort Actions to which the Tribe is a Party

a. The Tribe hereby expressly waives its sovereign immunity from suit in the tribal court for actions founded upon a tort of the Tribe or its agents, servants, or employees acting within the scope of their employment.

b. In any judgment under this law against the Tribe, the court may award damages as hereinafter provided:

(1) The court may enter an award for actual damages.

(2) For any injury resulting in death, the court may enter an award for actual damages, but in no event shall the award be less than \$100,000.

(3) In addition to an award for actual damages, the court may enter an award for any injury resulting in permanent significant disfigurement or permanent significant scar of the face, head, or neck, or, on any other area of the body only if the resulting permanent significant disfigurement or permanent significant scar handicaps the claimant in obtaining or continuing to work. In

determining an appropriate damage award for a permanent significant disfigurement or permanent significant scar, the court shall calculate such an award pursuant to Title 13 M.P.T.L. ch. 4, §§ 12(c) and 12(d); except that when the claimant is not employed, the court shall use the rate of \$200 per week, without deduction.

(4) In addition to an award for actual damages, the court may enter an award for pain and suffering or mental anguish in an amount which shall not exceed 200% of the actual damages sustained.

(5) "Actual Damages" means the ascertainable loss of money or property sustained as a result of an injury without any reduction for collateral sources.

(6) For purposes of calculating pain and suffering or mental anguish, actual damages shall include the reasonable value of expenses or losses incurred, notwithstanding offsets resulting from adjustments or write offs based on contractual relationships or other arrangements between third party payors, including but not limited to Medicare or private insurance carriers

(7) In causes of action based on negligence, contributory negligence shall not bar recovery in an action by any person or the person's legal representative to recover damages resulting from personal injury, wrongful death or damage to property if the negligence was less than or equal to the combined negligence of the person or persons against whom recovery is sought. Any award for damages to a person shall be reduced in proportion to the person's contributory negligence. However the person shall recover nothing if claimant's contributory negligence is determined to be greater than fifty (50) percent.

c. Nothing in this law shall affect the provisions of the tribal law applicable to the Gaming Enterprise, 4 M.P.T.L. ch. 1, which shall remain in full force and effect.

d. The amendments to this law pursuant to TCR052907-06 of 09 shall be applicable to claims accruing after May 29, 2007, the date of the enactment of TCR052907-06 of 09.

12 M.P.T.L. ch. 1 § 3

§ 3. Contract Actions to which the Tribe is a Party

Except as provided in Section 1(d)(1) of this law, the Tribe hereby expressly waives its sovereign immunity from suit in the tribal court and the immunity of its tribal enterprises for actions upon written contracts or agreements in which the Tribe or a tribal enterprise is a party, and which have been approved and executed by a duly authorized tribal officer or official acting within the scope of his or her actual authority and in the ordinary course of business. This law shall be deemed an "other instrument" as used and referenced in the Arbitration Law, 10 M.P.T.L.

12 M.P.T.L. ch. 1 § 4

§ 4. Limitations on Civil Actions

a. Statute of Limitations.

(1) Actions upon contract. No action upon any contract may be brought but within one year after the right of action accrues, except as provided in subsection (3) of this Section, and further, except for actions based on a credit instrument which shall be instituted within six years from the date the cause of action arises. "Credit Instrument" means any writing which evidences a debt owed to the Tribe at the time the debt is created, and includes counter checks, markers, personal checks, cash equivalents, and any writing taken in consolidation, redemption or payment of a prior credit instrument, which are cashed in conformity with procedures governing the issuance of credit at the Tribe.

(2) Action founded upon a tort. No action to recover damages caused by negligence or founded upon a tort shall be brought but within one year from the date of the act or omission complained of. All claims brought pursuant to this law shall be deemed to accrue on the date when the injury is sustained. The defendant must present the issue of failure to file a claim as stated herein to the court as an affirmative defense. Such defense shall not be considered jurisdictional in nature.

(3) Limitations of action by or against architects, professional engineers, land surveyors, contractors and other construction entities.

(a) For purposes of this subsection (3), no action, whether in contract, in tort, or otherwise, (i) to recover damages (a) for any deficiency in the planning, design, engineering, construction, repair or alteration, construction administration, management, supervision or inspection, or land surveying, in connection with an improvement to real property; (b) for injury to property, real or personal, arising out of any such deficiency; (c) for injury to the person or for wrongful death arising out of any such deficiency, or (ii) for contribution or indemnity which is brought as a result of any such claim for damages shall be brought against any architect, professional engineer, contractor, construction manager, inspector or land surveyor furnishing or performing such services, more than seven years after substantial completion of such improvement.

(b) Notwithstanding the provisions of subsection (a)(3)(a), in the case of such an injury to property or the person or such an injury causing wrongful death, which injury occurred during the seventh year after such substantial completion, an action in tort to recover damages for such an injury or wrongful death may be brought within one year after the date on which such injury occurred, irrespective of the date of death, but in no event may such an action be brought more than eight years after the substantial completion of construction of such an improvement.

(c) Any person, firm or corporation which has entered into a contract with the Tribe or tribal enterprises, for the performance of work, services or

activities of the nature described in subsection (a)(3)(a) may, in the event of any disputed claims under such contract, bring an action in tribal court for the purpose of having such claims determined; provided, however, that no such action shall be brought more than three years after substantial completion of such improvement.

(d) For purposes of subsections (a)(3)(a), (b) and (c) of this law, an improvement to real property or any discrete portion thereof, shall be considered "substantially complete" when: (i) the Mashantucket Pequot Tribal Land Use Commission has issued a final Certificate of Occupancy for the entire improvement or any discrete portion thereof or, in the event that no such certificate is issued, (ii) when the entire improvement or any discrete portion thereof is occupied or beneficially used by the owner or tenant thereof or, in the event that it is not occupied, (iii) when the entire improvement is first available for use after having been completed in accordance with the contract or agreement covering the improvement, including any punch list or agreed changes to the contract or agreement.

(e) Notwithstanding any other provision of tribal law, the limitation periods prescribed herein shall apply both prospectively and retroactively to all claims, as described in subsections (a)(3)(a), (b) and (c) herein, accruing prior or subsequent to the date of passage of this provision.

(f) The provisions of this subsection (3) shall not modify the statute of limitations provisions of Title 4. Any claim for injury occurring at the Gaming Enterprise based upon a deficiency as described in subsection (a) shall be limited to a claim against the Gaming Enterprise under Title 4.

b. Written Agreements; Statute of Frauds. No action on a contract may be maintained in the following cases unless the contract, or memorandum of the agreement, is made in writing and signed by the party, or the agent of the party, to be charged:

(1) against any person upon any special promise to answer for the debt, default, or miscarriage of another;

(2) upon any agreement made upon the consideration of marriage;

(3) upon any agreement for the sale of real property or any interest in or concerning real property;

(4) upon any agreement that is not to be performed within one year from the making thereof; or

(5) upon any agreement for a loan in an amount which exceeds \$50,000. In all actions against the Tribe founded upon a contract, the contract to be enforced must be in writing as provided in Section 3 of this law.

c. Notwithstanding any provision of tribal law to the contrary, the Tribe, its subdivisions and instrumentalities, including, without limitation, any officers, agents and employees thereof shall not be held liable for any losses arising from, or in any way related to, the failure of a computer, software

program, database, network information system or any other device containing a computer processor to accurately or properly recognize, calculate, display, sort, or otherwise process dates or times, including, but not limited to, dates occurring before, on or after December 31, 1999; provided, however, that nothing contained herein shall limit the Tribe's right(s) to bring an action against any person alleging a loss or failure described herein.

d. Defenses in Actions on a Credit Instrument.

(1) When Presented. Every defense, in law or in fact, to a claim for relief shall be affirmatively set forth in particularity in the answer.

(2) Types Recognized. The court shall recognize only these affirmative defenses:

(i) accord and satisfaction;

(ii) discharge in bankruptcy;

(iii) fraud or duress;

(iv) incapacity;

(v) lack of service of process;

(vi) lack of in personam jurisdiction;

(vii) lack of subject matter jurisdiction;

(viii) payment or release;

(ix) res judicata; and

(x) statute of limitations.

12 M.P.T.L. ch. 1 § 5

§ 5. Miscellaneous

a. All actions against the Tribe or a tribal enterprise shall be tried to the tribal court and not to a jury. No costs shall be taxed against the Tribe or its enterprises.

b. In all actions where it is alleged that the liability of the Tribe is based upon the action of an agent, servant, or employee of the Tribe acting within the scope of his or her employment there shall be no separate cause of action existing against said agent, servant, or employee, and nothing in this Law shall be construed to waive the sovereign immunity of the Tribe to the extent that sovereign immunity would be applicable to such individual and such sovereign immunity is waived only for purposes of an action against the Tribe as specifically permitted in tribal court pursuant to Section 2 of this law.

c. The following shall not apply to claims against the Tribe or its enterprises:

- (1) any rule of law imposing absolute or strict liability;
- (2) any award or other judgment imposing punitive or exemplary damages;
- (3) any award for loss of consortium; and
- (4) any order for injunctive relief, provided that the Court may order injunctive or prospective relief against the Tribe or its enterprises when a claim arises from a written contract in which the Tribe or a tribal enterprise is a party and the contract is signed by a duly authorized tribal representative acting within the scope of his or her actual authority and in the ordinary course of business, and the contract expressly provides for injunctive relief.

d. When interpreting this Law, the court shall follow tribal law and precedent and may be guided by the common law of other jurisdictions.

12 M.P.T.L. ch. 1 § 6

§ 6. Application of Law

This law shall apply to:

- a. all civil causes of action which accrue on or after its enactment;
- b. all civil causes of action in which suit has not been brought and which had accrued within one year prior to the enactment of this law, provided a suit shall have been commenced within one year from the enactment of this law, and notice of said suit, if required, shall be sufficient if given within 180 days from the enactment of this law; and
- c. all civil causes of action which may be pending in any court on the effective date of the original enactment of this law. This law shall not apply to any civil causes of action that have gone to final judgment. Final judgment, for the purposes of this section, shall include the disposition of an entire cause of action or the dismissal of any count of the complaint or theory of recovery in such pending action.

12 M.P.T.L. ch. 1 § 7

§ 7. Amendments

- a. Notwithstanding Section 6 of this law, any amendment made to this law shall apply only to claims filed subsequent to the date of enactment of the amendment. (June 4, 2002)

b. The amendments to this law made pursuant to TCR122702 of 02 shall be applicable to claims pending and accruing as of the enactment date of the Resolution.

12 M.P.T.L. ch. 1 § 8

§ 8. Waiver of Tribal Sovereign Immunity for Off-Reservation Automobile Accidents

Any person injured through the negligence of any Mashantucket Pequot Tribal employee while acting within the scope of his/her employment and while operating a motor vehicle shall have a right of action against said employee to recover damages for injuries to person or property sustained in an accident occurring outside the Mashantucket Pequot Reservation. The Mashantucket Pequot Tribe hereby expressly waives its immunity from suit for such claims; provided that the suit is brought in the courts of the state of Connecticut and the suit names the employee, not the Mashantucket Pequot Tribe, as a defendant. This waiver of tribal sovereign immunity from suit is expressly limited to the extent of the Tribe's commercial automobile policy, and is further limited to claims arising after the enactment of this Resolution [TCR021303-01 of 09] and to claims that are pending in the courts of the State of Connecticut on the date of enactment of this Resolution [on February 13, 2003].

CHAPTER 2. FALSE CLAIMS ACT

12 M.P.T.L. ch. 2 § 1

§ 1. Title

This law shall be known and may be cited as the False Claims Act.

12 M.P.T.L. ch. 2 § 2

§ 2. Definitions

a. "Claim" includes any request, application, or demand for money, property, or services made to any employee, officer, or agent of the Mashantucket Pequot Tribe (the "Tribe") and any of its instrumentalities or political subdivisions (including but not limited to Foxwoods Resort & Casino). A Claim may, but need not be made, pursuant to a contract.

b. "Indian" shall mean any person as defined by the same term in 2 M.P.T.L., Chapter 1, Section 2(d) (Criminal Law) of the Mashantucket Pequot Tribal Laws as it may be amended from time to time.

c. "Knowing" and "knowingly" means that a person, with respect to information, does any of the following:

- (1) Has actual knowledge of the information or;
- (2) Acts in deliberate ignorance of the truth or falsity of the information;
or
- (3) Acts in reckless disregard of the truth or falsity of the information.

Proof of specific intent to defraud is not required under this definition.

d. "Person" includes any natural person, corporation, firm, association, organization, partnership, limited liability company, business, or trust.

12 M.P.T.L. ch. 2 § 3

§ 3. False Claims

a. The term to make a "False Claim(s)" means:

- (1) to knowingly present, or cause to be presented to the Tribe, a false or fraudulent claim for payment or approval;
- (2) to knowingly make, use, or cause to be made or used, a false record, statement, pay application or Change Order request, to get a false or fraudulent claim paid or approved by the Tribe;
- (3) to knowingly conspire to defraud the Tribe by getting a false or fraudulent claim allowed or paid by the Tribe;
- (4) has possession, custody, or control of property or money used, or to be used, by the Tribe and knowingly delivers or causes to be delivered, less property than the amount for which the person receives a certificate or receipt;
- (5) is authorized to make or deliver a document certifying receipt of property on behalf of the Tribe, and knowingly makes or delivers a receipt that falsely represents that the property was received without reasonably knowing that the information on the receipt is true;
- (6) knowingly buys, or receives as a pledge of an obligation or debt of the Tribe from an officer, tribal member, or employee of the Tribe who lawfully may not sell or pledge the property;
- (7) knowingly makes, uses, or causes to be made or used, a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the Tribe;
- (8) is a beneficiary of an inadvertent submission of a false or fraudulent claim to the Tribe, and who subsequently discovers the falsity of the claim, and who fails to disclose the false or fraudulent claim to the Tribe within a reasonable time after discovery thereof; or

(9) knowingly makes a false statement that reasonably causes the Tribe to investigate or expend funds to prove or disprove the statement.

12 M.P.T.L. ch. 2 § 4

§ 4. Investigation, Civil Action and Criminal Prosecution

a. The Office of Inspector General or the Internal Audit Department (the "Investigator") of the Tribe shall diligently investigate an alleged violation of this law.

b. In the event that the investigator finds that it is more likely than not that a person has violated or is violating this law then the investigator shall make a full report to the Office of Legal Counsel. The Office of Legal Counsel, or their designee, may bring a civil action on behalf of the Tribe against the person who allegedly made the False Claim, may decline to bring an action or may require additional investigation to support an action. The Office of Legal Counsel may also refer the matter to the tribal prosecutor with the recommendation that a separate criminal action be brought.

c. In the event that a False Claim has been made by an Indian, then the Office of the Tribal Prosecutor, may, in addition to the remedy provided by subsection (b) of this section, may bring a separate criminal action.

d. Individuals may not bring an action to enforce the provisions of this law.

12 M.P.T.L. ch. 2 § 5

§ 5. Jurisdiction

a. The Mashantucket Pequot Tribal Court (the "Court") shall have exclusive jurisdiction to hear matters arising under this law.

b. There shall be no right to trial by jury for civil actions brought under this law.

c. In any civil action brought under this law, the Tribe shall be required to prove the cause of action, including damages, by a preponderance of the evidence.

d. No civil action may be brought under this law more than 6 years after the date on which the False Claim was allegedly made.

12 M.P.T.L. ch. 2 § 6

§ 6. Civil Penalties

The Court may assess a civil penalty, which shall include the amount of actual damages, of not less than two times and not more than ten times the amount of

damages which the Tribe sustained or likely would have sustained because of the False Claim.

12 M.P.T.L. ch. 2 § 7

§ 7. Criminal Penalties

a. If an Indian files a False Claim in an amount greater than \$5,000 they may, in addition to any civil action, be incarcerated for a term not to exceed one year for each False Claim. A finding of guilt shall be supported by a finding that the False Claim was made beyond a reasonable doubt. In the event that the person incarcerated is a member of the Mashantucket Pequot Tribal Nation then the penalty and/or cost of incarceration shall be deducted from that tribal member's future incentive payment or payroll in an amount not to exceed one third of the said compensation until the amount of the penalty and/or cost of incarceration is paid in full.

b. Upon a plea of guilty or no contest the Court may modify or otherwise limit any penalty based upon the fact that the person committing a violation of this subsection:

(1) fully cooperated with tribal authorities charged with investigation of False Claims against the Tribe (provided that a prosecution for the False Claim has not occurred at the time the information is first offered);

(2) provides restitution to the Tribe in double the amount of the False Claim within 30 days of notice of an investigation into a False Claim; and

(3) has submitted a False Claim in an amount less than \$10,000.

c. Liability under this section shall be joint and several for any act committed by two or more persons.

12 M.P.T.L. ch. 2 § 8

§ 8. Reward

a. Any person who supplies direct information to the Tribe, which is not already known to the Tribe, and which results in a successful prosecution of any person filing a False Claim, provided that the recovery is in excess of \$5,000, such person shall be entitled to a reward equal to 15% percent of any amount actually recovered by the Tribe, including but not limited to the amount of any fine or other levy imposed by the Tribal Court. The maximum amount that may be awarded pursuant to this provision is \$20,000.

b. In the event that two or more persons supply the initial information the reward provided in this section shall be equitably awarded by the Court. In no event will the reward paid by the Tribe exceed 15% as provided in this section.

c. The Office of Legal Counsel may settle any action brought under this law and

any such determination of the Office of Legal Counsel shall be final. Individuals who are or may be entitled to a reward under this law shall have no standing to challenge or otherwise object to the decision of the Office of Legal Counsel regarding any such settlement.

d. No person shall be eligible for a reward if:

(1) the information supplied is a part of an audit, report or other investigation commenced by the Tribe;

(2) the claimant has participated in the development, submission, approval, or attempted approval of the False Claim; or

(3) if the claimants are an employee or consultant of the Tribe and, as a normal part of their duties, they would reasonably be required to guard against the False Claim.

e. No person who collects a reward or otherwise assists in the development of the prosecution of a False Claim pursuant to this law may be retaliated against as a result of assisting in the investigation or testifying in any hearing to establish the existence of a False Claim.

LEGISLATIVE HISTORY TO THE CIVIL ACTIONS LAW

13 M.P.T.L. Leg. History

TITLE 12 M.P.T.L. ch. 1 (Enacted February 4, 1997)

Background

According to the Constitution of the Mashantucket Pequot Tribe, the Tribal Council is the legislative body of the Tribe. Constitution, Article VI, § 1. The Judicial Committee is the standing committee of the Tribal Council with responsibility for the initial development and continued review of the laws of the Tribe. Constitution, Article VI, § 8. In determining the meaning of a law and discerning the intent of the legislature, a court will first look to the words of the statute, and, if there is any ambiguity, to the legislative history and circumstances surrounding its enactment, to the legislative policy it was designed to implement, and to its relationship to existing legislation and common law principles governing the same subject matter. In drafting the Civil Actions Law, the Committee reviewed several issues about the scope of the proposed law's application, particularly with respect to the jurisdiction of the court, the Tribe's sovereign immunity, the types of cases which could be brought, and potential awards and damages authorized thereunder. The purpose of this legislative history is to provide insight into the Committee's discussions and deliberations, and to articulate the intent of the law so that it may be properly interpreted and applied.

A. Jurisdiction of the Tribal Court

The foundation of a court system is its jurisdiction. The federal court system has its jurisdictional foundation in the federal Constitution-likewise with state court systems and the constitutions. The Constitution of the Mashantucket Pequot Tribe, however, does not specifically address the exercise of the Tribe's judicial authority, and, until recently, the Tribal Council had exercised all the judicial powers to the Tribe.

In 1992 the Tribal Council formally established the Mashantucket Pequot Tribal Court "to adjudicate civil disputes that arise on the Reservation involving all persons." Mashantucket Pequot TCR011092-02, codified at 1 M.P.T.L. ch. 1. The Tribal Council provided in that law that tribal court shall have "original and general jurisdiction over all causes of action except as may be limited by the Tribal Council and by federal law." Id. The Tribal Council then enacted the Sovereign Immunity Waiver Law which, as indicated by its name, waived the immunity of the Mashantucket Pequot Gaming Enterprise, operating as an arm of the tribal government, for certain negligence and personal injury claims arising on the Gaming Enterprise site. 4 M.P.T.L. ch. 1.

The tribal court's jurisdiction has gradually been expanded to include criminal, traffic, child welfare, family relations, debt collection, and probate matters. Through these legislative actions, the Tribal Council seeks to protect important tribal interests such as promoting the goal of self-government and the overriding goal of encouraging tribal self-sufficiency, accountability and economic development.

The Tribal Council had not previously provided a forum for other civil causes of actions or had specifically authorized the tribal court to hear any cases brought directly against the Tribe. Such cases have been brought in state and federal courts where those courts' jurisdiction over the Tribe and ability to provide a remedy are being tested in light of the Tribe's sovereign immunity and the doctrine of exhaustion of tribal remedies. This immunity is rooted in the unique relationship between the United States government and Indian tribes whose sovereignty substantially predates the federal Constitution. Such immunity is necessary to preserve the autonomous political existence of the Tribe and to preserve tribal assets. The Mashantucket Pequot Tribe considers its sovereignty as a necessary corollary to self-government and further considers the jurisdiction of its tribal court as a principle element of self-government.

Accordingly, the Civil Actions Law establishes several significant jurisdictional components:

a. Subject Matter Jurisdiction. The tribal court will have jurisdiction over all civil causes of action involving any party who has had certain defined significant contacts with the Tribe or on tribal lands, except those causes of action specifically prohibited by tribal or federal law.

b. In Personam Jurisdiction. The Tribal Council will be authorized to exercise jurisdiction over any person or entity who is served with process on the Reservation or who, by presence or activities on tribal lands, is deemed to have consented to the Tribe's jurisdiction. "Tribal lands" is defined as "Indian country" pursuant to 18 U.S.C. § 1151, which includes the Reservation,

trust lands, and dependent Indian communities.

c. Sovereign Immunity. The Civil Actions Law provides a limited waiver of the Tribe's sovereign immunity for cases brought against the Tribe in tribal court.

This includes cases involving bodily injury or physical harm to a person, loss of personal property caused by the negligence or other tortious acts of the Tribe or of a tribal law enforcement officer, civil rights violations, and any written contract executed by a tribal official within the scope of his or her authority.

B. Negligence and Torts

The Civil Actions Law does not attempt to define the parameters of the court's jurisdiction over particular kinds of civil actions except to the extent they must be founded on negligence or tortious conduct or on a written contract. It is difficult to define all such actions particularly from a policy perspective.

Nonetheless, the scope and extent of the tribal court's jurisdiction over these causes of action have been defined to a great extent by the developing body of tribal common law. As a court of general jurisdiction, the tribal court will be available to all litigants who have significant contacts with the Tribe or on tribal lands and to all causes of action founded on negligence or other tortious acts arising from such contacts.

C. Civil Rights

The tribal court will have jurisdiction to adjudicate matters involving the violation of a person's civil rights as defined in the Indian Civil Rights Act, 25 U.S.C. §§ 1301-1303 ("ICRA"). The ICRA imposes certain restrictions somewhat similar to the Bill of Rights and the Fourteenth Amendment of the United States Constitution upon Indian tribes when exercising powers of self-government.

D. The Doctrine of Sovereign Immunity

Indian tribes exercise inherent sovereign authority over their members and their territory. Tribal sovereign immunity protects the Tribe from suit without its consent. The Tribe may waive its immunity from suit and allow itself to be sued, but that waiver must be unequivocally expressed by the Tribe and cannot be implied by the judicial branch. Moreover, such waivers or conditional limitations on the Tribe's immunity from suit must be strictly construed and interpreted liberally in favor of the Tribe. The Gaming Enterprise, as an arm of the tribal government, is cloaked with the same immunity from suit as the tribe itself. By waiving the Gaming Enterprise's immunity from suit, however, the Tribe does not waive its governmental immunity from suit.

Tribal officials also generally enjoy the government's immunity from suit when they act within the scope of the government's authority. Thus, where a tribal officer or official has been duly authorized to act, that official is cloaked with the same immunity from suit as the Tribe itself.

The Tribe has previously provided an express waiver of the Gaming Enterprise's

immunity from suit for certain negligence claims arising on the Gaming Enterprise site and specifically for certain employee rights claims against the Gaming Enterprise. The Civil Actions Law provides a further waiver of the Tribe's sovereign immunity and consent to suit in the tribal court for particular subject matters.

Thus, in keeping with the strict construction of tribal law, waivers of sovereign immunity must be clearly and unequivocally expressed. Such expression is only by action of the Tribal Council through Resolution and cannot be effected by any other independent action. The Tribe has intentionally limited its waiver of immunity from suit to the tribal court and has specifically retained its immunity in any other matters which may be brought against it in any other forum.

E. Damages and Awards

The Civil Actions Law allows for damages to be awarded against the Tribe and maintains the same limits on those damages as those applicable to the Gaming Enterprise.

Consistent with current tribal law, there is no jury trial for actions against the Tribe. In addition, the Civil Actions Law prohibits any award against the Tribe based on strict liability, punitive or exemplary damages, loss of consortium or injunctive relief. The Civil Actions Law also maintains the tribal law applicable to the Gaming Enterprise as the exclusive authority under which to bring an action against the Gaming Enterprise for torts committed on Gaming Enterprise property.

The Civil Actions Law establishes a different statute of limitations than provided by previous tribal law. All written contract actions must be brought within one year after the right of action accrues and for any tort action, the injured party must bring his claim within one year from the date of the act or omission complained of, and for torts the party must file a written notice of the claim with the tribal clerk within 180 days from the date of injury. The Civil Actions Law requires that any contract action in tribal court must be founded on a written agreement, and not an oral agreement. It is also specifically authorizes the tribal court to fashion remedies reasonably required to enforce a judgment. These remedies include attachments, garnishments and execution. The tribal court is expressly prohibited, however, to hear any action relating to a banishment or exclusion. Those actions have been left to the authority of the tribal government. The Tribe will enact a comprehensive enforcement of judgment and remedies law in the near future.

Conclusion

The intent of the Civil Actions Law is to provide a forum to adjudicate any right and provide a remedy for any aggrieved party with significant contacts with the Tribe or tribal lands. The court should employ a strong presumption of tribal court jurisdiction wherever the facts and circumstances indicate such significant contacts. The United States Supreme Court has firmly established a policy of abstention in favor of tribal court jurisdiction. The requirement of exhaustion of tribal remedies is necessary as a matter of comity and respect

for tribal forums. Tribal authority over the activities on or relating to tribal lands is an important part of tribal sovereignty. Thus, civil jurisdiction over all such activities presumptively lies in the tribal court unless affirmatively limited by specific treaty provision or by federal statute or tribal law. Tribal courts play a vital role in tribal self-government. Through this law's expression of the tribal court's jurisdiction as to civil actions, the Tribe further recognizes and achieves an important attribute of its sovereignty.

TITLE 13. WORKERS' COMPENSATION CODE

CHAPTER 1. MASHANTUCKET PEQUOT TRIBAL WORKERS' COMPENSATION COMMISSION

13 M.P.T.L. ch. 1 § 1

§ 1. Definitions

As used in this Chapter, unless the context otherwise provides:

a. "Arising Out of and in the Course of His Employment" means an accidental injury happening to an employee or an occupational disease of an employee originating while he has been engaged in the line of his duty in the business or affairs of the employer upon the employer's premises, or while engaged elsewhere upon the employer's business or affairs by the direction, express or implied, of the employer, provided:

(1) a personal injury shall not be deemed to arise out of the employment unless causally traceable to the employment other than through weakened resistance or lowered vitality;

(2) in the case of an accidental injury, a disability or a death due to the use of alcohol or narcotic drugs shall not be construed to be a compensable injury. "Narcotic drugs" means any illegal or controlled substance, but does not include drugs prescribed in the course of medical treatment or in a program of research operated under the direction of a physician or pharmacologist;

(3) for aggravation of a pre-existing injury or occupational disease, compensation shall be allowed only for that proportion of the disability or death due to the aggravation of the pre-existing injury or occupational disease as may be reasonably attributed to the injury upon which the claim is based.

b. "Commission" means the Mashantucket Pequot Tribal Workers' Compensation Commission.

c. "Commissioner" means the Mashantucket Pequot Tribal Compensation Commissioner who has jurisdiction in the matter referred to in the context.

d. "Compensation" means benefits or payments mandated by this Code, including, but not limited to, indemnity, medical and surgical aid or hospital and nursing

service required under Section 15 of Chapter 2, and any type of payment for disability, whether for total or partial disability of a permanent or temporary nature, death benefit, funeral expense, payments made under the provisions of Sections 12 and 14 of Chapter 2, or any adjustment in benefits or payments required by this Chapter.

e. "Date of the Injury" means, for an occupational disease, the date of total or partial incapacity to work as a result of such disease.

f. "Dependent" means a member of the injured employee's family or next of kin who was wholly or partly dependent upon the earnings of the employee at the time of the injury.

g. "Dependent in Fact" means a person determined to be a dependent of an injured employee, in any case where there is no presumptive dependent, in accordance with the facts existing at the date of the injury.

h. "Disfigurement" means impairment of or injury to the beauty, symmetry or appearance of a person that renders the person unsightly, misshapen or imperfect, or deforms the person in some manner, or otherwise causes a detrimental change in the external form of the person.

i. "Employee" means any person who has entered into or works under any contract of service or apprenticeship with the employer, whether the contract contemplated the performance of duties within or without the Mashantucket Pequot Reservation or is a salaried officer or paid member of the Mashantucket Pequot Tribal Public Safety Department. "Employee" shall not be construed to include any person to whom articles or material are given to be treated in any way on premises not under the control or management of the person who gave them out or one whose employment is of a casual nature and who is employed otherwise than for the purposes of the employer's trade or business.

j. "Employer" means the Mashantucket Pequot Tribal Nation, its enterprises, governmental divisions or departments thereof, including the Mashantucket Pequot Gaming Enterprise and Pequot Pharmaceutical Network, but does not include any tribal entity formally incorporated under the laws of any state.

k. "Full-Time Student" means any student enrolled for at least 75% of a full-time student load at a post secondary educational institution which has been approved by a state-recognized or federally-recognized accrediting agency or body. "Full-time student load" means the number of credit hours, quarter credits or academic units required for a degree from such institution, divided by the number of academic terms needed to complete the degree.

l. "He" or "His" means he or she, his or her.

m. "Medical and Surgical Aid or Hospital and Nursing Service", when requested by an injured employee and approved by the Commissioner, includes treatment by prayer or spiritual means through the application or use of the principles, tenets or teachings of any established church without the use of any drug or material remedy, provided sanitary and quarantine regulations are complied with, and provided all those ministering to the injured employee are bona fide

members of such church.

n. "Member" includes all parts of the human body referred to in Section 12 of Chapter 4.

o. "Nursing" means the practice of nursing by a registered nurse under the direction of a licensed physician or dentist.

p. "Occupational Disease" includes any disease peculiar to the occupation in which the employee was engaged and due to causes in excess of the ordinary hazards of employment as such, and includes any disease due to or attributable to exposure to or contact with any radioactive material by an employee in the course of his employment.

q. "Personal Injury" or "Injury"

(1) "Personal injury" or "Injury" includes, in addition to accidental injury which may be definitely located as to the time when and the place where the accident occurred, an injury to an employee which is causally connected with his employment and is the direct result of repetitive trauma or repetitive acts incident to such employment, and occupational disease.

(2) "Personal injury" or "Injury" shall not be construed to include:

(a) an injury to an employee which results from his voluntary participation in any activity the major purpose of which is social or recreational, including, but not limited to, athletic events, parties and picnics, whether or not the employer pays some or all of the cost of such activity;

(b) a mental or emotional impairment, unless such impairment arises from a physical injury or occupational disease; or

(c) a mental or emotional impairment which results from a personnel action, including, but not limited to, a transfer, promotion, demotion, or termination.

r. "Physician" includes any person duly licensed and authorized to practice a healing art including the practice of medicine, osteopathy, chiropractic, podiatry, naturopathy, and optometry.

s. "Presumptive Dependents" means the following persons who are conclusively presumed to be wholly dependent for support upon a deceased employee:

(1) a wife upon a husband with whom she lives at the time of his injury or from whom she receives support regularly;

(2) a husband upon a wife with whom he lives at the time of her injury or from whom he receives support regularly;

(3) any child under the age of 18, or over the age of 18 but physically or mentally incapacitated from earning, upon the parent with whom he is living or from whom he is receiving support regularly, at the time of the injury of the parent;

(4) any unmarried child who has attained the age of 18 but has not attained the age of 22 and who is a full-time student, upon the parent with whom he is living or from whom he is receiving support regularly, provided, any child who has attained the age of 22 while a full-time student but has not completed the requirements for, or received, a degree from a post secondary educational institution shall be deemed not to have attained the age of 22 until the first day of the first month following the end of the quarter or semester in which he is enrolled at the time, or if he is not enrolled in a quarter or semester system, until the first day of the first month following the completion of the course in which he is enrolled or until the first day of the third month beginning after such time, whichever occurs first.

t. "Previous Disability" means an employee's pre-existing condition caused by the total or partial loss of, or loss of use of, any member of his body resulting from accidental physical injury, occupational disease or congenital causes, or other permanent physical impairment.

u. "Scar" means the mark left on the skin after the healing of a wound or sore, or any mark, damage or lasting effect resulting from past injury.

13 M.P.T.L. ch. 1 § 2

§ 2. Workers' Compensation Commission. Chief Commissioner and Commissioners. Appointment by the Mashantucket Pequot Tribal Council. Terms of Office. Removal

a. There shall be a Mashantucket Pequot Workers' Compensation Commission to administer the Mashantucket Pequot Tribal Workers' Compensation Code. There shall be one full-time Mashantucket Pequot Tribal Workers' Compensation commissioner, and part-time commissioners as are necessary to effectively carry out the duties of the Commission. Commissioners shall be appointed by the Tribal Council and shall serve for a term of three years. The full-time commissioner shall serve as chief commissioner of the tribal Workers' Compensation Commission. On or before the date of the expiration of the term of each commissioner or upon the occurrence of a vacancy in the office of any commissioner for any reason, the Tribal Council shall appoint a competent person to fill that office.

b. Each commissioner shall be sworn to a faithful performance of his duties. The Tribal Council may remove any commissioner for cause. The chief commissioner shall devote all of his time to the duties of his office and shall not be otherwise gainfully employed.

13 M.P.T.L. ch. 1 § 3

§ 3. Salary of Compensation Commissioners

The Tribal Council shall determine the annual salary and compensation of the commissioners.

§ 4. Powers and Duties of Commissioners

The commissioner shall hear all claims and questions arising under this Code. The commissioner shall have power to summon and examine under oath such witnesses, and may direct the production of, and examine or cause to be produced or examined, such books, records, vouchers, memoranda, documents, letters, contracts or other papers in relation to any matter at issue as he may find proper, and shall have the power to order depositions. He shall have power to certify to official acts and shall have all powers necessary to enable him to perform the duties imposed upon him by the provisions of this Code.

§ 5. Notice of Availability of Compensation; Regulations. Employer-sponsored Plan for Medical Care and Treatment

a. The chief commissioner shall adopt regulations specifying the minimum information to be contained in a notice of the availability of compensation which shall be posted in the workplace by each employer.

b. On or after the enactment of this Code, the employer or any insurer acting on behalf of an employer, may establish a plan, subject to the approval of the chief commissioner, under subsection (c) of this Section, setting forth the provision of medical care which the employer provides for the treatment of any injury or illness under this Code. Each plan shall contain such information as the chief commissioner shall require, including, but not limited to:

(1) a listing of all persons who will provide services under the plan, along with appropriate evidence that each person listed has met any licensing, certification or registration requirement necessary for the person to legally provide the required service;

(2) a designation of the times, places and manners in which the services will be provided;

(3) a description of how the quality and quantity of medical care will be managed and directed as is reasonably necessary to control the employer's workers' compensation costs, track occupational injuries and diseases, and account for workers' compensation claims; and

(4) such other provisions as the employer and the employees may agree to, subject to the approval of the chief commissioner.

The election by an employee covered by a plan established under this subsection to obtain medical care and treatment from a provider of medical services who is not listed in the plan shall suspend his right to compensation, subject to the order of the chief commissioner.

c. The plan established by subsection (b) of this Section may include, but not be limited to the following standards:

(1) the ability of the plan to provide all medical and health care services that may be required under this Code in a manner that is timely, effective and convenient for the employees;

(2) the inclusion in the plan of all categories of medical service and of an adequate number of providers of each type of medical service in accessible locations to ensure that employees are given an adequate choice of providers;

(3) the provision in the plan for appropriate financial incentives to reduce service costs and utilization without a reduction in the quality of service;

(4) the inclusion in the plan of fee screening, peer review, service utilization review and dispute resolution procedures designed to prevent inappropriate or excessive treatment; and

(5) the inclusion in the plan of a procedure by which information on medical and health care service costs and utilization will be reported to the chief commissioner in order for him to determine the effectiveness of the plan.

13 M.P.T.L. ch. 1 § 6

§ 6. Booklet to be Distributed Explaining Code

The chief commissioner shall prepare, publish and distribute an illustrated booklet explaining, in informal and readily understandable language, employee benefits and responsibilities under the Mashantucket Pequot Tribal Workers' Compensation Code. The chief commissioner shall prepare, publish and distribute revisions to such booklet whenever changes in the tribal Workers' Compensation Law necessitates such revision.

13 M.P.T.L. ch. 1 § 7

§ 7. Workers' Compensation Chief Commissioner. Powers and Duties. Budget. Report of Expenses

a. The chief commissioner may hear any matter arising under this Code. The chief commissioner shall prepare the forms used by the commission and cause to be published decisions of the commission. The chief commissioner shall be provided with sufficient staff to assist him in the performance of his duties.

The chief commissioner may, within available appropriations, appoint acting tribal Workers' Compensation commissioners on a per diem basis from qualified members of the bar of the Mashantucket Pequot Tribal Court which shall have all the powers and duties of a compensation commissioner.

b. In addition, the tribal Workers' Compensation chief commissioner shall:

(1) adopt such rules as he deems necessary for the conduct of the internal affairs of the Mashantucket Pequot Tribal Workers' Compensation Commission;

(2) adopt regulations to carry out his responsibilities under this Code;

(3) prepare and adopt an annual budget and plan of operation;

(4) prepare and submit an annual report to the Tribal Council;

(5) establish an organizational structure and such divisions for the commission, consistent with this Code, as he deems necessary for the efficient and prompt operation of the commission;

(6) establish policy for all matters over which the commission has jurisdiction, including rehabilitation, education and statistical support;

(7) control the hearing calendars of the compensation commissioners;

(8) direct and supervise all administrative affairs of the commission;

(9) collect and analyze statistical data concerning the administration of the Mashantucket Pequot Tribal Workers' Compensation Commission;

(10) direct and supervise the implementation of a uniform case filing and processing system that will include, but not be limited to, the ability to provide data on the number of cases having multiple hearings, the number of postponed hearings and hearing schedules;

(11) establish staff development, training and education programs designed to improve the quality of service provided by the Commission, including, but not limited to, a program to train staff in the screening of hearing requests;

(12) develop standard forms for requesting hearings and standard policies regarding limits on the number of informal hearings that will be allowed under this Chapter, and limits on the number of postponements that will be permitted before a formal hearing is held pursuant to Section 11 of Chapter 2;

(13) develop guidelines for expediting disputed cases; and

(14) evaluate the performance of each commissioner biannually and make the performance evaluation of any commissioner available to the Tribal Council and to the members of the Judicial Review Committee. Any information disclosed to such persons shall be used by such persons only for the purpose for which it was given and shall not be disclosed to any other person.

c. In furtherance of the effective implementation of this Code, it is anticipated that the chief commissioner also will do the following:

(1) establish:

(a) an approved list of practicing physicians, surgeons, podiatrists, optometrists and dentists from which an injured employee shall choose for

examination and treatment under the provisions of this Chapter, which shall include, but not be limited to, classifications of approved practitioners by specialty, and

(b) standards for the approval and removal of physicians, surgeons, podiatrists, optometrists and dentists from the list by the commissioner;

(2) establish:

(a) standards for approving all fees for services rendered under this Code by attorneys, physicians, surgeons, podiatrists, optometrists, dentists and other persons, and

(b) a fee schedule setting the fees payable by the employer or its insurance carrier for services rendered under this Code by an approved physician, surgeon, podiatrist, optometrist or dentist, provided the fee schedule shall not apply to services rendered to a claimant who is participating in an employer's managed care plan pursuant to Section 5 of Chapter 1. The fee schedule shall limit the annual growth in total medical fees to the annual percentage increase in the consumer price index for all urban workers or a comparable index approved by the chief commissioner. Payment of the established fees by the employer or its insurance carrier shall constitute payment in full to the practitioner, and the practitioner may not recover any additional amount from the claimant to whom services have been rendered, and publish annually thereafter, and

(c) publish annually guidelines for the maximum fees payable by a claimant for any legal services rendered by an attorney in connection with the provisions of this Code, which fees shall be approved in accordance with the standards established by the chief commissioner pursuant to this subsection;

(3) may establish an ongoing training program designed to assist the commissioners in the fulfillment of their duties pursuant to the provisions of Section 4 of Chapter 1, which program shall include instruction in the following areas: discovery, evidence, statutory interpretation, medical terminology, legal decision writing and the purpose and procedures of informal and formal hearings.

d. The chief commissioner may appoint, in consultation with the Tribal Council, such supplementary advisory panels as the chief commissioner deems necessary and appropriate to the effective implementation of this Code.

e. The chief commissioner, as soon as practicable after September first of each year, shall submit to the Tribal Council an estimated budget of expenditures which shall include all direct and indirect costs incurred by the commission for the succeeding fiscal year commencing on October first next. The commission, for the purposes of administration, shall not expend more than the amounts specified in such estimated budget for each item of expenditure except as authorized by the Tribal Council. The chief commissioner shall include in his annual report to the Tribal Council a statement showing the actual expenses of administering the Mashantucket Pequot Tribal Workers' Compensation Code for the preceding fiscal year.

f. The chief commissioner and the Tribe's chief financial officer shall, as soon as practicable after September first in each year, ascertain the total amount of expenses incurred by the Commission, including, in addition to the direct cost of personnel services, the cost of maintenance and operation, and all other direct and indirect costs, incurred by the Commission during the preceding fiscal year in connection with the administration of the Mashantucket Pequot Tribal Workers' Compensation Code. An itemized statement of the expenses as so ascertained shall be submitted to the Tribal Council.

13 M.P.T.L. ch. 1 § 8

§ 8. Successor Shall Complete Acts Upon Death or Incapacitation of Chief Commissioner or Commissioner

If the chief commissioner or any commissioner dies or becomes incapacitated for any reason before the final settlement of any matter in which he had been acting in his official capacity, his successor in office shall continue such matter to its completion.

CHAPTER 2. BASIC RIGHTS, LIABILITIES AND REMEDIES

13 M.P.T.L. ch. 2 § 1

§ 1. Jurisdiction. Waiver of Sovereign Immunity. Employer's Liability. Notice of Availability of Compensation

a. The tribal court shall have jurisdiction over claims arising under this Law, provided that all remedies have been exhausted.

b. The Tribe hereby waives its sovereign immunity from suit for actions arising under this law and brought in tribal court against an "employer" as that term is defined by 13 M.P.T.L. ch. 1, Section 1(j). Nothing herein shall be construed as a waiver of the sovereign immunity of the Tribe or its tribal enterprises from suit in state or federal court or in any action before any state or federal agency, or in any other forum or context.

c. An employer shall not be liable to any action for damages on account of personal injury sustained by an employee arising out of and in the course of his employment or on account of death resulting from personal injury so sustained, but an employer shall secure compensation for his employees as provided under this Code, except that compensation shall not be paid when the personal injury has been caused by the willful and serious misconduct of the injured employee or as a result of being under the influence of narcotic drugs or alcohol. All rights and claims between employer and employees, or any representatives or dependents of such employees, arising out of personal injury or death sustained in the course of employment are abolished other than rights and claims given by this Code, provided nothing in this Section shall prohibit any employee from securing, by agreement with his employer, additional

compensation from his employer for the injury or from enforcing any agreement for additional compensation.

d. If an employee is injured on the Mashantucket Pequot Reservation but his employer has not provided workers' compensation coverage for said injury, the employee shall have a cause of action in the tribal court for the workers' compensation payments the employee would have been entitled to had coverage been provided in accordance with the laws of the jurisdiction of employer's principal place of business. The tribal court may award the present worth of any probable future benefits as well as costs and attorney's fees. In addition, the employee shall not be barred from receiving other damages for such injuries from the employer and the employer shall not be entitled to assert as a defense thereto any bar to such suits otherwise available to employers who have provided workers' compensation coverage under this or any other workers' compensation law. The employee's recovery is limited to the greater of the alternate theories of recovery hereunder.

e. Employers shall post in a conspicuous place a notice of availability of compensation, in type of not less than 10 point boldface. The notice shall contain, at a minimum, the information required by regulations adopted pursuant to Section 5 of Chapter 1.

13 M.P.T.L. ch. 2 § 2

§ 2. Discharge or Discrimination Prohibited. Right of Action

a. No employer who is subject to the provisions of this Code shall discharge, or cause to be discharged, or in any manner discriminate against any employee because the employee has filed a claim for workers' compensation benefits or otherwise exercised the rights afforded to him pursuant to the provisions of this Code.

b. Any employee who is so discharged or discriminated against may bring a civil action in the tribal court pursuant to this Law for the reinstatement of his previous job, payment of back wages and re-establishment of employee benefits to which he would have otherwise been entitled if he had not been discriminated against or discharged. In hearing cases arising under this Law, the tribal court shall be guided by the procedures and shall apply the standard of review and calculation of damages set forth in 8 M.P.T.L., the Employment Review Code.

c. Any employee who has been discharged for being absent from work beyond the period of time provided for under the employer's leave of absence policy shall not be deemed to have been discriminated against and shall not have a right of action for an alleged violation of the provisions of this Section.

13 M.P.T.L. ch. 2 § 3

§ 3. Report of Injury to Employer

Any employee who has sustained an injury in the course of his employment shall

immediately report the injury to his employer, or some person representing his employer. If the employee fails to report the injury immediately, the commissioner may reduce the award of compensation proportionately to any prejudice that he finds the employer has sustained by reason of the failure, provided the burden of proof with respect to such prejudice shall rest upon the employer.

13 M.P.T.L. ch. 2 § 4

§ 4. Notice of Claim for Compensation. Notice Contesting Liability

a. No proceedings for compensation under the provisions of this Chapter shall be maintained unless a written notice of claim for compensation is given within one year from the date of the accident or within three years from the first manifestation of a symptom of the occupational disease, as the case may be, which caused the personal injury, provided, if death has resulted within two years from the date of the accident or first manifestation of a symptom of the occupational disease, a dependent or dependents, or the legal representative of the deceased employee, may make claim for compensation within the two-year period or within one-year from the date of death, whichever is later. Notice of a claim for compensation may be given to the employer or the commissioner and shall state, in simple language, the date and place of the accident and the nature of the injury resulting from the accident, or the date of the first manifestation of a symptom of the occupational disease and the nature of the disease, as the case may be, and the name and address of the employee and of the person in whose interest compensation is claimed. As used in this Section, "manifestation of a symptom" means manifestation to an employee claiming compensation, or to some other person standing in such relation to him that the knowledge of the person would be imputed to him, in a manner that is or should be recognized by him as symptomatic of the occupational disease for which compensation is claimed.

b. Whenever liability to pay compensation is contested by the employer, he shall file with the commissioner, on or before the 28th day after he has received a written notice of claim, a notice in accord with a form prescribed by the chief commissioner stating that the right to compensation is contested, the name of the claimant, the name of the employer, the date of the alleged injury or death and the specific grounds on which the right to compensation is contested. The employer shall send a copy of the notice to the employee in accordance with Section 24 of this Chapter. If the employer or his legal representative fails to file the notice contesting liability on or before the 28th day after he has received the written notice of claim, the employer shall commence payment of compensation for such injury or death on or before the 28th day after he has received the written notice of claim provided, however, that the employer may contest the employee's right to receive compensation on any grounds or the extent of his disability within one year from the receipt of the written notice of claim; provided further that the employer shall not be required to commence payment of compensation when the written notice of claim has not been properly served in accordance with Section 25 of this Chapter, or when the written notice of claim fails to include a warning that:

(1) the employer, if he has commenced payment for the alleged injury or death on or before the 28th day after receiving a written notice of claim, shall be precluded from contesting liability unless a notice contesting liability is filed within one year from the receipt of the written notice of claim, and

(2) the employer shall be presumed, but such presumption shall be rebuttal, to have accepted the compensability of the alleged injury or death unless the employer either files a notice contesting liability on or before the 28th day after receiving a written notice of claim or commences payment for the alleged injury or death on or before such 28th day. The employer shall be entitled, if he prevails, to reimbursement from the claimant of any compensation paid by the employer on and after the date the Commissioner receives written notice from the employer or his legal representative, in accordance with the form prescribed by the commissioner, stating that the right to compensation is contested. Notwithstanding the provisions of this subsection, an employer who fails to contest liability for an alleged injury or death on or before the 28th day after receiving a written notice of claim and who fails to commence payment for the alleged injury or death on or before such 28th day, shall be presumed, but such presumption shall be rebuttal, to have accepted the compensability of the alleged injury or death.

c. Failure to provide a notice of claim under subsection (a) of this Section shall not bar maintenance of the proceedings if:

(1) there has been a hearing or a written request for a hearing or an assignment for a hearing within a one-year period from the date of the accident or within a three-year period from the first manifestation of a symptom of the occupational disease, as the case may be;

(2) if a voluntary agreement has been submitted within the applicable period;
or

(3) if within the applicable period, an employee has been furnished with medical or surgical aid for the injury with respect to which compensation is claimed as provided in Section 5 of this Chapter, provided, however, that payment for the alleged injury under the employer's group health plan shall not be deemed to be furnishing medical or surgical aid for purposes of this subsection. No defect or inaccuracy of notice of claim shall bar maintenance of proceedings unless the employer shows that he was ignorant of the facts concerning the personal injury and was prejudiced by the defect or inaccuracy of the notice. Upon satisfactory showing of ignorance and prejudice, the employer shall receive allowance to the extent of the prejudice.

13 M.P.T.L. ch. 2 § 5

§ 5. Medical and Surgical Aid; Hospital and Nursing Service

a. The employer, as soon as he has knowledge of an injury, shall provide a competent physician or surgeon to attend the injured employee and, in addition, shall furnish any medical and surgical aid or hospital and nursing service, including medical rehabilitation services, as the physician or surgeon deems

reasonable or necessary.

b. The employee shall select the physician or surgeon from an approved list of physicians and surgeons prepared by the chief commissioner. If the employee is unable to make the selection, the employer shall do so, subject to ratification by the employee or his next of kin. If the employer has a full-time staff physician or if a physician is available on call, the initial treatment required immediately following the injury may be rendered by that physician, but the employee may thereafter select his own physician from the list as provided by this Chapter for any further treatment without prior approval of the commissioner. The commissioner may, without hearing, at the request of the employer or the injured employee, when good reason exists, or on his own motion, authorize or direct a change of physician or surgeon or hospital or nursing service provided pursuant to subsection (a) of this Section.

c. The pecuniary liability of the employer for the medical and surgical service required by this Section shall be limited to the charges that prevail in the same community or similar communities for similar treatment of injured persons of a like standard of living when the similar treatment is paid for by the injured person. The liability of the employer for hospital service shall be the amount it actually costs the hospital to render the service, as determined by the commissioner. All disputes concerning liability for hospital services in workers' compensation cases shall be settled by the commissioner in accordance with this Code.

d. If the employer fails to promptly provide a physician or surgeon or any medical and surgical aid or hospital and nursing service as required by this Section, the injured employee may obtain a physician or surgeon, selected from the approved list prepared by the chief commissioner, or such medical and surgical aid or hospital and nursing service at the expense of the employer.

e. Persons who supply professional services to injured employees entitled to medical care pursuant to this Law shall be presumed to agree to the following conditions:

(1) the employer or its insurance carrier will receive an early original report of injury, and such regular subsequent progress reports from the attending physician as may be reasonably required in each case;

(2) no fee will be charged by the attending physician for the completion of any forms or for routine progress reports submitted to the employer or insurance carrier, unless where a detailed report is requested or indicated, requiring a significant expenditure of time by the attending physician, a reasonable additional fee for such time will be appropriate;

(3) all charges for medical, surgical, hospital and nursing services, except those for expert testimony, shall be solely the responsibility of the employer or carrier, and no claim will be made against the injured employee for all or part of a fee.

§ 6. Employee's Option to Obtain Medical Care at Employee's Expense. Refusal of Employee to Accept or Obtain Reasonable Medical Care

a. At his option, the injured employee may refuse the medical and surgical aid or hospital and nursing service provided by his employer and obtain the same at his own expense.

b. If it appears to the commissioner that an injured employee has refused to accept and failed to obtain reasonable medical and surgical aid or hospital and nursing service, all rights of compensation under the provisions of this Chapter shall be suspended during such refusal and failure.

13 M.P.T.L. ch. 2 § 7

§ 7. Medical Examination of Injured Employee. Medical Reports

a. An injured employee shall submit himself to examination by a reputable practicing physician or surgeon, at any time while claiming or receiving compensation, upon the reasonable request of the employer or at the direction of the commissioner. The examination shall be performed to determine the nature of the injury and the incapacity resulting from the injury. The physician or surgeon shall be selected by the employer from an approved list of physicians and surgeons prepared by the chief commissioner and shall be paid by the employer. At any examination requested by the employer or directed by the commissioner under this Section, the injured employee shall be allowed to have in attendance any reputable practicing physician or surgeon that the employee obtains and pays for himself. The employee shall submit to all other physical examinations as required by this Chapter. The refusal of an injured employee to submit himself to a reasonable examination under this Section shall suspend his right to compensation during such refusal.

b. Any medical reports resulting from an examination requested by an employer or directed by the commissioner under this Section shall be furnished within 30 days after the completion of the reports, at the same time and in the same manner, to the employer and the employee or his attorney. All other medical reports concerning any injury of an employee sustained in the course of his employment shall be furnished to the employer, employee or attorney.

13 M.P.T.L. ch. 2 § 8

§ 8. Waiting Period. When Compensation Begins. Penalty for Late Payment of Permanent Partial Disability Benefits

a. No compensation shall be payable for total or partial incapacity under the provisions of this Code on account of any injury which does not incapacitate the injured employee for a period of more than three days from earning full wages at his customary employment. If the incapacity continues for a period of more than three days but less than seven days, compensation shall begin at the expiration of the first three days of total or partial incapacity. If the incapacity continues for a period of seven days, compensation shall begin from

the date of the injury.

b. The injured employee shall be entitled to full wages for the entire day of the injury and that day shall not be counted as a day of incapacity.

c. If the employee is entitled to receive compensation for permanent disability to an injured member in accordance with the provisions of Section 12 of Chapter 4, the compensation shall be paid to him beginning not later than 30 days following the date of the maximum improvement of the member or members and, if the compensation payments are not so paid, the employer shall, in addition to the compensation rate, pay interest at the rate of 10% per annum on such sum or sums from the date of maximum improvement. The employer shall ascertain at least monthly whether employees are entitled to compensation because of a loss of wages as a result of the injury and, if there is a loss of wages, shall pay the compensation. The chief commissioner shall adopt regulations for the purpose of assuring prompt payment by the employer or his insurance carrier.

13 M.P.T.L. ch. 2 § 9

§ 9. Voluntary Agreements

a. If an employer and an injured employee, or in case of fatal injury his legal representative or dependent, at a date not earlier than the expiration of the waiting period, reach an agreement in regard to compensation, such agreement shall be submitted in writing to the commissioner by the employer with a statement of the time, place and nature of the injury upon which it is based; and, if such commissioner finds such agreement to conform to the provisions of this Code, he shall so approve it. A copy of the agreement, with a statement of the commissioner's approval thereof, shall be delivered to each of the parties and thereafter it shall be as binding upon both parties as an award by the commissioner. The commissioner's statement of approval shall also inform the employee or his dependent, as the case may be, of any rights the individual may have to participate in a rehabilitation program under the provisions of this Code. He shall retain the original agreement, with his approval thereof, in his office and, if an application is made to the tribal court for an execution, he shall, upon the request of said court, file in the court a certified copy of the agreement and his statement of approval thereof.

b. Before discontinuing or reducing payment on account of total or partial incapacity under any such agreement, the employer, if it is claimed by or on behalf of the injured person that his incapacity still continues, shall notify the chief commissioner and the employee, by certified mail, of the proposed discontinuance or reduction of such payments, with the date of such proposed discontinuance or reduction and the reason therefor, and, such discontinuance or reduction shall not become effective unless specifically approved in writing by the chief commissioner. The employee may request a hearing on any such proposed discontinuance or reduction within 10 days of receipt of such notice.

Any such request for a hearing shall be given priority over requests for hearings on other matters. The commissioner shall not approve any such discontinuance or reduction prior to the expiration of the period for requesting a hearing or the completion of such hearing, whichever is later.

c. In any case where the commissioner finds that an employer has discontinued or reduced any payments made in accordance with this Section without the approval of the commissioner, such employer shall be required to pay to the employee the total amount of all payments so discontinued or the total amount by which such payments were reduced, as the case may be, and shall be required to pay interest to the employee, at a rate of 10% per annum on any payments so discontinued or on the total amount by which such payments were reduced, as the case may be, plus reasonable attorney's fees incurred by the employee in relation to such discontinuance or reduction.

Such notice of intention to discontinue or reduce payments shall be in substantially the following form:

MASHANTUCKET PEQUOT TRIBAL WORKERS' COMPENSATION COMMISSION

NOTICE TO COMMISSIONER AND EMPLOYEE OF INTENTION TO DISCONTINUE OR REDUCE PAYMENTS

To: Chief Commissioner of Mashantucket Pequot Workers' Compensation Commission and _____, Employee:

You are hereby notified that the undersigned employer intends on the ___ day of _____, 20__ to discontinue or reduce the payments of compensation to the above-named employee for the following reason: _____

_____ Employer

By _____ Agent or Insurer (official position)

I HEREBY CERTIFY that the above named employee is able to return to usual work on the _____ day of _____, 20__. There will not be permanent loss or loss of use of the employee's _____ by assumption of such work duties.

(member)

_____ Attending Physician or Surgeon

The following information shall be provided:

Date of Injury _____

Date of Award or Approval of Agreement _____

Date when mailed by Respondent _____

The employee may request a hearing by the commissioner on the discontinuance or reduction set forth in this notice within 10 days of receipt of this notice.

§ 10. Discontinuance or Reduction of Payments under Oral Agreements

No employer shall discontinue or reduce payment on account of total or partial incapacity under any oral agreement or in any case where the employer's acceptance of compensability has been presumed under subsection (b) of Section 4 of this Chapter because of failure to file a timely notice contesting liability, if it is claimed by or on behalf of the injured person that his incapacity still continues, unless such employer notifies the commissioner and the employee of the proposed discontinuance or reduction in the manner prescribed in Section 9(c) of this Chapter and the commissioner specifically approves such discontinuance or reduction in writing.

§ 11. Hearing of Claims

If an employer and his injured employee, or his legal representative, as the case may be, fail to reach an agreement in regard to compensation under the provisions of this Chapter, either party may notify the commissioner of the failure. Upon such notice, or upon the knowledge that an agreement has not been reached in a case in which a right to compensation may exist, the commissioner shall schedule an early hearing upon the matter, giving both parties notice of time and place not less than 10 days prior to the scheduled date; provided the workers' compensation commissioner may, on finding an emergency to exist, give such notice as he finds reasonable under the circumstances. If no agreement has been reached within 30 days after the date notice of claim for compensation was received by the commissioner, as provided in Section 4 of this Chapter, a formal hearing shall be scheduled on the claim and held within 30 days after the end of the first 30 day period, except that if an earlier hearing date has previously been scheduled, the earlier date shall prevail. Sufficient notice of the hearing may be given to the parties in interest by a brief written statement in ordinary terms of the date, place and nature of the injury upon which the claim for compensation is based.

§ 12. Informal Hearings

In any informal hearing held by the commissioner in regard to compensation under the provisions of this Chapter, any recommendations made by the commissioner at the informal hearing shall be reduced to writing and, if the parties accept such recommendations, the recommendations shall be as binding upon both parties as an award by the commissioner. The commissioner shall not postpone any such informal hearing if one party fails to attend unless both parties agree to the postponement.

§ 13. Conduct of Hearings

Both parties may appear at any hearing, either in person or by attorney or other accredited representative, and no formal pleadings shall be required, beyond any informal notices that the commission approves. In all cases and hearings under the provisions of this Chapter, the commissioner shall proceed, so far as possible, in accordance with the rules of equity. He shall not be bound by the ordinary common law or statutory rules of evidence or procedure, but shall make inquiry, through oral testimony, deposition testimony or written and printed records, in a manner that is best calculated to ascertain the substantial rights of the parties and carry out the provisions and intent of this Chapter. No fees shall be charged to either party by the commissioner in connection with any hearing or other procedure, but the commissioner shall furnish at cost: (1) certified copies of any testimony, award or other matter which may be of record in his office, and (2) duplicates of audio cassette recordings of any formal hearings. The commissioner may order fees and traveling expenses for witnesses subpoenaed by the commissioner, such fees and expenses to be paid by the party in whose interest the witnesses are subpoenaed.

§ 14. Payments under Group Medical Policy not Defense to Claim for Benefits. Health Insurer's Duty to Pay. Lien

a. Where an employer contests the compensability of an employee's claim for compensation, proof of payment made under a group health, medical or hospitalization plan or policy shall not be a defense to a claim for compensation under this Chapter.

b. Where an employer contests the compensability of an employee's claim for compensation, and the employee has also filed a claim for benefits or services under the employer's group health, medical, disability or hospitalization plan or policy, the employer's health insurer may not delay or deny payment of benefits due to the employee under the terms of the plan or policy by claiming that treatment for the employee's injury or disease is the responsibility of the employer's workers' compensation insurer. The health insurer may file a claim in its own right against the employer for the value of benefits paid by the insurer within two years from payment of the benefits. The health insurer shall not have a lien on the proceeds of any award or approval of any compromise made by the commissioner pursuant to the employee's compensation claim, unless the health insurer actually paid benefits to or on behalf of the employee.

§ 15. Initial Liability of Last Employer. Reimbursement

If an employee suffers an injury or disease for which compensation is found by the commissioner to be payable according to the provisions of this Chapter, the employer who last employed the claimant prior to the filing of the claim, or the employer's insurer, shall be initially liable for the payment of such compensation. The commissioner shall, within a reasonable period of time after issuing an award, on the basis of the record of the hearing, determine whether prior employers, or their insurers, are liable for a portion of such compensation and the extent of their liability. If prior employers are found to be so liable, the commissioner shall order such employers or their insurers to reimburse the initially liable employer or insurer according to the proportion of their liability. Reimbursement shall be made within 20 days of the commissioner's order with interest, from the date of the initial payment, at 10% per annum. If no appeal from the commissioner's order is taken by any employer or insurer within 20 days, the order shall be final and may be enforced in the same manner as a judgment of the tribal court.

13 M.P.T.L. ch. 2 § 16

§ 16. Award as Judgment. Interest. Attorney's fee. Procedure on Discontinuance or Reduction

a. As soon as may be after the conclusion of any hearing, but no later than 120 days after such conclusion, the commissioner shall send to each party a written copy of his findings and award. The commissioner shall, as part of the written award, inform the employee or his dependent, as the case may be, of any rights the individual may have to participate in a rehabilitation program under the provisions of this Chapter. He shall retain the original findings and award in his office.

b. If no appeal from his decision is taken by either party within 20 days thereafter, such award shall be final and may be enforced in the same manner as a judgment of the tribal court. The court may issue execution upon any uncontested or final award of a commissioner in the same manner as in cases of judgments rendered in the tribal court; and, upon the filing of an application to the court for an execution, the commissioner in whose office the award is on file shall, upon the request of the clerk of the court, send to him a certified copy of such findings and award. In cases where, through the fault or neglect of the employer or insurer, adjustments of compensation have been unduly delayed, or where through such fault or neglect, payments have been unduly delayed, the commissioner may include in his award interest at an interest rate of 12% per annum and a reasonable attorney's fee.

c. Payments not commenced within 35 days after the filing of a written notice of claim shall be presumed to be unduly delayed unless a notice to contest the claim is filed in accordance with Section 4 of this Chapter. In cases where there has been delay in either adjustment or payment, which delay has not been due to the fault or neglect of the employer or insurer, whether such delay was caused by appeals or otherwise, the commissioner may allow interest at such rate, not to exceed 10% per annum. In cases where the claimant prevails and

the commissioner finds that the employer or insurer has unreasonably contested liability, the commissioner may allow to the claimant a reasonable attorney's fee. No employer or insurer shall discontinue or reduce payment on account of total or partial incapacity under any such award, if it is claimed by or on behalf of the injured person that his incapacity still continues, unless such employer or insurer notifies the commissioner and the employee of such proposed discontinuance or reduction in the manner prescribed in Section 9(c) of this Chapter, and the commissioner specifically approves such discontinuance or reduction in writing.

d. The commissioner shall render his decision within 14 days of receipt of such notice and shall forward to all parties to the claim a copy of his decision not later than seven days after his decision has been rendered. If the decision of the commissioner finds for the employer or insurer, the injured person shall return any wrongful payments received from the day designated by the commissioner as the effective date for the discontinuance or reduction of benefits. Any employee whose benefits for total incapacity are discontinued under the provisions of this Section, and who is entitled to receive benefits for partial incapacity as a result of an award, shall receive those benefits commencing the day following the designated effective date for the discontinuance of benefits for total incapacity. In any case where the commissioner finds that the employer or insurer has discontinued or reduced any such payment without having given such notice and without the commissioner having approved such discontinuance or reduction in writing, the commissioner shall allow the claimant a reasonable attorney's fee together with interest at the rate of 10% per annum on the discontinued or reduced payments.

13 M.P.T.L. ch. 2 § 17

§ 17. Enforcement of Order. Appeals to the Tribal Court. Payment of Award During Pendency of Appeal

a. The tribal court, on application of a commissioner, may enforce, by appropriate decree or process, any provision of this Code or any proper order of a commissioner.

b. At any time within 20 days after entry of an award by or decision of the commissioner, either party may appeal therefrom to the tribal court. Such action in the tribal court shall be governed by the Mashantucket Pequot Tribal Laws.

c. The tribal court shall hear the appeal on the record of the hearing before the commissioner, provided, if it is shown to the satisfaction of the tribal court that additional evidence or testimony is material and that there were good reasons for failure to present it in the proceedings before the commissioner, the tribal court may hear additional evidence or testimony.

d. The tribal court shall issue its decision, affirming, modifying or reversing the decision of the commissioner. The decision of the tribal court shall include its findings, conclusions of law and award. Any decision of the tribal court, in the absence of an appeal therefrom, shall become final after a period

of 20 days has expired from the issuance of the court's judgment or decision.

e. When any appeal is pending, and it appears to the tribal court that any part of the award appealed from is not affected by the issues raised by the appeal, the tribal court may, on motion or of its own motion, render a judgment directing compliance with any portion of the award not affected by the appeal; or if the only issue raised by the appeal is the amount of the average weekly wage for the purpose of determining the amount of compensation, as provided in Section 14 of this Chapter, the commissioner shall, on motion of the claimant, direct the payment of the portion of the compensation payable under his award that is not in dispute, if any, pending final adjudication of the disputed portion thereof. In all appeals in which one of the parties is not represented by counsel, and in which the party taking the appeal does not prosecute the case within a reasonable time from the date of appeal, the tribal court may, of its own motion, affirm, reverse or modify the award.

f. During the pendency of any appeal of an award made pursuant to this Chapter, the claimant shall receive all compensation and medical treatment payable under the terms of the award to the extent the compensation and medical treatment are not being paid by any health insurer or by any insurer or employer who has been ordered to pay a portion of the award.

g. If, upon completion of the appeal process, the claimant is found to have a compensable injury, the employer or insurer shall be responsible for payment of the compensation on the claim pursuant to subsection (f) of this subsection, plus interest at the rate of 10% per annum. If the final adjudication results in the denial of compensation to the claimant, and he has previously received compensation on the claim, the claimant shall reimburse all sums previously expended, plus interest at the rate of 10% per annum. Upon any such denial of compensation, the commissioner who originally heard the case or his successor shall conduct a hearing to determine the repayment schedule for the claimant.

13 M.P.T.L. ch. 2 § 18

§ 18. Certification of Cases for the Mashantucket Pequot Tribal Court

When, in any case arising under the provisions of this Chapter, the commissioner is of the opinion that the decision involves principles of law which are not free from reasonable doubt and which public interest requires shall be determined by the Mashantucket Pequot Tribal Court, in order that a definite rule be established applicable to future cases, the commissioner may, on its own motion and without any agreement or act of the parties or their counsel, certify such case for the opinion of the Mashantucket Pequot Tribal Court. Upon a certification so made, no costs or fees shall be taxed to either party.

13 M.P.T.L. ch. 2 § 19

§ 19. Appeal of Decision of Tribal Court

Any party aggrieved by the decision of the tribal court upon any question or questions of law arising in the proceedings may appeal the decision to the Mashantucket Pequot Court of Appeals.

13 M.P.T.L. ch. 2 § 20

§ 20. Costs of Appeal. Interest Added to Award Affirmed on Appeal

No costs shall be taxed in favor of either party on any appeal either in the tribal court or in the Court of Appeals and no party shall be liable to pay any fees or costs in connection therewith, provided however, whenever such appeal is found by the court to be either frivolous or taken for the purpose of vexation or delay, the court may tax costs in its discretion against the person so taking the appeal.

13 M.P.T.L. ch. 2 § 21

§ 21. No Right Against Fellow Employee; Exception

If an employee or, in case of his death, his dependent, has a right to benefits or compensation under this Code on account of injury or death from injury caused by the negligence or wrong of a fellow employee, such right shall be the exclusive remedy of such injured employee or dependent and no action may be brought against such fellow employee, unless such wrong was willful or malicious or the action is based on the fellow employee's negligence in the operation of a motor vehicle. For purposes of this Section, contractors' mobile equipment such as bulldozers, power shovels, rollers, graders or scrapers, farm machinery, cranes, diggers, forklifts, pumps, generators, air compressors, drills or other similar equipment designed for use principally off public roads are not "motor vehicles" if the claimed injury involves such equipment.

13 M.P.T.L. ch. 2 § 22

§ 22. Action for Minors and Incompetents

When any employee affected by the provisions of this Code or any person entitled to compensation thereunder is a minor or mentally incompetent, his parent or duly appointed guardian may, on his behalf, perform any act or duty required or exercise any right conferred by the provisions of this Code with the same effect as if such person were legally capable to act in his own behalf and had so acted. The commissioner may, for just cause shown, authorize or direct the payment of compensation directly to a minor or to some person nominated by the minor and approved by the commissioner, which person shall act in behalf of such minor.

13 M.P.T.L. ch. 2 § 23

§ 23. Acknowledgment by Employees having Certain Physical Conditions

Whenever any person being engaged in the service or having a contract of employment, or desiring to enter into the service or contract of employment, has any physical condition which imposes upon his employer or prospective employer a further or unusual hazard, it shall be permissible for the person to execute in writing for himself or his dependents, or both, an acknowledgment of the physical condition. No acknowledgment shall become effective unless it plainly describes the physical condition, nor until a commissioner finds that the person who signed the acknowledgment fully understood its meaning and, if the person is a minor, that one of the parents or a guardian of the minor has approved the acknowledgment in writing, or until the commissioner, in writing, approves the acknowledgment, files it in the office of the commissioner, and furnishes each of the parties thereto with a copy of the acknowledgment. No acknowledgment shall be a bar to a claim by the person signing it, or his dependents, for compensation for any injury arising out of and in the course of his employment, or death resulting from the injury, which injury shall not be found to be attributable in a material degree to the particular condition described in the acknowledgment. A physical condition for which an acknowledgment may be executed pursuant to this Section, shall not include an occupational disease, susceptibility to an occupational disease or a recurrence of an occupational disease.

13 M.P.T.L. ch. 2 § 24

§ 24. Manner of Serving Notices

Unless otherwise specifically provided, or unless the circumstances of the case or the rules of the commission direct otherwise, any notice required under this Chapter to be served upon an employer, employee or the commissioner shall be by written or printed notice, by personal service or by registered or certified mail addressed to the person upon whom it is to be served at his last-known residence or place of business. Notices in behalf of a minor shall be given by or to his parent or guardian or, if there is no parent or guardian, then by or to such minor.

CHAPTER 3. INSURANCE

13 M.P.T.L. ch. 3 § 1

§ 1. Insurance Requirements for Persons Engaged in Business Activities on the Mashantucket Pequot Reservation, and Contractors on Tribal Projects and Renewals of Tribal Business Licenses

a. Notwithstanding any provision of any tribal law, any person who engages in business activities on the Mashantucket Pequot Reservation, and any business which enters into any contract or agreement with the Mashantucket Pequot Tribe for the construction, remodeling, refinishing, refurbishing, rehabilitation, alteration or repair of any project shall provide in writing to the chief

commissioner sufficient evidence of compliance with the Tribe's workers' compensation insurance and self-insurance requirements.

b. No Mashantucket Pequot tribal governmental department or division or enterprise may engage in any business activity, renew a license or permit a business to operate on the Reservation unless the business first presents sufficient evidence of current compliance with the Mashantucket Pequot Workers' Compensation insurance coverage requirements of this Section.

c. This Section shall not be construed to create any liability on the part of the Mashantucket Pequot Tribe or any subdivision thereof to pay workers' compensation benefits, or to indemnify any employer or any insurer who pays workers' compensation benefits.

d. For purposes of this Section, "sufficient evidence" means

(1) a certificate of self-insurance issued by the chief commissioner of the Mashantucket Pequot Tribal Workers' Compensation Commission; or

(2) certificate of compliance issued by the chief commissioner of the Mashantucket Pequot Tribal Workers' Compensation Commission. The chief commissioner may find sufficient evidence if the employer presents proof of current compliance with insurance coverage required by the jurisdiction in which such employer has his principal place of business.

13 M.P.T.L. ch. 3 § 2

§ 2. Provisions Required in Liability Insurance Policies

No policy of insurance against liability shall be made unless the same covers the entire liability of the employer thereunder and contains an agreement by the insurer that, as between the employee and the insurer, notice or knowledge of the occurrence of injury by the insured shall be deemed notice or knowledge by the insurer, that jurisdiction of the insured for the purposes of this Code shall be jurisdiction of the insurer and the insurer shall in all things be bound by and subject to the findings, awards and judgments rendered against such insured; and also that, if the insured becomes insolvent or is discharged in bankruptcy during the period that the policy is in operation, or the compensation, or any part of it, is due and unpaid or if an execution upon a judgment for compensation is returned unsatisfied, an injured employee or other person entitled to compensation under the provisions of this Code may enforce his claim to compensation against the insurer to the same extent that the insured could have enforced his claim against such insurer had he paid compensation.

13 M.P.T.L. ch. 3 § 3

§ 3. Additional Liability. Penalty for Undue Delay. Penalty for Noncompliance with Insurance Requirements. Penalty for Defrauding Workers' Compensation Insurance Carrier

a. If an employer willfully fails to conform to any other provision of this Chapter, he shall be fined not more than \$250 for each such failure.

b. Whenever through the fault or neglect of an employer or insurer, the adjustment or payment of compensation due under this Chapter is unduly delayed, or either party to a claim under this Code has unreasonably, and without good cause, delayed the completion of the hearings on such claim, the delaying party or parties may be assessed a civil penalty of not more than \$500 by the chief commissioner hearing the claim for each such case of delay. Any appeal of a penalty assessed pursuant to this subsection shall be taken in accordance with the provisions of Section 18 of Chapter 2.

c. If, upon investigation of a complaint or inspection of information available to the Workers' Compensation Commission, the chief commissioner has reason to believe that an employer is not in compliance with the insurance and self-insurance requirements of this Code, the chief commissioner shall conduct a hearing, after sufficient notice to the employer, wherein the employer shall be required to present sufficient evidence of his compliance with said requirements. Whenever the chief commissioner finds that the employer is not in compliance with said requirements he may assess a civil penalty of up to \$10,000 against the employer. Any appeal of a penalty assessed pursuant to this subsection shall be taken in accordance with the provisions of Section 18 of Chapter 2.

d. Any employer who, with the intent to injure, defraud or deceive any insurance company insuring the liability of such employer under this Code, knowingly misrepresents one or more employees as independent contractors, or knowingly provides false, incomplete or misleading information to such company concerning the number of employees, for the purpose of paying a lower premium on a policy obtained from such company, shall be assessed a civil penalty of up to \$10,000, removed from the list of licensed tribal businesses for a period of two years, and reported to Mashantucket Pequot Tribe's Office of Risk Management.

13 M.P.T.L. ch. 3 § 4

§ 4. Proceedings against Delinquent Insurance Companies or Employers

Whenever the chief commissioner finds that any insurance company or association insuring the liability of an employer under the provisions of this Chapter is conducting such business improperly or is dilatory in investigating and adjusting claims or making payments, or fails to comply with the provisions of this Chapter or the rules, methods or procedure and forms adopted by the chief commissioner shall be notified in writing, setting forth the facts, and thereupon the chief commissioner shall fix a time and place for a hearing thereon, giving reasonable notice to such company or association of such hearing, and, if he finds the allegations to be true, he may either suspend for

a time or revoke the license of such company or association to transact such business on the Reservation. Whenever the chief commissioner has reason to believe that any employer who has furnished proof of his financial ability or filed with the commissioner security for the performance of the obligations of this Chapter in accordance with this law is dilatory in investigating or adjusting claims or in making payments, or fails to comply with the provisions of this Chapter or the rules, methods of procedure and forms adopted by the commissioner, the commissioner shall be notified in writing, setting forth the facts, and thereupon the commissioner shall fix the time and place for a hearing thereon, giving reasonable notice to the such employer, and, if he finds the allegations to be true, then, after ten days from the notice of such findings to such employer, the compliance of such employer with the terms of Section 1 of this Chapter shall be, as to any future injuries, null and void.

CHAPTER 4. ADMINISTRATION OF PAYMENT OF COMPENSATION, FINES AND PENALTIES

13 M.P.T.L. ch. 4 § 1

§ 1. Disposition of Fines and Penalties

Any fines or penalties collected under this Code shall be paid over to the Mashantucket Pequot Tribal Workers' Compensation Commissioner and used for the administration and operation of the Mashantucket Pequot Tribal Workers' Compensation Commission.

13 M.P.T.L. ch. 4 § 2

§ 2. Civil Action to Recover Civil Penalties

a. If any civil penalty is not paid within 90 days of its imposition or within 90 days of the final disposition of an appeal, as the case may be, the chief commissioner may bring a civil action in the name of the Mashantucket Pequot Tribe in the tribal court to recover double the amount of the civil penalty together with reasonable attorney's fees and costs as taxed by the court.

b. An affidavit sworn to or affirmed by the chief commissioner, or by the commissioner who imposed the civil penalty referred to in the affidavit, stating the name of the commissioner who imposed the civil penalty, the amount of the civil penalty, the name of the violator against whom the civil penalty was imposed, whether or not an appeal was taken, the disposition of the appeal and whether or not the penalty was paid, shall constitute prima facie proof of the facts contained in the affidavit. Copies of the records of the Workers' Compensation Commission, certified by the chief commissioner, containing the name of the tribal commissioner who imposed a civil penalty, the amount of the civil penalty, the name of the violator against whom the civil penalty was imposed, whether or not an appeal was taken, the disposition of the appeal and whether or not the penalty was paid, shall constitute prima facie proof of the facts contained in the records.

13 M.P.T.L. ch. 4 § 3

§ 3. Obligations not to be Evaded

No contract or agreement, expressed or implied, no rule, regulation or other device shall in any manner relieve any employer, in whole or in part, of any obligation created by this Code, except as herein set forth.

13 M.P.T.L. ch. 4 § 4

§ 4. Fraudulent Claim or Receipt of Benefits. Penalties

a. Any person or his representative who makes or attempts to make any claim for benefits, receives or attempts to receive benefits, prevents or attempts to prevent the receipt of benefits or reduces or attempts to reduce the amount of benefits under this Code based in whole or in part upon the intentional misrepresentation of any material fact including, but not limited to, the existence, time, date, place, location, circumstances or symptoms of the claimed injury or illness; or the intentional nondisclosure of any material fact affecting such claim or the collection of such benefits, shall be liable for treble damages in tribal court.

b. Any person, including an employer, who intentionally aids, abets, assists, promotes or facilitates the making of, or the attempt to make, any claim for benefits or the receipt or attempted receipt of benefits under this Code by another person in violation of subsection (a) of this Section, shall be liable for the same penalties as the person making or attempting to make the claim or receiving or attempting to receive the benefits.

13 M.P.T.L. ch. 4 § 5

§ 5. Principal Employer, Contractor and Subcontractor

When any principal employer procures any work to be done wholly or in part for him by a contractor, or through him by a subcontractor, and the work so procured to be done is a part or process in the trade or business of such principal employer, and is performed on the Mashantucket Pequot Reservation and is in, on or about premises under his control, such principal employer shall be liable to pay all compensation under this Code to the same extent as if the work were done without the intervention of such contractor or subcontractor. The provisions of this Section shall not extend immunity to any principal employer from a civil action brought by an injured employee or his dependent under the provisions of Section 6 of this Chapter to recover damages resulting from personal injury or wrongful death unless such principal employer has paid compensation benefits under this Chapter to such injured employee or his dependent for the injury or death which is the subject of the action.

13 M.P.T.L. ch. 4 § 6

§ 6. Liability of Third Persons to Employer and Employee

When any injury for which compensation is payable under the provisions of this Code has been sustained under circumstances creating in a third person other than the employer a legal liability to pay damages for the injury, the injured employee may seek compensation but the payment or award of compensation shall not affect the claim or right of action of the injured employee against the third person, but the injured employee may proceed at law against the third person to recover damages for the injury; and any employer having paid, or having become obligated to pay, compensation may bring an action against the third person to recover any amount that he has paid or has become obligated to pay as compensation to the injured employee. If either the employee or the employer brings an action against the third person, he shall immediately notify the other, in writing, by personal presentation or by registered or certified mail, of the action, and the other may join as a party plaintiff in the action and, if the other fails to join as a party plaintiff, his right of action against the third person shall abate. In any case in which an employee brings an action against a third party in accordance with the provisions of this Section, and the employer is a party defendant in the action, the employer may join as a party plaintiff in the action.

The bringing of any action against an employer shall not constitute notice to the employer within the meaning of this Section. If the employer and the employee join as parties plaintiff in the action and any damages are recovered, the damages shall be so apportioned that the claim of the employer, as defined in this Section, shall take precedence over that of the injured employee in the proceeds of the recovery, after the deduction of reasonable and necessary expenditures, including attorneys' fees, incurred by the employee in effecting the recovery.

The rendition of a judgment in favor of the employee or the employer against the third party shall not terminate the employer's obligation to make further compensation which the Commissioner thereafter deems payable to the injured employee. If the damages, after deducting the employee's expenses as provided in this subsection, are more than sufficient to reimburse the employer, damages shall be assessed in his favor in a sum sufficient to reimburse him for his claim, and the excess shall be assessed in favor of the injured employee. No compromise with the third person by either the employer or the employee shall be binding upon or affect the rights of the other, unless assented to by him.

For the purposes of this Section, the claim of the employer shall consist of :
the amount of any compensation which he has paid on account of the injury which is the subject of the suit; and an amount equal to the present worth of any probable future payments which he has by award become obligated to pay on account of the injury. The word "compensation," as used in this Section, shall be construed to include incapacity payments to an injured employee, payments to the dependents of a deceased employee, sums paid out for surgical, medical and hospital services to an injured employee, the burial fee provided by Section 9(a)(1) of Chapter 4, and payments made under the provisions of Section 17 of this Chapter. Each employee who brings an action against a third party shall

include in his complaint:

- a. the amount of any compensation paid by the employer on account of the injury which is the subject of the suit; and
- b. the amount equal to the present worth of any probable future payments which the employer has, by award, become obligated to pay on account of the injury.

Notwithstanding the provisions of this Section, when any injury for which compensation is payable under the provisions of this Code has been sustained under circumstances creating in a third person other than the employer a legal liability to pay damages for the injury and the injured employee has received compensation for the injury from his employer or its workers' compensation insurance carrier, the employer or insurance carrier shall have a lien upon any judgment received by the employee against the third party or any settlement received by the employee from the third party, provided the employer or insurance carrier shall give written notice of the lien to the third party prior to such judgment or settlement.

13 M.P.T.L. ch. 4 § 7

§ 7. Payment of Compensation. Commutation into Monthly, Quarterly or Lump Sums

Compensation payable under this Code shall be paid at the particular times in the week and in the manner the commissioner may order, and shall be paid directly to the persons entitled to receive them unless the commissioner, for good reason, orders payment to those entitled to act for such persons; but, when he finds it just or necessary, the commissioner may approve or direct the commutation, in whole or in part, of weekly compensation under the provisions of this Chapter into monthly or quarterly payments, or into a single lump sum, which may be paid to the one then entitled to the compensation, and the commutation shall be binding upon all persons entitled to compensation for the injury in question. In any case of commutation, a true equivalence of value shall be maintained, with due discount of sums payable in the future; and, when commutation is made into a single lump sum, the commissioner may direct that it be paid to any savings bank, trust company or life insurance company, to be held in trust for the beneficiary or beneficiaries and paid in conformity with the provisions of this Code.

13 M.P.T.L. ch. 4 § 8

§ 8. Day when Compensation Payments become Due. Penalty for Late Payments

Payments agreed to under a voluntary agreement shall commence on or before the 10th day from the date of agreement. Payments due under an award shall commence on or before the 10th day from the date of such award. Any employer who fails to pay within the prescribed time limitations of this Section shall in addition to the compensation award, pay interest at a rate of 10% per annum on such sums and any other interest or penalty imposed pursuant to the

provisions of this Code.

13 M.P.T.L. ch. 4 § 9

§ 9. Death Resulting from Accident or Occupational Disease. Dependents. Compensation

a. Compensation shall be paid to dependents on account of death resulting from an accident arising out of and in the course of employment or from an occupational disease as follows:

(1) \$10,000 shall be paid for burial expenses. If there is no one wholly or partially dependent upon the deceased employee, the burial expenses of \$10,000 shall be paid to the person who assumes the responsibility of paying the funeral expenses.

(2) To those wholly dependent upon the deceased employee at the date of his injury, a weekly compensation equal to 75% of the average weekly earnings of the deceased calculated pursuant to Section 14 of this Chapter, after such earnings have been reduced by any deduction for federal or state taxes, or both, and for applicable Federal Insurance Contributions Act deductions.

(3) If the surviving spouse is the sole presumptive dependent, compensation shall be paid until death or remarriage.

(4) If there is a presumptive dependent spouse surviving and also one or more presumptive dependent children, all of which children are either children of the surviving spouse or are living with the surviving spouse, the entire compensation shall be paid to the surviving spouse in the same manner and for the same period as if the surviving spouse were the sole dependent. If, however, any of the presumptive dependent children are neither children of the surviving spouse nor living with the surviving spouse, the compensation shall be divided into as many parts as there are presumptive dependents. The shares of any children having a presumptive dependent parent shall be added to the share of the parent and shall be paid to the parent. The share of any dependent child not having a surviving dependent parent shall be paid to the father or mother of the child with whom the child may be living, or to the legal guardian of the child, or to any other person, for the benefit of the child, as the commissioner may direct.

(5) If the compensation being paid to the surviving presumptive dependent spouse terminates for any reason, or if there is no surviving presumptive dependent spouse at the time of the death of the employee, but there is at either time one or more presumptive dependent children, the compensation shall be paid to the children as a class, each child sharing equally with the others. Each child shall receive compensation until the child reaches the age of 18 or dies before reaching age 18, provided the child shall continue to receive compensation up to the attainment of the age of 22 if unmarried and a full-time student, except any child who has attained the age of 22 while a full-time student but has not completed the requirements for, or received, a degree from a post secondary educational institution shall be deemed not to have attained

age 22 until the first day of the first month following the end of the quarter or semester in which he is enrolled at the time, or if he is not enrolled in a quarter or semester system, until the first day of the first month following the completion of the course in which he is enrolled or until the first day of the third month beginning after such time, whichever occurs first. When a child's participation ceases, his share shall be divided among the remaining eligible dependent children, provided if any child, when he reaches the age of 18 years, is physically or mentally incapacitated from earning, his right to compensation shall not terminate but shall continue for the full period of incapacity.

(6) In all cases where there are no presumptive dependents, but where there are one or more persons wholly dependent in fact, the compensation in case of death shall be divided according to the relative degree of their dependence. Compensation payable under this subsection shall be paid for not more than 312 weeks from the date of the death of the employee. The compensation, if paid to those wholly dependent in fact, shall be paid at the full compensation rate. The compensation, if paid to those partially dependent in fact upon the deceased employee as of the date of the injury, shall not, in total, be more than the full compensation rate nor less than \$20 weekly, nor, if the average weekly sum contributed by the deceased at the date of the injury to those partially dependent in fact is more than \$20 weekly, not more than the sum so contributed.

(7) When the sole presumptive dependents are, at the time of the injury, nonresident aliens and the deceased has in this state some person or persons who are dependent in fact, the commissioner may in his discretion equitably apportion the sums payable as compensation to the dependents.

b. The dependents of any deceased employee shall be paid compensation on account of the death retroactively to the date of the employee's death. The cost of the payment or adjustment shall be paid by the employer or his insurance carrier.

c. The dependents of any deceased employee who was injured in an accident arising out of and in the course of employment and who died, as a result of those injuries shall be paid compensation, under the provisions of this Section, effective as of the date of death of any such employee. Notwithstanding the provisions of subsection (a) of this Section, the weekly compensation rate for such dependents shall equal the amount of compensation the injured employee was receiving prior to death pursuant to Section 10 of this Chapter.

13 M.P.T.L. ch. 4 § 10

§ 10. Compensation for Total Incapacity

a. If any injury for which compensation is provided under the provisions of this Chapter results in total incapacity to work, the injured employee shall be paid a weekly compensation equal to 75% of his average weekly earnings as of the date of the injury, calculated pursuant to Section 14 of this Chapter,

after such earnings have been reduced by any deduction for federal or state taxes, or both, and for applicable Federal Insurance Contributions Act deductions, but in no case more than \$780. Compensation paid for total incapacity shall not continue longer than the period of total incapacity or the date on which the employee attains age 72, which is earlier, provided that nothing herein shall be construed to deny benefits to an employee age 72 or older at the date of injury.

b. The following injuries of any person shall be considered as causing total incapacity and compensation shall be paid accordingly:

- (1) total and permanent loss of sight of both eyes, or the reduction to one-tenth or less of normal vision;
- (2) the loss of both feet at or above the ankle;
- (3) the loss of both hands at or above the wrist;
- (4) the loss of one foot at or above the ankle and one hand at or above the wrist;
- (5) any injury resulting in permanent and complete paralysis of the legs or arms or of one leg and one arm;
- (6) any injury resulting in incurable imbecility or mental illness.

c. An employee who has suffered the loss or loss of the use of one of the members of his body, or part of one of the members of his body, or the reduction of vision in one eye to 1/10 or less of normal vision, shall not receive compensation for the later injury in excess of the compensation allowed for the injury when considered by itself and not in conjunction with the previous incapacity except as provided in this Chapter.

d. Notwithstanding any provision of Mashantucket Pequot Tribal Laws to the contrary, compensation paid to an employee for an employee's total incapacity shall be reduced while the employee is entitled to receive old age insurance or disability benefits pursuant to the Federal Social Security Act. The amount of each reduced workers' compensation payment shall equal the excess, if any, of the workers' compensation payment over the old age insurance or disability benefits pursuant to the Federal Social Security Act.

13 M.P.T.L. ch. 4 § 11

§ 11. Benefits after Relapse from Recovery. Recurrent Injuries

If any employee who receives compensation under Section 10 of this Chapter returns to work after recovery from his injury and subsequently suffers total or partial incapacity caused by a relapse from the recovery from, or a recurrence of, the injury, the employee shall be paid a weekly compensation equal to 75% of his average weekly earnings as of the date of the original injury or at the time of his relapse or at the time of the recurrence of the

injury, whichever is the greater sum, calculated pursuant to Section 14 of this Chapter, after such earnings have been reduced by any deduction for federal or state taxes, or both, and for applicable Federal Insurance Contributions Act deductions, and provided (a) the compensation shall not continue longer than the period of total or partial incapacity following the relapse or recurrent injury and (b) no employee eligible for compensation for specific injuries set forth in Section 12 of this Chapter shall receive compensation under this Section.

13 M.P.T.L. ch. 4 § 12

§ 12. Compensation for Partial Incapacity

a. If any injury for which compensation is provided under the provisions of this Chapter results in partial incapacity, the injured employee shall be paid a weekly compensation equal to 75% of the difference between the wages currently earned by an employee in a position comparable to the position held by the injured employee before his injury, after such earnings have been reduced by any deduction for federal or state taxes, or both, and for applicable Federal Insurance Contributions Act deductions in accordance with Section 14 of this Chapter, and the amount he is able to earn after the injury, after such amount has also been reduced by any such deductions, except that when:

(1) the physician attending an injured employee certifies that the employee is unable to perform his usual work but is able to perform other work;

(2) the employee is ready and willing to perform other work in the same locality; and

(3) no other work is available, the employee shall be paid his full weekly compensation subject to the provisions of this Section.

For purposes of this subsection, compensation paid under this subsection shall not be more than \$680 and shall not continue longer than the period of partial incapacity or longer than 520 weeks, or beyond the date on which the employee attains age 72, whichever is earlier. If the employer procures employment for an injured employee that is suitable to his capacity, the wages offered in such employment shall be taken as the earning capacity of the injured employee during the period of the employment.

b. With respect to the following injuries, the compensation, in addition to the usual compensation for total incapacity but in lieu of all other payments for compensation, shall be 75% of the average weekly earnings of the injured employee, calculated pursuant to Section 14 of this Chapter, after such earnings have been reduced by any deduction for federal or state taxes, or both, and for applicable Federal Insurance Contributions Act deductions, but in no case more than \$680. All of the following injuries include the loss of the member or organ and the complete and permanent loss of use of the member or organ referred to:

MEMBER	INJURY	WEEKS OF COMPENSATION
Arm		
Master arm	Loss at or above elbow	208
Other arm	Loss at or above elbow	194
Hand		
Master hand	Loss at or above wrist	168
Other hand	Loss at or above wrist	155
One Leg	Loss at or above knee	155
One foot	Loss at or above ankle	125
Hearing	Both ears	104
	One ear	35
One eye	Complete and permanent loss of sight in, or reduction of sight to one-tenth or less of normal vision)	157
Thumb*		
	On master hand	63
	On other hand	54
Fingers**		
	First Finger	36
	Second Finger	29
	Third Finger	21
	Fourth Finger	17
Toes***%g		
	Great Toe	28
	Other toes	9
Back Number of weeks which the proportion of incapacity represents to a maximum of 374 weeks.		

Heart	520	
Brain	520	
Carotid artery		520
Pancreas	416	
Liver	347	
Stomach	260	
Loss of bladder		233
Speech	163	
Lung	117	
Cervical spine		117
Kidney	117	
Rib cage	Bilateral	69
Testis	35	
Mammary		35
Nose	Sense and respiratory function	35
Jaw	Mastication	35
Penis	35-104	
Coccyx	Actual removal	35
Sense of smell		17
Sense of taste		17
Spleen	In addition to scar	13
Gall bladder		13
Tooth	Minimum	1
Loss of drainage duct of eye	(If corrected by prosthesis)	17 for each
Loss of drainage duct of eye	(If uncorrected by prosthesis)	33 for each
Pelvis	Percentage of back	

Ovary	35
Uterus	35-104
Vagina	35-104

If the injury consists of the loss of a substantial part of a member resulting in a permanent partial loss of the use of a member, or if the injury results in a permanent partial loss of function, the commissioner may, in his discretion, in lieu of other compensation, award to the injured employee the proportion of the sum provided in this subsection for the total loss of, or the loss of the use of, the member or for incapacity or both that represents the proportion of total loss or loss of use found to exist, and any voluntary agreement submitted in which the basis of settlement is such proportionate payment may, if otherwise conforms to the provisions of this Chapter, be approved by the chief commissioner in his discretion. Notwithstanding the provisions of this subsection, the complete loss or loss of use of an organ which results in the death of an employee shall be compensable pursuant only to Section 9 of this Chapter.

c. In addition to compensation for total or partial incapacity or for a specific loss of a member or use of the function of a member of the body, the chief commissioner, not earlier than one year from the date of the injury and not later than two years from the date of the injury or the surgery date of the injury, may award compensation equal to 75% of the average weekly earnings of the injured employee, calculated pursuant to Section 14 of this Chapter after such earnings have been reduced by any deduction for federal or state taxes, or both, and for applicable Federal Insurance Contributions Act deductions, but not more than \$678 for up to 208 weeks, for any permanent significant disfigurement of, or permanent significant scar on the face, head or neck, or on any other area of the body which handicaps the employee in obtaining or continuing to work. The commissioner may not award compensation under this subsection when the disfigurement was caused solely by the loss of or the loss of use of a member of the body for which compensation is provided under subsection (b) of this Section or for any scar resulting from an inguinal hernia operation or any spinal surgery.

d. In making any award under this subsection, the commissioner shall consider:

- (1) the location of the scar or disfigurement;
- (2) the size of the scar or disfigurement;
- (3) the visibility of the scar or disfigurement due to hyper pigmentation or depigmentation, whether hypertrophic or keloidal;
- (4) whether the scar or disfigurement causes a tonal or textural skin change, causes loss of symmetry of the affected area or results in noticeable bumps or depressions in the affected area; and
- (5) other relevant factors. Notwithstanding the provisions of this subsection, no compensation shall be awarded for any scar or disfigurement which is not

located on:

(a) the face, head or neck; or

(b) any other area of the body which handicaps the employee in obtaining or continuing to work.

In addition to the requirements contained in Section 11 of Chapter 2, the commissioner shall provide written notice to the employer prior to any hearing held by the commissioner to consider an award for any scar or disfigurement under this subsection.

e. Any award or agreement for compensation made pursuant to this Section shall be paid to the employee, or in the event of the employee's death, whether or not a formal award has been made prior to the death, to his surviving spouse or, if he has no surviving spouse, to his dependents in equal shares or, if he has no surviving spouse or dependents, to his children, in equal shares, regardless of their age.

13 M.P.T.L. ch. 4 § 13

§ 13. Additional Benefits for Partial Permanent Disability

a. In addition to the compensation benefits provided by Section 12 of this Chapter for specific loss of a member or use of the function of a member of the body, or any personal injury covered by this Chapter, the commissioner, after such payments provided by said Section 12 have been paid for the period set forth in said Section, may award additional compensation benefits for such partial permanent disability equal to 75% of the difference between the wages currently earned by an employee in a position comparable to the position held by such injured employee prior to his injury, after such wages have been reduced by any deduction for federal or state taxes, or both, and for the Federal Insurance Contributions Act in accordance with Section 14 of this Chapter, and the weekly amount which such employee will probably be able to earn thereafter, after such earnings have been reduced by any deduction for federal or state taxes, or both, and for applicable Federal Insurance Contributions Act deductions, to be determined by the Commissioner based upon the nature and extent of the injury, the training, education and experience of the employee, the availability of work for persons with such physical condition and at the employee's age, but not more than \$589. If evidence of exact loss of earnings is not available, such loss may be computed from the proportionate loss of physical ability or earning power caused by the injury. The duration of such additional compensation shall be determined upon a similar basis by the commissioner, but in no event shall the duration of such additional compensation exceed the lesser of (1) the duration of the employee's permanent partial disability benefits; or (2) 520 weeks. Additional benefits provided under this Section shall be available only to employees who are willing and able to perform suitable work for the employer.

b. Notwithstanding the provisions of subsection (a) of this Section, additional benefits provided under this Section shall be available only when the nature of

the injury and its effect on the earning capacity of an employee warrant.

13 M.P.T.L. ch. 4 § 14

§ 14. Determination of Average Weekly Wage of Injured Worker. Concurrent Employment. Publication of Wage Tables. Maximum Weekly Compensation

a. For the purposes of this Chapter, the average weekly wage shall be ascertained by dividing the total wages received by the injured employee from the employer in whose service he is injured during the 52 calendar weeks immediately preceding the week during which he was injured, by the number of calendar weeks during which, or any portion of which, the employee was actually employed by the employer, but, in making the computation, absence for seven consecutive calendar days, although not in the same calendar week, shall be considered as absence for a calendar week. When the employment commenced otherwise than at the beginning of a calendar week, that calendar week and wages earned during that week shall be excluded in making the computation. When the period of employment immediately preceding the injury is computed to be less than a net period of two calendar weeks, the employee's weekly wage shall be considered to be equivalent to the average weekly wage prevailing in the same or similar employment in the same locality at the date of the injury except that, when the employer has agreed to pay a certain hourly wage to the employee, the hourly wage so agreed upon shall be the hourly wage for the injured employee and his average weekly wage shall be computed by multiplying the hourly wage by the regular number of hours that is permitted each week in accordance with the agreement. For the purpose of determining the amount of compensation to be paid in the case of a minor under the age of 18 who has sustained an injury entitling him to compensation for total or partial incapacity for a period of 52 or more weeks, or to specific indemnity for any injury under the provisions of Section 12 of this Chapter, the Commissioner may add 50% to his average weekly wage, except in the case of a minor under the age of 16, the Commissioner may add 100% to his average weekly wage. Where the injured employee has worked for more than one employer as of the date of the injury, his average weekly wages shall be calculated upon the basis of wages earned from all such employers in the period of concurrent employment not in excess of 52 weeks prior to the date of the injury, but the employer in whose employ the injury occurred shall be liable for all medical and hospital costs and a pro rata portion of the compensation rate based upon the ratio of the amount of wages paid by him to the total wages paid the employee in that average week but not less than an amount equal to the minimum compensation rate prevailing as of the date of the injury.

b. Each August 15th, the chief commissioner shall publish tables of the average weekly wage and 75% of the average weekly wage after being reduced by any deduction for federal or state taxes, or both, and for the Federal Insurance Contributions Act, to be effective the following October first. Such tables shall be conclusive for the purpose of determining 75% of the average weekly earnings of an injured employee after such earnings have been reduced by any deduction for federal or state taxes, or both, and for the federal Insurance Contributions Act made from such employee's total wages received during the period of calculation of the employee's average weekly wage for purposes of

this Chapter. The chief commissioner may recommend to the Tribal Council for approval annual adjustments of the maximum weekly compensation levels provided under this Code, and such recommendation shall be based on generally acceptable economic indicators of the cost of living.

13 M.P.T.L. ch. 4 § 15

§ 15. Average Weekly Wage of Worker with an Occupational Disease

For the purposes of this Chapter, in the case of an occupational disease the average weekly wage shall be calculated as of the date of total or partial incapacity to work. However, in the case of an occupational disease which manifests itself at a time when the worker has not worked during the 26 weeks immediately preceding the diagnosis of such disease, the claimant's average weekly wage shall be considered to be equivalent to the greater of the average weekly wage determined pursuant to Section 14 of this Chapter; or the average weekly wage earned by the claimant during the 52 calendar weeks last worked by the claimant, which wage shall be determined in accordance with said Section 14 of this Chapter.

13 M.P.T.L. ch. 4 § 16

§ 16. Replacement of Artificial Aids

Each employer subject to the provisions of this Chapter shall be liable for the payment of damages accidentally sustained by an employee in the course of his employment to artificial legs, feet, arms or hands. Such payments shall consist of the cost of the replacement or repair of such artificial aid. The employer shall also repair or replace eyeglasses, contact lenses, hearing aids and artificial teeth, where damage to such eyeglasses, contact lenses, hearing aids and artificial teeth is accompanied by bodily injury about the face or head.

13 M.P.T.L. ch. 4 § 17

§ 17. Compensation for Time Lost During and Expense of Medical Treatment. Reimbursement of Wages Lost Due to Appearance at Informal Hearing. Payments to Prevailing Claimants in Contested Cases. Medical Attention Outside Regular Work Hours

a. A person receiving medical attention under the provisions of this Chapter and required to be absent from work for medical treatment, examination, laboratory tests, x-rays or other diagnostic procedures, and not otherwise receiving or eligible to receive weekly compensation, shall be compensated for the time lost from the job for required medical treatment and tests at the rate of his average earnings, but not less than at the minimum wage established by law, provided the amount payable in any one week shall not exceed the weekly compensation rate of the individual. Time lost from the job shall include necessary travel time from the place of work to the place of treatment, the

time for the treatment and any other time that is necessary for the treatment, examination or laboratory test.

b. When a claimant is given notice to appear at a conference or an informal hearing before a commissioner and does appear, he shall be entitled to reimbursement of wages lost by reason of the appearance if he is not then receiving compensation as provided in this subsection. When liability or extent of disability is contested by formal hearing before the commissioner, the claimant shall be entitled, if he prevails on final judgment, to payment for services rendered him by a competent physician or surgeon for examination, x-ray, medical tests and testimony in connection with the claim, the commissioner to determine the reasonableness of the charges, and he shall be entitled to receive payment of 1/5 of the weekly compensation, as computed in accordance with Section 14 of this Chapter, for each day, or part thereof, that he is in attendance at the formal hearing if he is not then receiving compensation.

13 M.P.T.L. ch. 4 § 18

§ 18. Transfer to Suitable Work During Period of Treatment or Rehabilitation or because of Physical Incapacity

Where an employee has suffered a compensable injury, which disables him from performing his customary or most recent work, his employer at the time of such injury may transfer him to full-time work suitable to his physical condition where such work is available, during the time that the employee is subjected to medical treatment or rehabilitation or both and until such treatment is discontinued on the advice of the physician conducting the same or of the therapist in charge of the rehabilitation program or until the employee has reached the maximum level of rehabilitation for such worker in the judgment of the commissioner under all of the circumstances, whichever period is the longest.

13 M.P.T.L. ch. 4 § 19

§ 19. Allowance for Advance Payments

In fixing the amount of any compensation under this Chapter, due allowance shall be made for any sum which the employer has paid to any injured employee or to his dependents on account of the injury, except such sums as the employer has expended or directed to be expended for medical, surgical or hospital service.

13 M.P.T.L. ch. 4 § 20

§ 20. Modification of Award or Voluntary Agreement

Any award of, or voluntary agreement concerning, compensation made under the provisions of this Chapter shall be subject to modification, upon the request

of either party and in accordance with the procedure for original determinations, whenever it appears to the commissioner, after notice and hearing thereon, that the incapacity of an injured employee has increased, decreased or ceased, or that the measure of dependence on account of which the compensation is paid has changed, or that changed conditions of fact have arisen which necessitate a change of such agreement or award in order properly to carry out the spirit of this Chapter. The commissioner shall have the power to open and modify any award or voluntary agreement, and shall retain jurisdiction over claims for compensation, awards and voluntary agreements, for any proper action thereon, during the whole compensation period applicable to the injury inquest, provided that such authority and jurisdiction shall cease upon filing an appeal in the tribal court.

13 M.P.T.L. ch. 4 § 21

§ 21. Exemption and Preference of Compensation

All sums due for compensation under the provisions of this Chapter shall be exempt from attachment and execution and shall be nonassignable before and after award. The rights of compensation granted by this Chapter, reckoned at their present value, shall have the same preference against the assets of an insolvent employer as may be allowed by law to a claim for the unpaid wages of workers earned within three months.

13 M.P.T.L. ch. 4 § 22

§ 22. Award of Fees and Expenses

a. Whenever any fees or expenses are to be paid by the employer or insurer and not by the employee under the provisions of this Code, the commissioner may make an award directly in favor of the person entitled to the fees or expenses, which award shall be filed in tribal court, shall be subject to appeal and shall be enforceable by execution. The award may be combined with an award for compensation in favor of or against the injured employee or the dependent or dependents of a deceased employee or may be the subject of an award covering only the fees and expenses.

b. All fees of attorneys, physicians, or other persons for services under this Code shall be subject to the approval of the commissioner.

LEGISLATIVE HISTORY REVISIONS TO TITLE 13. WORKERS' COMPENSATION CODE

13 M.P.T.L. Leg. History

A. Background

Title 13 of the Mashantucket Pequot Tribal Laws was enacted in 1997 pursuant to TCR062797-06 of 06, entitled the "Mashantucket Pequot Workers' Compensation

Code." Tribal Council's purpose in adopting the Workers' Compensation Code was to:

"define the basic rights of employees who work for the Tribe and are injured while on the job and the liabilities of the employer to provide a remedy to compensate the employee for such injury, to encourage the prevention of work-related injuries, to establish a Tribal Workers' Compensation Commission to administer the tribal system in a more efficient and responsive manner, to provide an opportunity for review of the Tribe's Workers' Compensation Commission's decisions in the tribal court, and to require employers who do work for the Tribe on the Reservation to provide workers' compensation coverage for their employees."

In its continuous review of tribal laws and in an effort to maintain updated coverage and compensation for employees and address issues or ambiguities that have arisen, the Judicial Committee conducted an extensive review of the Workers' Compensation Code and recommended changes to the Tribal Council. The following is a summary of the amendments to 13 Workers' Compensation Code and the intent of Tribal Council in adopting these amendments.

B. Summary of Amendments

1. Jurisdiction and Waiver of Sovereign Immunity from Suit

Prior to the amendments, the Workers' Compensation Code did not have an express waiver of sovereign immunity. It is important that all of the tribal laws reflect consistent and uniform grants of jurisdiction, as required by 1 M.P.T.L. Judiciary. In addition, the areas in which the Tribe waives its sovereign immunity should be clearly and expressly defined. The Workers' Compensation Code generally provides for tribal court review of decisions of the Workers' Compensation Commissioner. However, in light of the recent amendment to 1 M.P.T.L., Judiciary, it is prudent to clarify the tribal court's jurisdiction over all claims arising under the Workers' Compensation Code.

The amendments state that the tribal court has jurisdiction over workers' compensation claims subsequent to all other remedies being exhausted. Language also is included stating that the Tribe waives its sovereign immunity from suit, as an "employer," for claims brought in tribal court. The tribal court shall use the Employment Review Code (8 M.P.T.L.) as a guide concerning procedures and calculation of damages in discriminatory discharge claims.

2. Discharge or Discrimination Prohibited. Right of Action

Prior to the amendments, the Workers' Compensation Code was unclear under which tribal law an employee who is discharged or discriminated against may bring a civil action against the employer in tribal court pursuant to the Workers' Compensation Code.

The amendments clarify that an employee may bring a civil action in tribal court against the employer "pursuant to this law," meaning the Mashantucket Pequot Workers' Compensation Code.

3. Medical and Surgical aid; Hospital and Nursing Services

Prior to the amendments, the Workers' Compensation Code did not include language regarding reports of injury and the fee thereof, or language waiving the employee from any obligation of payment of any medical expenses resulting from an injury. The comparable state provisions require that the medical provider may not take any action against the employee for any portion of a medical bill. The Workers' Compensation system was operating under the *assumption* that the medical provider can not go after the employee, and must accept the reasonable charge to be paid by the employer/insurer.

The amendments include language requiring production of medical reports by professionals rendering services due to the injury, to the employer and/or insurance carrier at no cost. Language is also included clarifying the regulations and validating that all medical expenses incurred as a result of an injury under the Workers' Compensation Code are to be paid by the employer's insurance carrier. Further, no action against an employee for said medical expenses is allowed. The Tribe's Workers' Compensation Code is closely tailored to the State Workers' Compensation statute but it is not the same; nor has the Tribe adopted the state regulations governing the compensation system. Medical providers in the State know and are accustomed to these limitations, and the Tribe wants to ensure consistent treatment for its employees.

4. Compensation for Total Incapacity

Prior to the amendments, the Workers' Compensation Code provided for a maximum rate of \$678 for total incapacity. This rate was based on the maximum rate applicable to claims under Connecticut law at the time this Code was passed. The state of Connecticut has raised its maximum rate each October 1st since that time. Due to the increase in the State's maximum rate, and to local and national cost of living increases since the inception of this Code, the Chief Commissioner of the Workers' Compensation Commission has recommended an adjustment to the maximum rate.

Prior to the amendments the Workers' Compensation Code provided that payments for total incapacity shall not continue past the age of 72. The intent of this law was to stop paying people at age 72 who had already been receiving compensation for a period of time, on the assumption that the employee would have stopped working by age 72. However, the Tribe and the Gaming Enterprise employ many individuals who are over age 72, and the law should provide appropriate benefits to employees who are 72 years or older when injured on the job.

The amendments will increase the maximum weekly compensation for total incapacity from \$678 to \$715. The amendments will also include language allowing benefits to individuals who are 72 years or older when injured.

5. Compensation for Partial Incapacity

Prior the amendments, the Workers' Compensation Code provided for a maximum rate of \$589 for partial incapacity. This rate was based on the maximum rate

applicable to claims under Connecticut law at the time this Code was passed. The state of Connecticut has raised its maximum rate each October 1st since that time. Due to the increase in the State's maximum rate, and to local and national cost of living increases since the inception of this Code, the Chief Commissioner of the Workers' Compensation Commission has recommended an adjustment to the maximum rate.

This amendment will increase the maximum weekly compensation rate for partial incapacity from \$589 to \$623.

6. Body Parts--Female Genitalia

Prior to the amendments, the Workers' Compensation Code did not include certain parts of the female genitalia on its list of body parts for permanent impairment. The state of Connecticut Code recently amended its list of body parts for permanent impairment to include certain female genitalia.

The amendments include the female genitalia recently added to the State's list of body parts for permanent impairment in Tribe's list of same.

TITLE 14. LAND USE LAW

CHAPTER 1. DECLARATION OF PURPOSE AND POLICY

14 M.P.T.L. ch. 1 § 1

§ 1. Goals and Jurisdiction

The Tribal Council declares its commitment to establish and maintain the policies and procedures established herein to promote the health, safety, and welfare of the Mashantucket Pequot Tribe and the natural resources of the Tribe. The Tribal Council declares that the goal of this Land Use Law is to guide and facilitate, in a timely and efficient manner, tribal development that has the potential to affect the environment, the general health, safety and welfare of the Tribe. The Tribal Council declares that the policies and procedures established herein shall apply to all land use activities and projects on the Mashantucket Pequot Reservation and trust lands.

14 M.P.T.L. ch. 1 § 2

§ 2. Policies

The Tribe recognizes the critical importance of establishing sound, uniform land use procedures to govern development of or upon tribal lands, thus ensuring the overall welfare of the Tribe and maintaining environmental quality throughout all land use activities or projects. In all land use activities and projects, the Tribe shall:

- a. diligently advocate achievement of self-determination and self-governance;
- b. protect and enhance both human and natural resources for succeeding generations;
- c. promote beneficial land uses without environmental degradation, risk to health or safety, or other undesirable and unintended consequences;
- d. preserve the Tribe's historical, cultural, and natural resources; and
- e. facilitate timely, efficient and safe development of approved and permitted Land Use activities.

CHAPTER 2. DEFINITIONS

14 M.P.T.L. ch. 2

- a. "Administrative Review" means an abbreviated review and permitting procedure for Residential Use only, whereby the commissioner may, at his/her discretion, issue a permit without commission approval.
- b. "Appellant" means the Person appealing a decision of the commissioner or commission to the appeal board.
- c. "Applicant" means the Person responsible for a Land Use activity or project or any Person designated by the Tribal Council as being responsible for completing any activities and projects.
- d. "Commercial and/or Government Community Use" means any structure or activity that is not for Residential Use as defined herein.
- e. "Commission" means the Mashantucket Pequot Tribal Land Use Commission.
- f. "Commissioner" means the Commissioner of the Mashantucket Pequot Tribal Land Use Commission.
- g. "Land Use" means activities such as zoning; real property development, including the construction or modification of structures; and any activity or project that has the potential to affect the environment or the health, safety, or general welfare of the Tribe.
- h. "Permit" means the whole or any part of any license, certificate, approval or similar form of permission which may be required of any person by provisions of this Land Use law.
- i. "Permittee" means the person listed on a permit as being responsible for any Land Use activity or project.
- j. "Person" means any tribal member, tribal employee, individual, partnership, firm, company, subcontractors or contractors, corporation, association,

organization, estate, governmental entity or any other legal entity or its representative, agents or assigns. Use of the singular shall also include the plural.

k. "Potential to Affect the Environment" means any activity or project that alters the chemical, physical, and biological integrity of the natural environment and its resources.

l. "Potential to Affect the General Health, Safety or Welfare of the Tribe" means any activity or project that has any affect, harmful or beneficial, on the general health, safety or welfare of the Mashantucket Pequot Tribe.

m. "Residential Use" means any structure or activity with a primary purpose to provide sleeping and eating quarters for people residing therein or any structure or activity directly adjacent to the same. Said structures shall be limited to dwelling units that have no more than four dwelling units in one structure.

n. "Tribal Council" means the governing body of the Mashantucket Pequot Tribe.

o. "Tribal Land Use Regulations" means the standards and procedures prescribed by Tribal programs in accordance with this Law and approved by the Mashantucket Pequot Tribal Council. Tribal Land Use Regulations shall include all tribal programs standards and procedures existing upon the effective date of this Law and those adopted after the effective date of this Law.

p. "Tribal Programs" means the duly established governmental departments, divisions, agencies or enterprises of the Mashantucket Pequot Tribe.

q. "Tribal Lands" means the Mashantucket Pequot Reservation and trust lands.

r. "Tribal Policies" means the policies set forth in this Law.

CHAPTER 3. LAND USE COMMISSION

14 M.P.T.L. ch. 3 § 1

§ 1. Establishment

There is hereby established a Land Use Commission (the "Commission") which shall operate as an administrative and enforcement arm of the Mashantucket Pequot Tribal Council.

14 M.P.T.L. ch. 3 § 2

§ 2. Authority

The Commission shall have the authority to regulate all land use activities and projects on tribal lands. The Commission shall have the authority to review

for compliance with this Law any and all land use activities and projects on tribally owned fee lands. The Commission shall have the specific authority to:

- a. oversee the promulgation of and assist in the development of tribal land use regulations for Tribal Council's review and approval;
- b. coordinate and supervise the timely and efficient review and processing of permit applications;
- c. issue Permits and certificates of occupancy or completion;
- d. review and monitor all land use activities and projects on tribal lands;
- e. enforce compliance with a permit through tribal policies and tribal land use regulations; and
- f. enforce compliance with tribal policies and tribal land use regulations by issuing administrative orders to any land use activity or project that has not been issued a permit, which may include an assessment of a fine or penalty.

14 M.P.T.L. ch. 3 § 3

§ 3. Composition of the Commission

- a. The Tribal Council shall appoint a land use commissioner who shall have primary responsibility for carrying out the duties of the Commission. The commissioner's staff shall include a field inspector/enforcement officer.
- b. The Commission shall be composed of six members, one from each of the following Tribal Programs: Natural Resources Protection; New Projects; Mashantucket Pequot Fire Department; Legal Counsel; the Tribal Manager; and the Mashantucket Pequot Gaming Enterprise (MPGE). The Commissioner shall sit on the commission as a member. The members of the Commission shall collectively, as a result of training and experience, be well qualified to analyze and interpret environmental trends, regulations, planning and construction designs, building and safety codes; and to appraise the scientific, economic, social, aesthetic, and cultural needs and interests of the Tribe in light of the policies set forth herein. Members of the Commission shall serve without compensation. The Commission shall consist of existing staff.

14 M.P.T.L. ch. 3 § 4

§ 4. Cooperation with Tribal Programs

The Commissioner shall coordinate his/her responsibilities with the tribal programs having an interest in any land use activity or project. The tribal programs shall have the following duties:

- a. develop tribal land use regulations, in consultation with the Commission, to

be submitted to the appropriate standing committee of the Tribal Council for review and recommended action to the Tribal Council;

b. assist the Commission in implementing and enforcing tribal policies and tribal land use regulations;

c. assist in reviewing permit applications and making findings and recommendations to the Commission as to whether the proposed land use activity or project complies with tribal policies and tribal land use regulations; and

d. assist in monitoring land use activities and projects to ensure compliance with tribal policies and tribal land use regulations.

CHAPTER 4. PRELIMINARY SCREENING AND APPROVAL PROCEDURE

14 M.P.T.L. ch. 4 § 1

§ 1. Residential Use

Any person who desires to undertake a residential use shall provide a brief written description of the proposed residential use and the location of the residential use to the tribal housing authority for obtaining initial approval of the residential use by the tribal housing authority. If the tribal housing authority grants initial approval of the residential use, said person shall submit a permit application to the Commission in accordance with Chapter 5 of this Law.

14 M.P.T.L. ch. 4 § 2

§ 2. Commercial Use

a. Any person who desires to undertake a commercial use shall provide the following information to Tribal Council to obtain initial approval of the proposed commercial use:

(1) a brief written description of the proposed commercial use;

(2) the location of the proposed commercial use;

(3) a proposed budget, if necessary, for the cost of developing plans and specifications for the proposed commercial use; and

(4) any other reasonable information required by Tribal Council.

b. Initial approval by the Tribal Council shall consist of preliminary approval of the proposed commercial use and a budget for developing the plans and specifications for said commercial use. If the Tribal Council grants initial approval of the commercial use, said person shall submit a permit application to the Commission in accordance with Chapter 5 of this Law.

CHAPTER 5. PERMIT PROCESS AND PROCEDURE

14 M.P.T.L. ch. 5 § 1

§ 1. Permit Required

Any person who undertakes any land use activity or project on tribal lands shall obtain a permit from the Commission as provided herein and any other permits required by applicable federal, state, or local Law.

14 M.P.T.L. ch. 5 § 2

§ 2. Permit Application

a. An application for a land use permit shall be made through the use of forms designated by the Commission and approved by the Economic Development and Planning Committee and Tribal Council. The applicant shall submit a permit application and any studies, reports, or other reasonable information requested by the commissioner, the Commission or tribal programs.

b. Every application shall contain, at a minimum, the following information:

- (1) the name and title of the applicant;
- (2) the location of the proposed activity;
- (3) a concise and factual description of the proposed activity including:
 - (a) any proposed physical construction;
 - (b) any use of natural resources; and
 - (c) any potential impacts to the environment, whether adverse or beneficial.
- (4) a detailed site plan if necessary or appropriate;
- (5) a period of time for which the permit is requested;
- (6) a reference to the tribal land use regulations governing the proposed land use activity or project;
- (7) a complete set of detailed plans and specifications, including but not limited to, any proposed structures showing compliance with building, fire, and safety codes; and
- (8) in the case of a phased land use activity or project, the applicant shall submit a complete set of detailed plans and specifications for that portion of the land use activity or project.

§ 3. Permit Application Fees

Upon the submission of the permit application, the applicant shall pay a permit application fee according to the following schedule:

- a. A permit fee of \$5 per \$1,000 of the total cost of the residential land use activity or project; and,
- b. A permit fee of \$10 per \$1,000 of the total cost of the commercial/governmental-community land use activities or projects.

§ 4. Permit Application Review

- a. The Commissioner may conduct an administrative review of applications for residential use only and issue a permit, if the Commissioner determines that the application complies with tribal polices and all applicable tribal land use regulations. When the Commissioner conducts an administrative review of an application he/she shall issue or deny a permit within two weeks of receiving a complete application.
- b. For all other applications, the commissioner shall review the permit application and determine whether the permit application is complete. If a permit application is complete, the commissioner shall then direct the appropriate Tribal Programs to review the application and establish a time period for the submission of written findings to the Commissioner. The Commissioner may request review of permit applications by tribal offices, agencies or programs whose regulations are enforced under this Law, including the following: Planning and Community Development, Health and Human Services, Housing, Natural Resources Protection, Public Safety, Utilities, Archeology, Public Works, and Wastewater.
- c. Within one week of receiving the application, the Commissioner or the Tribal Program may request the applicant to submit additional information, studies or reports to assist in the review of the permit application. The additional information must be relevant to the purposes and policies of this Law. If the additional information is requested, the Commissioner shall notify the applicant of the requested information and shall set a reasonable time period for the submission of the information.
- d. Within one week of receiving the application or additionally requested information, the Commissioner or tribal office or program shall submit written findings on the permit application. If additional review time is requested, the Commissioner may grant one extension of time not to exceed two weeks. The written findings shall address whether or not the activity or project proposed by the application complies with tribal policies and the Tribal Land Use

Regulations. The written findings shall provide specific recommendations indicating how the proposed land use activity or project should be tailored to ensure such compliance.

e. The Commissioner shall provide the written findings to the applicant within one week of receipt thereof.

14 M.P.T.L. ch. 5 § 5

§ 5. Permit Application Review Meeting

a. The Commissioner shall schedule regular permit application review meetings on a weekly basis, or as needed, to review the written findings with the applicant and the Tribal programs. The Commissioner shall notify the applicant and the appropriate Tribal Programs of the meeting scheduled for the application.

b. At the permit application review meeting, the Commissioner may determine, based on the written findings and discussion with the Tribal Programs, that the permit application requires either no and/or minor changes or significant material changes:

(1) if the Applicant agrees with the written findings or recommended changes, the applicant shall incorporate such changes into his/her application and the application shall be scheduled for final review by the Commission;

(2) if the Applicant does not agree with the recommended changes, the Applicant will have an opportunity to review the written findings and recommendations with the Commission at the next scheduled Commission review meeting following the permit application review meeting. The Applicant shall provide a narrative detailing why the applicant does not agree with the requirements prior to the meeting.

14 M.P.T.L. ch. 5 § 6

§ 6. Commission Review and Decision Meeting

a. The Commission shall meet on at least a monthly basis or as necessary, to review, approve, modify or deny permits. The Commissioner shall notify the Applicant and the appropriate Tribal Programs of the meeting scheduled on his/her application. The Commissioner and the Tribal Programs shall review the written findings with the Applicant.

b. The Commission shall reach a unanimous decision to approve or deny a Permit and render a written decision and notify the parties within 45 days of the initial Commission review meeting at which the application was scheduled for review. The Commission's decision may specify terms and conditions to be included in the Permit. At the applicant's request, the Commission may grant one extension of time, up to 45 days, to render the Commission's decision.

c. If the permit application is denied or not approved through unanimous decision of the Commission, the applicant may either submit a new application or appeal the Commission's decision pursuant to Chapter 11 of this Law.

14 M.P.T.L. ch. 5 § 7

§ 7. Bonding Requirements

The Commission may require the posting of a performance bond, in an amount and of duration satisfactory to the Commission to assure and guarantee the completing of site improvements including, but not limited to, grading, regrading, drainage, pollution prevention, site remediation, environmental controls, erosion control, lighting, screening, planting, building or safety improvements and other reasonable conditions indicated on a site plan which will assure compliance with this Law, or applicable Tribal Program regulations.

a. A performance or payment bond shall be delivered to the Mashantucket Pequot Tribal Nation, in the form of a certified check, pledge of a bank book, fully insured by an agency of the United States government, with irrevocable power of attorney and acknowledged by the bank in which the funds are deposited, or a corporate surety bond, at the discretion of the Commission, shall be posted by the Applicant, to insure the completion of required improvements and utilities in the event the Applicant shall fail to install same within five years from the date of the bond. The term of the performance bond may be extended by the Commission upon approval of a petition from the Applicant to the Commission and subject to agreement of such extension by the surety company.

b. The Applicant and/or owner may apply to the Commission for a reduction in bond when 50% of the cost of required improvements for the project have been completed and may apply to the Commission for further reduction in the bond when 75% of the cost of required improvements for the project have been completed. Requests for such reduction shall be made in writing to the Commission with a fully executed copy of the Commission's bond form attached thereto.

c. Prior to the release of the performance bond, the Applicant and/or owner shall present a maintenance bond equal to at least 10% of the initial performance bond. Such bond shall be for a period of one year and shall guarantee the improvements installed.

14 M.P.T.L. ch. 5 § 8

§ 8. Final Tribal Council Approval

Once a Permit has been issued for a commercial use, the Permittee shall obtain Tribal Council approval for the necessary funding before commencing the permitted commercial use.

CHAPTER 6. PERMIT CONDITIONS

14 M.P.T.L. ch. 6 § 1

§ 1. Permit Terms and Conditions

Upon approving a Permit application, the Commission or the Commissioner in an administrative review matter, may include terms and conditions that are reasonably necessary and appropriate for ensuring compliance with tribal policies and Tribal Land Use Regulations.

14 M.P.T.L. ch. 6 § 2

§ 2. Permit Modification

a. If significant and material changes have occurred since the approval of the Permit, the Permittee shall file a Permit modification application describing the changes, the proposed modifications to the Permit, and any necessary information regarding the implementation of such changes.

b. The Permit modification application shall demonstrate that the proposed changes comply with the tribal policies and Tribal Land Use Regulations.

c. The Commissioner shall review the Permit modification application with the Permittee and inspect the project. The Commission, based on the Commissioner's recommendations, may either approve the application and modify the Permit or deny the application.

d. If the Permit modification application is denied, the existing Permit shall remain in full force and effect and the Permittee may request a hearing with the Commission to review the Commissioner's decision.

14 M.P.T.L. ch. 6 § 3

§ 3. Permit Duration and Extension

a. All Permits shall be effective for a limited period of time, ranging from less than a one year period and not exceeding five years. If a Permittee requires an extension of time in order to complete any activity under an approved Permit, the Permittee shall file an extension request no later than 45 days prior to the expiration of the Permittee's existing Permit.

b. The Commissioner shall review the Permit extension request with the Permittee and inspect the project. The Commissioner shall either approve the extension under such terms and conditions as the Commissioner deems necessary or appropriate or request that the Permittee obtain a Permit modification.

CHAPTER 7. CERTIFICATE OF OCCUPANCY OR COMPLETION

14 M.P.T.L. ch. 7 § 1

§ 1. Certificate Required

No land use activity or project shall be occupied, used, or operated, in whole or in part, until a certificate of occupancy or completion (hereafter "CO") has been issued by the Commissioner stating that the land use activity or project complies with all building, fire and safety codes, and the terms and conditions of the Permit.

14 M.P.T.L. ch. 7 § 2

§ 2. CO Application

a. Upon the completion of the land use activity or project, the Permittee shall apply for a CO. Within one week of receiving the CO application, the Commissioner shall review the CO application and inspect the project with the appropriate Tribal Programs.

b. Within one week of reviewing the CO application, the Commissioner may either approve the CO application, and thereupon issue a CO, or notify the Permittee in writing of the measures required to attain compliance with the terms and conditions of the Permit.

c. Upon completion of the required compliance measures, the Permittee shall submit a revised CO application demonstrating evidence of compliance.

d. The Commissioner may, at his/her discretion, issue a temporary or a partial CO if the land use activity or project is substantially complete and the completed portion of the land use activity or project has satisfied the required compliance measures. The temporary CO shall specify the time-frame within which the remaining required compliance measures shall be completed. The partial CO shall specify the portion of the structure that may be occupied or used. Failure to complete the required compliance measures within the established time-frame may result in enforcement action.

e. If the Permittee fails or refuses to comply with the terms and conditions of the Permit, or if the activity or project fails to meet the tribal policies or Tribal Land Use Regulations, the Commissioner shall not issue a CO and the land use activity or project shall not be occupied, used, or operated in any way. The Commissioner shall set forth his/her reasons for such denial in a detailed written decision, and shall send a copy of his/her decision to the Permittee.

f. The Permittee may appeal the Commissioner's decision pursuant to Chapter 11 of this Law.

CHAPTER 8. VARIANCE

14 M.P.T.L. ch. 8 § 1

§ 1. Application

Any person or Permittee who requires a variance from a specific Tribal Land Use Regulation shall file a variance application with the Commissioner setting out the specific regulation for which the variance is requested and the justification for the requested variance.

14 M.P.T.L. ch. 8 § 2

§ 2. Criteria

The Commission may grant a variance if the person or Permittee provides sufficient evidence that:

- a. the granting of a variance will not undermine the purposes and policies of this Law;
- b. the proposed variance will not adversely affect the environment, the general health, safety and welfare of the Tribe or Tribal Lands;
- c. denying the variance will cause the person or Permittee to suffer hardship out of proportion to the benefit intended by the Tribal Policies or Tribal Land Use Regulations; and
- d. the Tribal Land Use Regulation from which a variance is sought can be properly mitigated or the affect of the variance is neutral.

CHAPTER 9. MONITORING

14 M.P.T.L. ch. 9 § 1

§ 1. Authority to Inspect, Sample, Meter, Monitor

a. The Commissioner shall have the right to enter the property or facilities of any person, Permittee, or owner engaged in a land use activity or project on Tribal Lands to determine whether or not the land use activity or project complies with this Law. The Commissioner shall have access to all parts of the property or facility for the purposes of inspection, sampling, records examination and copying, and any additional duties required by this Law. The Commissioner shall make best efforts to provide adequate notice prior to the inspection, however, lack of notice shall not prevent the Commissioner from gaining access to the facility or the property.

b. Where access to the property or facility is restricted by any security measure or device, the person or Permittee shall promptly allow access to the Commissioner upon presentation of proper identification.

c. The Commissioner shall have the right to install or require the installation of such devices, as are necessary, to conduct sampling, metering, and/or monitoring of the land use activity or project at the person's, Permittee's or owner's expense. The sampling, metering and monitoring equipment shall be maintained at all times in a safe and proper operating condition at the person's, Permittee's, or owner's expense.

d. Any refusal or unreasonable delay in allowing the Commissioner access to the land use activity or project shall be deemed a violation of this Law, and may subject the person, Permittee, or owner to fines and penalties as provided herein.

14 M.P.T.L. ch. 9 § 2

§ 2. Records and Monitoring

All Permittees shall maintain monitoring records substantiating the information supplied in the Permit application, including but not limited to, self-monitoring compliance reports and any other information or records required by the Permit or Tribal Land Use Regulations.

14 M.P.T.L. ch. 9 § 3

§ 3. Reporting Requirements

a. Sampling Violations. If the sampling indicates a violation of the Permit or any Tribal Land Use Regulation, the Permittee shall notify the Commissioner within 24 hours of the violation or as soon as the Permittee is aware of the violation. The Permittee shall submit to the Commission, within two weeks of initially becoming aware of the violation, a written summary describing the violation, including but not limited to, the sampling analysis results. The Permittee shall not be required to re-sample if the Commission performs its own sampling or monitoring.

b. Potential Problems. In the event of an imminent and substantial harm to the environment, the general health, safety, and welfare of the Tribe, any person or Permittee shall notify the Commissioner within 24 hours of the incident or as soon he/she becomes aware of the incident. Such notice shall include the location, the type of imminent and substantial harm to the environment, the general health, safety, and welfare of the Tribe, and any corrective or remediation actions undertaken:

(1) within five days of the imminent and substantial harm to the environment, the general health, safety, and welfare of the Tribe, the person or Permittee shall submit a detailed written report to the Commission describing the nature and cause of the emergency;

(2) notice will not exempt the person or Permittee from any fines, civil or criminal penalties, or any other liability which may result from the incident; and

(3) the person or Permittee may request the assistance of the Commission to provide corrective or remedial actions.

CHAPTER 10. ENFORCEMENT

14 M.P.T.L. ch. 10 § 1

§ 1. Enforcement Authority of the Commission

The Commission and the Commissioner, in conjunction with the field inspector/enforcement officer, shall have the authority to enforce compliance with any Tribal Land Use Regulation and to investigate or inspect suspected violations of a Permit or non-compliance or of any land use activity or project. Whenever the Commissioner determines, after an investigation, that reasonable grounds exist to find that the person or Permittee has violated any Permit term or condition or any applicable Tribal Land Use Regulation or Commission order, the Commissioner may institute appropriate administrative proceedings in the name of the Commission against any person or Permittee.

14 M.P.T.L. ch. 10 § 2

§ 2. Commission Orders

The Commissioner shall have the authority to issue cease and desist orders ("CDO"), show cause orders ("SCO"), or consent orders.

14 M.P.T.L. ch. 10 § 3

§ 3. Cease and Desist Order

a. The Commissioner may issue a CDO whenever he/she determines that reasonable grounds exist to find that a land use activity, activities or lack of activity presents a violation of any Permit term or condition, any Tribal Land Use Regulation or Commission order, and that imminent and substantial harm to the environment, the general health, safety, and welfare of the Tribe is likely to occur without the cessation of such activity.

b. The Commissioner may, without a prior hearing, issue a written CDO to any person or Permittee to cease such activity within a specified time period, and the person or Permittee shall immediately take all necessary steps or measures to comply with the CDO.

c. The Commissioner, or his/her designated representative, shall serve the person or Permittee with the CDO.

d. The CDO shall be scheduled for a hearing in accordance with Chapter 11, Section 1, at the Commission's next scheduled meeting, to determine the status of the alleged violation, any necessary remediation, or whether any other action or enforcement measure should be applied.

14 M.P.T.L. ch. 10 § 4

§ 4. Show Cause Order

a. The Commissioner may issue a SCO whenever he/she determines that reasonable grounds exist to find that a certain activity, activities or lack of activity presents a violation of any Permit term or condition, any Tribal Land Use Regulation or Commission order.

b. The Commissioner may issue a written SCO to any person or Permittee directing such person or Permittee to appear before the Commission to review the status of the alleged violation, respond to and explain the alleged violation, and determine whether any remediation or additional Permit terms and conditions are necessary, or any other action or enforcement measure should be applied.

c. The SCO shall be scheduled for a hearing, in accordance with Chapter 11, Section 1, at the Commission's next scheduled meeting to determine the status of the alleged violation, any necessary remediation, or whether any other action or enforcement measure should be applied.

d. If the person or Permittee fails to appear at the hearing, the Commission may issue a CDO or institute other enforcement action.

14 M.P.T.L. ch. 10 § 5

§ 5. Consent Order

The Commissioner may issue a consent order whenever it is determined that a land use activity, activities, or lack of activities presents a violation of any Permit term or condition, any Tribal Land Use Regulation or Commission order, and the person or Permittee admits to the alleged violations and is willing to resolve the matter without formal Commission involvement. The Commissioner may require the performance of any necessary remediation, other reasonable action, or enforcement measure as part of the consent order.

14 M.P.T.L. ch. 10 § 6

§ 6. Fines

a. The Commissioner shall have the authority to issue fines to any person or

Permittee who is found to have violated any Permit term or condition, Tribal Land Use Regulation or commission order in an amount not to exceed \$25,000 for each day during which the violation occurs. The Commissioner may impose escalating fines in instances of continued non-compliance. No fine shall exceed \$250,000. The fines assessed may be associated with the cost of re-mediating or mitigating a violation.

b. In determining the amount of the fine, the Commissioner may consider the following factors:

- (1) the reasonable costs and expenses of the Commission in investigating, controlling, and abating such violations;
- (2) the fines established by the Tribal Land Use Regulations;
- (3) the actual and potential impact or damages to the environment, or the general health, safety, and welfare of the Tribe;
- (4) any measures taken to prevent or mitigate the violation;
- (5) any previous violations or failure to comply with any Permit term or condition, the tribal policies or Tribal Land Use Regulations, or a Commission order;
- (6) making compliance less costly than non-compliance;
- (7) the deterrence of future potential violations;
- (8) whether the failure to comply was intentional, willful or knowing and not the result of an error; and
- (9) any other factor(s) that may be relevant to determining the amount of the fine, provided that such factor shall be set forth in the written notice of assessment of the fine.

c. If a Tribal Program is assessed a fine, payment shall be made to the general fund of the Tribe which shall be designated as revenue of the Land Use Commission:

- (1) the Tribal Programs shall pay the fine to the Commission within 30 days from the date the fine is assessed;
- (2) if the fine is not paid within 30 days, the Finance Department shall be authorized to automatically withdraw the amount of the fine from the tribal program's budget.

d. If a tribal member or a non-tribal entity is assessed a fine, payment shall be made as follows:

- (1) the tribal member or the non-tribal entity shall pay the fine to the Commission within 30 days from the date the fine is assessed;

(2) if the fine is not paid within 30 days, an additional fine of 10% of the original fine shall be assessed every 30 days until the 90th day, at which time the Commissioner may issue a CDO .

CHAPTER 11. APPEAL PROCESS AND PROCEDURE

14 M.P.T.L. ch. 11 § 1

§ 1. Right to a Hearing with the Commission

Any person or Permittee who has had an enforcement action commenced against them may request a hearing with the Commission at the Commission's next scheduled meeting to discuss the reasons for such action.

14 M.P.T.L. ch. 11 § 2

§ 2. Right to Appeal

a. Any Applicant who has been denied a Permit or any person who has been the subject of an enforcement action may file an appeal with the appeal board within two weeks of the Commissioner's or the Commission's decision.

b. An appeal is commenced by filing a notice of appeal with the Commissioner. The notice of appeal shall state the reasons for the appeal and the specific request for relief.

14 M.P.T.L. ch. 11 § 3

§ 3. Appeal Board

a. The appeal board shall convene on a monthly basis, or as necessary, to address the matters on appeal.

b. The appeal board shall be composed of three Tribal Council members and a tribal attorney. The composition of the appeal board shall rotate among the membership of the Tribal Council. The tribal attorney shall be selected on a random basis. No individual who has personally been involved in, carried out any part of an investigation, or has had any prior review of the issue on appeal, may serve on the appeal board. The staff to the appeal board shall be comprised of existing staff of the tribal government. Members of the appeal board shall serve without compensation.

14 M.P.T.L. ch. 11 § 4

§ 4. Record on Appeal

a. All records on file with the Commissioner that pertain to the appeal shall constitute the record on appeal.

b. The Commissioner shall photocopy or reproduce the record on appeal and distribute it to the Appellant, the appeal board, and the tribal program whose regulations may be at issue.

14 M.P.T.L. ch. 11 § 5

§ 5. Appeal Hearing

a. Upon receiving the notice of appeal, the Commissioner shall set a hearing for the matter on the appeal board's next scheduled meeting. The Commission shall provide written notice to the Appellant and the appropriate Tribal Program of the time and place for the hearing.

b. At the appeal hearing, the Commissioner and the Appellant may provide a presentation of the facts as established by the record. The presentation shall be limited to a review of the record on the issue from which the appeal has been taken. The appeal board may ask questions and request relevant and reasonable additional information of any of the parties.

c. The appeal board shall review the record and evidence presented to determine whether or not the Commissioner's or the Commission's actions or decisions were consistent with tribal policies and Tribal Land Use Regulations or were arbitrary and capricious.

d. If the appeal board finds that the Commission's or the Commissioner's decision was arbitrary and capricious, the appeal board shall remand the matter back to the Commission with its conclusions and conditions for further action consistent with the appeal board's decision.

e. The appeal board shall render its final decision within three weeks from the conclusion of the appeal hearing. The appeal board shall set forth written findings of facts and conclusions, and may establish such conditions for the Permit or land use activity or project as it deems necessary and appropriate.

f. The Appeal Board's decision shall be final and not subject to further review.

CHAPTER 12. EFFECTIVE DATE AND APPLICATION

14 M.P.T.L. ch. 12 § 1

§ 1. Effective upon Enactment of Tribal Council

This Law shall be effective upon enactment by the Tribal Council.

14 M.P.T.L. ch. 12 § 2

§ 2. Publication and Distribution of Tribal Land Use Regulations

The Commissioner shall distribute copies of this Law and all Tribal Land Use Regulations to every tribal department and program and to any person responsible for any known or anticipated land use activities or projects.

14 M.P.T.L. ch. 12 § 3

§ 3. Application to Existing Activities and Projects

This Law shall apply to any and all land use activities or projects on tribal lands that are commenced after the effective date of this Law. Any existing building or structure on tribal lands shall not be required to obtain a Permit pursuant to Chapter 5. Nonetheless, the operation of any existing land use activities or projects, including buildings and structures, shall be required to comply with all other provisions of this Law.

CHAPTER 13. LAND USE REGULATORY STANDARD FOR NEW HOUSING PROJECTS

14 M.P.T.L. ch. 13 § 1

§ 1. Interpretation of TOSHA Regulations

The TOSHA Commissioner shall ensure that TOSHA regulations are interpreted in a manner that is consistent with the interpretation of OSHA regulations applied to home construction that generally occurs within New London County, Connecticut, and that, to the greatest extent consistent with good construction practice, the TOSHA Commissioner shall minimize the regulatory cost of Home construction in the Phase 7 development and to all other Home construction and renovation that occurs on the Mashantucket Pequot Reservation.

14 M.P.T.L. ch. 13 § 2

§ 2. Orders and Fines—TOSHA

Any order or fine issued by TOSHA shall be consistent with the application of OSHA regulations as generally applied in Connecticut. Any order or fine shall, to the greatest extent consistent with good construction practice generally, minimize the regulatory cost of Home construction and renovation that occurs on the Mashantucket Pequot Reservation.

14 M.P.T.L. ch. 13 § 3

§ 3. Appeal of any Order or Fine Issued by TOSHA Commissioner

Notwithstanding any other provision of Tribal Law, any order or fine issued by the TOSHA Commissioner may be appealed to the Mashantucket Pequot Tribal Court who shall hear the matter de novo. The Tribal Court may overturn an order or fine of the TOSHA Commissioner in the event that the Court determines that the appealed order or fine was, based upon a preponderance of the evidence, inconsistent with the application of OSHA regulations in Connecticut generally.

14 M.P.T.L. ch. 13 § 4

§ 4. Regulatory Interpretation of Building Codes

The Land Use Commissioner shall, with respect to all Home construction that takes place on the Mashantucket Pequot Reservation, apply regulatory interpretation that is consistent with the interpretation of similar building code provisions in New London County, Connecticut, and, to the greatest extent consistent with good construction practice, the Land Use Commissioner shall minimize the regulatory cost of Home construction and renovation that occurs on the Mashantucket Pequot Reservation.

14 M.P.T.L. ch. 13 § 5

§ 5. Order and Fines-Land Use Commission

Any order or fine issued by the Land Use Commissioner, with respect to all Home construction that takes place on the Mashantucket Pequot Reservation, shall be consistent with orders or fines that are issued for similar violations of building codes that may occur in developments of a similar nature located within New London, Connecticut, generally.

14 M.P.T.L. ch. 13 § 6

§ 6. Appeal of any Orders and Fines may be Appealed Issued by Land Use Commissioner

Any order or fine issued by the Land Use Commissioner may first be appealed to the Land Use Commission. Appeals to the Land Use Commission shall be heard de novo. Notwithstanding any other provision of Tribal Law, a simple majority of the voting members of the Land Use Commission present shall decide the outcome of any appeal. The Land Use Commissioner, as the issuing official, shall not participate in the appeal either by acting as the Chair or by participating in the vote of the Commission. He shall, however, present the reasons for the issuance of the order or fine at the Land Use Commission hearing. The decision of the Land Use Commission may subsequently be appealed by the person or entity subject to the order or fine to the Mashantucket Pequot Tribal Court who shall hear the matter de novo. The Tribal Court shall sustain the determination of the Land Use Commission unless it can be shown, by a preponderance of the evidence, that the Commission was arbitrary or capricious.

CHAPTER 14. NEW HOME WARRANTIES

14 M.P.T.L. ch. 14 § 1

§ 1. Express Warranties

a. Express warranties by a vendor are created as follows:

(1) Any written affirmation of fact or promise which relates to the improvement and is made a part of the basis of the bargain between the vendor and the purchaser shall create an express warranty that the improvement conforms to such affirmation or promise;

(2) Any written description of the improvement, including plans and specifications thereof which is made a part of the basis of the bargain between the vendor and the purchaser shall create an express warranty that the improvement conforms to such description; and

(3) Any sample or model which is made a part of the basis of the bargain between the vendor and the purchaser shall create an express warranty that the improvement conforms substantially to such sample or model.

b. No formal words, such as "warranty" or "guarantee", nor any specific intention to make a warranty shall be necessary to create an express warranty, provided a simple affirmation of the value of the improvement or a statement purporting to be an opinion or commendation of the improvement shall not itself create such a warranty.

c. No words in the contract of sale or the Assignment under Tribal Law, nor merger of the contract of sale into such Assignment shall exclude or modify any express warranty made pursuant to subsection (a) of this section. Such warranty may, at any time after the execution of the contract of sale, be excluded or modified wholly or partially by any written instrument, signed by the purchaser, setting forth in detail the warranty to be excluded or modified, the consent of the purchaser to such exclusion or modification and the terms of the new agreement.

d. An express warranty shall terminate: (1) in the case of an improvement completed at the time of the delivery of the Assignment to the purchaser, two years after the delivery of the Assignment or two years after the taking of possession by the purchaser, whichever occurs first; and (2) in the case of an improvement not completed at the time of delivery of the deed to the purchaser, two years after the date of completion or two years after taking possession by the purchaser, whichever occurs first.

14 M.P.T.L. ch. 14 § 2

§ 2. Implied Warranties

a. In every sale of an improvement by a vendor to a purchaser, except as provided in subsection (b) of this section or excluded or modified pursuant to subsection (d), warranties are implied that the improvement is:

(1) free from faulty materials;

(2) constructed according to sound engineering standards;

(3) constructed in a workmanlike manner; and

(4) fit for habitation, at the time of the delivery of the deed to a completed improvement, or at the time of completion of an improvement not completed when the Assignment is delivered.

b. The implied warranties of subsection (a) of this section shall not apply to any condition that an inspection of the premises would reveal to a reasonably diligent purchaser at the time the contract is signed.

c. If the purchaser, expressly or by implication, makes known to the vendor the particular purpose for which the improvement is required, and it appears that the purchaser relies on the vendor's skill and judgment, there is an implied warranty that the improvement is reasonably fit for the purpose.

d. Neither words in the contract of sale, nor the Assignment, nor merger of the contract of sale into the Assignment is effective to exclude or modify any implied warranty; provided, if the contract of sale pertains to an improvement then completed, an implied warranty may be excluded or modified wholly or partially by a written instrument, signed by the purchaser, setting forth in detail the warranty to be excluded or modified, the consent of the purchaser to exclusion or modification, and the terms of the new agreement with respect to it.

e. The implied warranties created in this section shall terminate: (1) in the case of an improvement completed at the time of delivery of the Assignment to the purchaser, two years after the delivery or two years after taking possession by the purchaser, whichever occurs first; and (2) in the case of an improvement not completed at the time of delivery of the deed to the purchaser, two years after the date of the completion or two years after taking possession by the purchaser, whichever occurs first.

14 M.P.T.L. ch. 14 § 3

§ 3. Vendor not to Evade by Intermediate Transfer

Any vendor who conveys an improvement to an intermediate purchaser to evade the provision of this chapter shall be liable to the subsequent purchaser as if the subsequent conveyance had been effectuated by the vendor to the subsequent purchaser.

14 M.P.T.L. ch. 14 § 4

§ 4. Warranties Created by Chapter Additional to any other Warranties

The warranties created in this chapter shall be in addition to any other warranties created or implied in Tribal law.

14 M.P.T.L. ch. 14 § 5

§ 5. Implied Warranty with Certificate of Occupancy

Subject to the provisions of the Land Use Law, the issuance by the Land Use Commission of a certificate of occupancy for any newly constructed single-family dwelling shall carry an implied warranty to the purchaser of such dwelling from the vendor who constructed it that such vendor has complied with the building code or the customary application and interpretation of the building code as adopted by the Mashantucket Pequot Tribal Nation as shown on the Tribe's webpage (www.mptnprocurement.com). No action shall be brought on such implied warranty but within three years next from the date of the issuance of such certificate of occupancy.

CHAPTER 15. NEW HOME CONSTRUCTION CONTRACTORS

14 M.P.T.L. ch. 15 § 1

§ 1. Definitions

The following definitions shall apply in this Law:

- a. "Certificate" means a certificate of registration issued under Section 2(b);
- b. "Commissioner" means the Land Use Commissioner or any person designated by the commissioner to administer and enforce this Law;
- c. "Contract" means any agreement between a Contractor and a consumer for the construction or sale of a New Home or any portion of a New Home prior to occupancy;
- d. "Engage in the business" means that the person engages in the business for the purpose of compensation or profit;
- e. "Contractor" means any Person (as further defined herein) who seeks to work for, enter into a contract with or who contracts with a Consumer to construct or sell on the Mashantucket Pequot Reservation a New Home or any portion of a New Home prior to occupancy;
- f. "New home" means any newly constructed (1) single-family dwelling unit, (2)

dwelling consisting of not more than two units, or (3) unit, common element or limited common element in a condominium;

g. "Mashantucket Pequot Reservation" means the land as defined in 25 U.S.C. § 1752(7);

h. "Person" means one or more individuals, partnerships, associations, corporations, limited liability companies, business trusts, legal representatives or any organized group of persons;

i. "Consumer" means any tribal member who is the buyer or prospective buyer, or the buyer's or prospective buyer's heirs or designated representatives, of any New Home or the owner of property on which a New Home is being or will be constructed regardless of whether such owner obtains a building permit as the owner of the premises affected; and

j "Completion" means the stage of construction of a New Home in which the Contractor is in receipt of such new home's certificate of occupancy issued by the Tribal Land Use Commissioner.

14 M.P.T.L. ch. 15 § 2

§ 2. Registration of Contractors Required. Application. Fees. Renewal

a. No Contractor shall engage in the business of New Home construction or hold himself or herself out as a Contractor for hire on the Mashantucket Pequot Reservation unless such Contractor has been issued a certificate of registration by the Commissioner.

b. The provisions of this Law shall not extend beyond the Mashantucket Pequot Reservation.

c. Any Contractor seeking a Certificate of Registration to engage in the business of New Home construction on the Mashantucket Pequot Reservation shall apply to the Commissioner, in writing, on a form provided by the Commissioner. The application shall include:

(1) the applicant's name, business street address and business telephone number,

(2) the identity of the insurer that provides the applicant with insurance coverage for liability,

(3) the identity of the insurer that provides the applicant with workers' compensation coverage,

(4) the name and address of the Contractor's agent for service of process,

(5) the State or States in which the Contractor is or within the past five years has been registered to do business, and

(6) a copy of the status, whether in good standing or otherwise, of all such registrations, and

d. Each such application shall be accompanied by an application fee of \$25.

e. Certificates of Registration issued to Contractors shall not be transferable or assignable.

f. All Certificates of Registration issued shall expire biennially. The fee for renewal of a Certificate of Registration shall be the same as the fee charged for an original application provided that the renewal application and fee is filed within six months of the original expiration date.

g. A Certificate of Registration that is not renewed within six months of the renewal date shall be renewed upon a payment of a fee of \$50.

h. Failure to receive a notice of expiration or a renewal application shall not exempt a contractor from the obligation to renew.

14 M.P.T.L. ch. 15 § 3

§ 3. Revocation, Suspension or Refusal to Issue or Renew Registration

The Commissioner may revoke, suspend, or refuse to issue or renew any Certificate of Registration issued pursuant to this Law, or place a registrant on probation or issue a letter of reprimand after notice and hearing before the full Land Use Commission if it is shown that the holder of such certificate has:

a. failed to comply with any provision of Tribal Law or of the State of Connecticut;

b. obtained the certificate through fraud or misrepresentation;

c. engaged in conduct of a character that is likely to mislead, deceive or defraud Consumers, the public or the Commissioner;

d. engaged in any untruthful or misleading advertising;

e. engaged in an unfair or deceptive business practice;

f. failed to timely complete any task, as specified in a written contract of sale;

g. failed to remedy any violation of the MPTN warranty law;

h. failed to remedy any violation of Tribal or State of Connecticut Building Code; and

i. failed to be in good standing with MPTN or the Secretary of the State of Connecticut.

§ 4. Holder to Exhibit and Advertise Certificate, When. Required Contract Provision. Written Disclosure Notice to Consumers. Prohibited Acts

a. Prior to entering into a Contract with a consumer for New Home construction, a Contractor shall:

(1) provide to the Consumer a copy of the Contractor's certificate of registration and a written notice that:

(a) discloses that the certificate of registration does not represent that such Contractor's registration constitutes an endorsement of the quality of the Contractor's work or of such Contractor's competency by the Commissioner,

(b) advises the consumer to contact the Land Use Department to determine;

(i) if such Contractor is registered and is in good standing with the Commissioner,

(ii) if any complaints have been filed against such contractor, and

(iii) the disposition of any such complaints, and

(c) advises the Consumer to request from such Contractor a list of Consumers of the new homes constructed by the contractor during the previous 24 months, or if the contractor has not constructed at least 12 new homes to completion during the previous 24 months with sufficient information to enable a Consumer to contact several individuals on the list to discuss the quality of such contractor's New Home construction work,

(2) state in any advertisement directed to Consumers on the Mashantucket Pequot Reservation that the Contractor is registered pursuant to this Law; and

(3) include such contractor's registration number in any such advertisement.

b. A Contractor shall include in every contract with a Consumer a provision advising the Consumer that the Consumer may be contacted by the Contractor's prospective Consumers concerning the quality and timeliness of such Contractor's New Home construction work, unless the Consumer advises the Contractor, in writing, at the time the contract is executed, that the Consumer prefers not to be contacted.

c. The written notice required in this sub-section shall be in capital letters, not less than ten-point bold face type, and shall include a statement in substantially the following form as set forth in Attachment A to this Law.

d. No person shall:

(1) present, or attempt to present as such person's own, the Certificate of

another;

(2) knowingly or negligently give false evidence of a material nature to the Commissioner for the purpose of procuring a certificate;

(3) represent themselves falsely as, or impersonate, a registered Contractor;

(4) knowingly use or attempt to use a certificate which has expired or which has been suspended or revoked;

(5) engage in the business of a Contractor or hold himself or herself out as a Contractor on the Mashantucket Reservation without having a current, valid Certificate of Registration as required by this Law;

(6) represent in any manner that such Contractor's registration constitutes an endorsement of the quality of such person's work or of such person's competency by the Commissioner; or

(7) fail to refund a deposit paid to a Contractor not later than ten days after a written request mailed or delivered to the Contractor's last known address, if:

(a) the consumer has substantially complied with the terms of the written contract up to the time of the request,

(b) no substantial portion of the contracted work has been performed at the time of the request,

(c) more than 30 days has elapsed since the starting date specified in the written contract or more than 30 days has elapsed since the date of the contract if such contract does not specify a starting date, and

(d) the Contractor has failed to provide a reasonable explanation to the consumer concerning such contractor's failure to perform a substantial portion of the contracted work. For purposes of this subdivision, "substantial portion of the contracted work" includes, but is not limited to, work performed by the Contractor to:

(i) secure permits and approvals;

(ii) redraft plans or obtain engineer, architect, surveyor or other approvals for changes requested by the consumer or made necessary by site conditions discovered after the contract is executed;

(iii) schedule site work or arrange for other contractors to perform services related to the construction of the consumer's new home; and

(iv) do any other work referred to in the contract as a "substantial portion of the contracted work".

14 M.P.T.L. ch. 15 § 5

§ 5. Building and Construction Permits

No Contractor shall commence work unless each applicable building or construction permit has been obtained as required by Tribal law. The Land Use Commissioner shall issue a contractor a building or construction permit when the Contractor has presented to a building official the Certificate of Registration and registration number of the Contractor.

14 M.P.T.L. ch. 15 § 6

§ 6. Civil Penalties

Any person who enters into a contract for the construction of a New Home without first obtaining a Certificate of Registration shall be subject to a fine of \$500 and/or may have his application for a Certificate of Registration denied. Contracts entered into by persons who do not hold a valid Certificate of Registration are voidable at the election of the Consumer.

Attachment A

CONTRACTOR REGISTRATION NOTICE

A CERTIFICATE OF REGISTRATION AS A CONTRACTOR DOES NOT REPRESENT IN ANY MANNER THAT THE LAND USE DEPARTMENT ENDORSES THE QUALITY OF THE CONTRACTOR'S NEW HOME CONSTRUCTION WORK OR THE CONTRACTOR'S COMPETENCY TO ENGAGE IN NEW HOME CONSTRUCTION.

ACCORDINGLY, YOU ARE ADVISED TO:

- (1) REQUEST FROM THE CONTRACTOR A LIST OF CONSUMERS OF THE LAST 12 NEW HOMES CONSTRUCTED TO COMPLETION BY THE CONTRACTOR DURING THE PREVIOUS 24 MONTHS, OR IF THE CONTRACTOR HAS NOT CONSTRUCTED AT LEAST 12 NEW HOMES TO COMPLETION DURING THE PREVIOUS 24 MONTHS, THEN A LIST OF ALL CONSUMERS FOR WHOM THE CONTRACTOR HAS CONSTRUCTED A NEW HOME TO COMPLETION DURING THE PREVIOUS 24 MONTHS,
- (2) CONTACT SEVERAL INDIVIDUALS ON THE LIST TO DISCUSS THE QUALITY AND THE TIMELINESS OF THE CONTRACTOR'S NEW HOME CONSTRUCTION WORK, AND
- (3) CONTACT THE LAND USE DEPARTMENT TO VERIFY THE REGISTRATION INFORMATION PRESENTED BY THE CONTRACTOR AND TO ASCERTAIN THE CONTRACTOR'S COMPLAINT HISTORY WITH THE DEPARTMENT.

IN ADDITION, YOU ARE ADVISED TO DISCUSS WITH THE CONTRACTOR:

- (1) WHETHER THE CONTRACTOR HAS A CUSTOMER SERVICE POLICY AND IF SO, THE IDENTITY OF THE PERSON DESIGNATED TO ASSIST YOU IN RESOLVING ANY COMPLAINT ABOUT THE CONTRACTOR'S WORK,
- (2) WHETHER THE CONTRACTOR WILL HOLD YOU HARMLESS FOR WORK PERFORMED BY ANY SUBCONTRACTOR HIRED BY THE CONTRACTOR, AND
- (3) THE INSTALLATION OF AN AUTOMATIC FIRE EXTINGUISHING SYSTEM.

THIS NOTICE DOES NOT CONTAIN AN EXHAUSTIVE LIST OF THE INQUIRIES YOU SHOULD MAKE BEFORE CONTRACTING WITH A CONTRACTOR. ADDITIONAL INFORMATION TO ASSIST YOU IN YOUR SELECTION OF A CONTRACTOR MAY BE OBTAINED BY CONTACTING THE LAND USE DEPARTMENT.

CHAPTER 16. ZONING

14 M.P.T.L. ch. 16 § 1

§ 1. Authority

a. This zoning law is adopted pursuant to the inherent sovereign authority of the Tribe and is enacted by the Tribal Council pursuant to their authority as set forth in the Constitution of the Mashantucket Pequot Tribal Nation. Pursuant to 25 U.S.C. § 1751 et seq. (The Mashantucket Pequot Settlement Act), certain lands within the Tribe's Settlement Area (as that term is defined in the Settlement Act) have been taken into trust by the United States Government for the use and benefit of the Mashantucket Pequot Tribal Nation and the Tribe's sovereignty extends to all of these Trust lands.

b. It is the intent of this enactment of the Tribal Council to codify the permissible location of various types of development and to define the process that must be used to develop land within the reservation.

c. Pursuant to the Tribal Law of the Mashantucket Pequot Tribal Nation in Title 14 Chapter 3. The Land Use Commission (the "Commission") is hereby authorized to administer this Tribal Law.

d. The Commission, as duly appointed by the Council shall:

(1) Through the DPCD staff, to enforce the requirements of the "Planning and Building Standards" as set forth herein, and to enforce the "Zoning Regulations" as set forth in this Tribal Law;

(2) To hear all appeals from applicants who disagree with the determinations of the DPCD regarding the interpretation of the Zoning Regulations as it applies to their application;

(3) To hear all applications for a special permit as further provided herein; and

(4) To amend from time to time as circumstance may require the language and application of this zoning regulation and attached Map.

14 M.P.T.L. ch. 16 § 2

§ 2. Purpose of the Standards

a. The purpose of these regulations is to provide guidance for government operations and residential development on the trust lands of the Reservation. These zoning provisions are intended to collectively promote the general public health, safety, morals, and welfare of the Tribe. This zoning law is intended to preserve and protect the investment that tribal members make in their home, assure a quality of life for this and future generations of the tribal nation, while seeking to ensure the proper use of land for residential, community, environmental, cultural and economic activities.

b. This Tribal Law sets specific development standards and requirements that implement the needs of the tribal nation to require that Building and other developmental activities minimize the impacts to the land and the cultural resources of the tribal nation.

14 M.P.T.L. ch. 16 § 3

§ 3. Definitions

a. "Applicant" the tribal member, or such other authorized person (i.e. Utilities Director, Foxwoods' President) who signs an application for a zoning permit.

b. "Building" shall mean a Structure having a roof, which forms an enclosure for the shelter of persons, animals or property. For the purpose of this definition, "roof" shall include an awning or any similar covering, whether or not it is permanent in nature.

c. "Community Uses" shall mean activities that serve the entire tribal membership by providing goods and services or opportunities for communal gatherings. The activities may be Government operations in nature, such as a community store or coffee shop and may be operated by a non-tribal business at the discretion of the Tribal Council.

d. "Floor" shall mean the top surface of an enclosed area in a Building (including basement) i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction.

e. "Floor Area Gross" shall mean the sum of the gross area of every Floor of a Building measured from the exterior faces of the walls or from the center line of a party or common walls separating two Buildings,

f. "Government operations" shall mean a use facilitating the barter, sale, or exchange of things of value and including wholesaling and assembly of articles for sale, but not fabrication.

g. "Height" shall mean the vertical distance measured from the average finished grade within 10' from the wall of a Building to the highest point of flat or mansard roofs including the top of a parapet or to the mean level between the eaves and ridge (for gable, hip or gambrel roofs).

h. "Home Occupation" shall mean an occupation, not otherwise permitted in the

district, which is clearly accessory and secondary to the residential use of the Dwelling and conducted by at least one of the family residing on the premises, and which conforms to the following: (a) the occupation shall be carried on wholly within an enclosed Building; (b) not more than 25 percent of the Floor Area Gross of the principal Building shall be employed in such Home Occupation; (c) all advertising displays for the premises shall not exceed 1-1/2 square feet of area; and (d) occupations entailing substantial patronage in excess of five appointments per hour, or which create nuisances, noise, glare, or odor shall not be "Home Occupations."

i. "Dwelling" shall mean one or more Dwelling units used for permanent residential occupancy that is located in a permanent Structure or Building. A Trailer is not a Dwelling.

j. "Street Line" shall mean property line adjoining a Reservation road approved by the Tribal Council.

k. "Structure" shall mean anything constructed or erected, including a Building which has a permanent location on the ground or anything attached to something having a permanent location on the ground, including: any factory produced modular assemblies intended for habitation, vending machines and portable signs but excluding fences, flagpoles, ornamental wells, tennis courts, driveways, arbors or mailboxes.

l. "Trailers" shall mean Structures, or fabricated enclosures constructed in a factory setting intended for habitation, and affixed to frames or chassis, with or without wheels attached, not affixed to a permanent foundation, with a flat roof. Trailers are commonly termed single or double wides and including Recreational Vehicles.

14 M.P.T.L. ch. 16 § 4

§ 4. Zoning Map Defined; Authorized

a. Zoning Districts. The location and boundaries of the Zoning Districts are hereby approved as set forth on a map entitled: "Zoning Districts of the Mashantucket Pequot Tribal Nation" located in the Office of Legal Counsel. The following Zoning Districts are as follows:

- (1) Residential
- (2) Government Operations
- (3) Government Center
- (4) Conservation
- (5) Tribal Cemetery
- (6) Community Use

b. Only generally approved uses may occur in each of the aforesaid Zoning Districts. All other type of development must be by special use permit. No development may occur that is not an approved use except by special use permit.

14 M.P.T.L. ch. 16 § 5

§ 5. Zoning District Use Regulations; Generally Approved Uses

a. The following restrictions apply to housing constructed in Residential Zones:

(1) Height and Area minimum and maximum:

(i) No Dwelling shall be higher than 35 feet;

(ii) No Dwelling Structure shall be smaller than 1500 square feet of Floor Area Gross, nor larger than 4000 square feet of Floor Area Gross.

(2) Building material requirements:

(i) Building material shall be of natural products: wood, brick, stone, or materials that provide a similar appearance. Vinyl siding is permitted under the special use permit process as provided herein.

(3) Minimum "exclusive use area":

(i) Each residential parcel shall be "Assigned" to a Tribal Citizen under the terms of the Tribal Assignment Law and shall have an exclusive use area "EUA" solely associated with the Dwelling that is used only by the owner of that "Assignment".

(4) Minimum Areas: The EUA shall not be less than one acre and shall retain no less than 25 percent of the acre as undisturbed natural vegetation.

(5) Setbacks: No residential or accessory Structure shall be within 10 feet of a side or rear line of an EUA, or 25 feet from a Street Line. Setbacks for all other uses shall be by special use permit as determined by the Planning Commission.

(6) Accessory uses: Uses that are secondary to and normally associated with residential occupancy of an EUA are limited to: residential recreation, parking, pools, and Home Occupations.

b. Government Operations Zones (Route 2 Access). Government Operations activities on the reservation are allowed as provided on the Zoning Map. Government Operations activities are allowed on lands with direct access from Route 2. All such activities are in support of and operated under the jurisdiction of Mashantucket Pequot Gaming Enterprise. Zoning permits are not required for generally allowed activities in the Government Operations Zone provided that Council has reviewed and approved the development. Activities that are not within the generally allowed uses or which are not approved by

Council shall require a special use permit.

(1) General uses allowed in that zone are:

(i) Gaming activities and associated hotel, restaurant, entertainment, and support facilities;

(ii) Full retail sales and

(iii) Parking

c. Government Center Zones; Generally Approved Uses. Governmental activities on the reservation are allowed as provided on the Zoning Map. All such activities are subject to the approval of the Council. As such, zoning permits are not required for generally allowed activities in the Governmental Zone provided that Council has reviewed and approved the development. Activities that are not within the generally allowed uses or which are not approved by Council shall require a special use permit.

(1) Tribal Council Offices,

(2) Administration Offices,

(3) Museum,

(4) Public Safety,

(5) Public Works,

(6) Clinic; and

(7) PRxN

d. Conservation Areas. No zoning permits shall be issued in Conservation Areas. Conservation Areas include:

(1) Natural areas;

(2) Wetlands; and

(3) Archeological Sites

e. Pequot Cemetery

(1) Two areas have been set aside for the future burial of tribal members and are shown on the Zoning Map. Portions of 938 Shewville Road and 32 Fanning Road are designated for this purpose.

f. Community Use Areas (Overlay Zone). While not shown on the zoning map specifically, "Community Uses" may be approved by specific authorization of the Tribal Council for the benefit of the Tribal Members. The Tribal Council in evaluating sites for "Community Uses" will be guided by the impacts on the

adjoining residential homes and comments received from Tribal Commissions. Such activities are:

- (1) Community Center
- (2) Recreational areas, such as: parks and playgrounds
- (3) Tribal support activities, such as: post office, schools and child care
- (4) Community store, Public Works, and Utility installations
- (5) Coffee shop

14 M.P.T.L. ch. 16 § 6

§ 6. Roads and Utilities

a. From time to time additional roads and utilities will be needed to expand the infrastructure on the Reservation.

b. Maintenance. Repair or maintenance of existing road facilities shall not constitute an activity that requires a new permit review. Construction of new roadways does require a special use permit.

c. The Utility Department is hereby designated to undertake maintenance activities for water, sewer, gas or power distribution facilities.

d. The Public Works Department is hereby designated to undertake maintenance for roads, drainage structures, sidewalks or landscape features.

e. New Facilities. The review and approval of each new utility or road installation shall be reviewed and approved by the appropriate Tribal department using the best management, environmental and construction standards available, as follows:

(1) Sewers, Water electric power and Gas facilities: MPTN Utilities Dept, DPCD, NRPD

(2) Roads, sidewalks and storm drainage: Public Works Dept., DPCD, NRPD

Upon the completion of such review, the appropriate department shall forward the project to the Planning Commission for a Zoning Use Permit.

f. Acceptance of new facilities: Upon completion of the installation of the facilities, the Engineer of Record shall submit a "Notice of Substantial Completion" to the designated entity (PW or UD), the Director of DPCD and the Tribal Engineer for review. Upon favorable review and completion of all punch list items, the Dept of Utilities, for #1 above and Public Works for #2 above, shall issue a letter of acceptance to the contractor, Project Manager, Director of DPCD, CQAC, DBCE and COO.

§ 7. Project Design Review Standards

a. The DPCD shall request comments on any zoning permit application. The Tribal Departments shall comment on applications to assure that the best interests and policies of the Tribe are protected. Comments shall be made within 20 calendar days. If no comments are received then the DPCD shall consider that no comments are intended. All plan applications shall include:

- (1) Site Plan;
- (2) Floor Area Gross and the arrangement of internal spaces;
- (3) Materials/colors, building design;
- (4) Architectural drawings of the Structure;
- (5) Modular produced Structures will submit third party engineer certifications of code compliance;
- (6) Yard areas, topography, drainage, utilities, special features;
- (7) Proximity to adjoiners or archaeological and environmental features; and
- (8) Access for vehicles and emergency service providers.

b. In addition to review and comment by Departments, the DPCD shall provide a copy of the application to the Housing Committee for any Residential development. The Housing Committee has 20 calendar days to respond. If no comments are received then the DPCD shall consider that no comments are intended.

c. Review of an application and all comments from Tribal Governmental Departments or Commissions shall be filed and considered by the Director of DPCD for use in determining what action to take on an Application. The Director of DPCD shall ensure that the requirements of these regulations are met. The Director may approve an application, require modification to the application or deny an application. The Director of DPCD shall not unreasonably withhold or delay the issuance of a decision on an application. If the applicant for a zoning permit is aggrieved by the actions of the Director or the DPCD then the applicant may appeal any decision to the Land Use Commission.

§ 8. Residential Zone; Uses and Standards

a. No Government Operations activity is permitted in a residential zone.

b. Trailers shall not be used for occupancy, rental or habitation provided however, that Trailers may be allowed pursuant to a special use permit. Special Use Permits may be issued by the Land Use Commission. Special Use Permits shall be valid for no more than two years, shall be issued only in conjunction with construction of a single family Dwelling on the Land Assignment that the home is to be located upon, shall be removed after two years or completion of home construction whichever occurs first and shall be subject to a penalty not to exceed \$100 for each day that the Trailer removal is delayed. Trailers in violation of the provisions of this section are, in addition to the penalties set forth herein, subject to an eviction action pursuant to 25 M.P.T.L., Chapter 5, Section 3(4), Foreclosure and Eviction Law.

c. Noise standards

(1) Noise levels shall not exceed 75 dba during the hours of 7 am to 8 pm.

(2) Noise levels at all other times shall not exceed 45 dba.

d. Minimum Property standards:

(1) No accumulations of debris that attracts pests;

(2) Each Dwelling shall be kept in good repair and in a well maintained manner;

(3) Nothing beyond small quantities of common household hazardous waste shall be stored on any residential premises;

(4) All Structures for habitation shall be permanently affixed to a poured concrete foundation;

(5) Any factory produced modular assemblies intended for occupancy as a Dwelling shall be submitted to the Land Use Commission for a design review to insure the Structure conforms to the residential nature of the proposed location, does not have a negative impact on the value of nearby Dwellings and has been approved by the Land Use Commission as meeting the requirements of the Building Code; and

(6) The proposed Dwelling shall relate appropriately to its context. It shall relate harmoniously to the type, value and style of Dwellings in the neighborhood and to the use, scale and architecture of existing Buildings in the vicinity which have a functional or visual relationship to the proposed Dwelling. Proposals that deviate substantially from established neighborhood patterns should be discouraged.

14 M.P.T.L. ch. 16 § 9

§ 9. Environmental Standards

a. The Department of Natural Resource Protection shall review all plans for their impact on the natural resources of the MPTN Reservation.

b. A minimum buffer of 50 feet shall be required from all wetlands.

c. All storm water discharges from point sources shall be evaluated and attenuated to the degree possible, so as not to increase flooding on any downstream property. The Tribal Engineer shall review all designs and provide written comments to the engineer of record (if any), the NRP Dept. and the applicant.

d. The clearing of vegetation larger in size than six inches in diameter must be reviewed and approved by the Director of NRPD as further provided in Tribal Law.

e. Prior to the excavation of any site, the Director of Archeology for the Mashantucket Pequot Tribal Nation shall review the potential for impact on cultural resources.

14 M.P.T.L. ch. 16 § 10

§ 10. Signs

a. Each residential property shall be identified by a street number posted in a visible location within five feet of the vehicular access to the property of no less than four inches in Height.

b. No residential property shall have an identification signage greater than four square feet in size.

c. All community buildings, or Government Operations Buildings, shall be adequately identified by signage no greater than 18 square feet. The Tribal Council may approve signage of a greater size as best serves the interest of the Tribe.

14 M.P.T.L. ch. 16 § 11

§ 11. Zoning Permit Required

a. A zoning permit (except as provided in Section 5(b), (c) and (d)) is required for the following generally approved uses:

(1) Exterior Work. A zoning permit shall be required for any exterior work or modifications involving one or more of the following:

(i) New government operations or governmental center construction;

(ii) New home construction;

(iii) Additions to existing Buildings, garages, accessory Buildings;

(iv) Alterations;

(v) Re-siding or window replacement that alters trim details or otherwise changes the exterior appearance

(vi) Change of use or expansion of use

(vii) Demolition

(viii) Excavation or fill related to site improvements

(ix) Fences, retaining walls

(x) Exterior lighting

(xi) New Buildings, garages, sheds, and accessory Buildings

(xii) Parking areas and walkways

(xiii) Patios and decks

(xiv) Satellite dish antennae

(xv) Signs

(xvi) Site improvements

(xvii) Swimming pools

(2) Interior work. A zoning permit shall be required for any interior work or modification involving one or more of the following:

(i) Addition, expansion, or elimination/reduction in Dwelling unit size

(ii) Installation of additional kitchen

(iii) Change in use

(iv) Home occupations

(v) Increase in living space (e.g. attic, basement, garage, and winterizing porch)

b. A Zoning Permit is valid for two years after issuance. It may be renewed by the Director for an additional year upon a showing of substantial progress on the project and a showing that the project will be completed by the end of the one year extension. Additional extensions may be issued only by the Commission.

14 M.P.T.L. ch. 16 § 12

§ 12. Enforcement and Zoning Permit

a. Enforcement shall be by such staff as are provided to the by the Tribal Council and assigned by Land Use Commission to duties as required.

b. The Land Use Commission may issue citations to Tribal members who are found by staff to be in violation of the requirements of these regulations. The Land Use Commission may issue citations that provide for a civil penalty ranging from \$50 to \$500 per day if, within five calendar days of the date of issuance of a citation, the violation has not been cured. The Finance Department is authorized to withhold the penalty amount upon the expiration of the five day grace period provided herein unless an appeal has been filed.

c. The Wetlands regulations of the MPTN shall be enforced by the Office of Natural Resource Protection. The written results of the NRPD review shall be forwarded to the Director of DPCD for inclusion in the record of an application.

d. A "Zoning Permit" shall be issued if the results of the review of all comments received by the Director of DPCD are positive, or conditions required that mitigate the negative effects of a commenting agency. The Director of DPCD may set conditions that bring the application into conformance with specific comments, or conditions from commenting agencies.

e. A Zoning Permit application shall be acted on within 14 business days of receipt by the Director of DPCD.

f. Action on a Permit application maybe one of the following based upon the record: Denial, Approval or Conditional Approval that includes stipulations that must be implemented by the applicant and derive from agency comments or applicable regulations.

14 M.P.T.L. ch. 16 § 13

§ 13. Special Permit

a. The requirements of these regulations may be waived by the Land Use Commission in appropriate circumstances. Relief may be granted to take into account special circumstances of the applicant and if the requested relief has minimal impact on the Tribe or on tribal members residing in the vicinity of the applicant.

b. Prior to granting a special permit the Land Use Commission shall notify all home or assignment owners in the vicinity. They shall be informed of the requested relief and shall be notified of the place, date and time of a hearing to hear public (tribal) comment on the application.

c. At the hearing, the applicant shall be provided an opportunity to present reasons why the requested relief should be granted. Those who support the application shall then be granted an opportunity to speak to the Commission. Those who oppose the application shall next be granted an opportunity to speak.

d. The Commission shall have five calendar days to issue a written decision

after the close of the hearing. The applicant shall have the burden of showing why a special permit ought to be issued.

14 M.P.T.L. ch. 16 § 14

§ 14. Request for Relief

Any enforcement order is subject to the appeal process. Any action to approve, modify or reject an application by the DPCD or the Commission is subject to the appeal process set forth in Chapter 11 of the Land Use Law. Appeals shall be filed within five calendar days of the issuance of a written decision or the issuance of an enforcement order.

TITLE 15. M.P.T.L. ADMINISTRATION AND CLAIMS REVIEW OF TRIBALLY SPONSORED EMPLOYEE BENEFIT PLANS UNDER ERISA (TERISA)

15 M.P.T.L. § 1

§ 1. Adoption of ERISA to Govern Tribally Sponsored Employee Benefit Plans

The Mashantucket Pequot Tribe (the "Tribe") recognizes that the United States has enacted the Employee Retirement Income Security Act of 1974 (including all amendments thereto) 29 U.S.C. §§ 1001-1461 ("ERISA") to provide rights and protections to employees covered by employer sponsored health, retirement and other benefit plans ("Employee Benefit Plans"). The Tribe has provided such benefit plans to its employees, employees of the Mashantucket Pequot Gaming Enterprise, and employees of its outside businesses established under state law, and has decided that the rights and protections of ERISA should be provided to these employees. Accordingly, ERISA is hereby adopted as tribal law, to the extent its provisions do not contradict tribal law, and it shall apply to all tribally sponsored Employee Benefit Plans. This law shall be known as "Tribal ERISA" or "TERISA".

15 M.P.T.L. § 2

§ 2. Jurisdiction

The Tribe hereby expressly waives its immunity from suit in the Mashantucket Pequot Tribal Court for actions arising under TERISA and concerning tribally sponsored Employee Benefit Plans, and the Mashantucket Pequot Tribal Court shall have jurisdiction over claims arising under TERISA and concerning tribally sponsored Employee Benefit Plans.

15 M.P.T.L. § 3

§ 3. Plan Administration

Plan Administrators of all tribally sponsored Employee Benefit Plans shall structure and administer Employee Benefit Plans in conformity with TERISA, including plan documents, defined benefits, and benefit claims procedures, and shall communicate plan changes and claims review procedures to plan participants in conformity with TERISA.

15 M.P.T.L. § 4

§ 4. Compliance with Federal Filings

Plan Administrators of all tribally sponsored Employee Benefit Plans shall file relevant United States Department of Labor compliance forms including, but not limited to, Form 5500 series with the U.S. Department of Labor and the Internal Revenue Service and the Summary Annual Report to plan participants and beneficiaries.

15 M.P.T.L. § 5

§ 5. Enforcement of TERISA Rights

a. All actions arising under TERISA and concerning tribally sponsored Employee Benefit Plans must be brought against the Tribe, and not any individual officer, agent or employee of the Tribe.

b. Nothing provided in this law shall be construed to be a waiver of the sovereign immunity of the Tribe, the Mashantucket Pequot Gaming Enterprise, a tribal enterprise, or an employee, servant or agent thereof, from suit in state or federal court or in any action before any state or federal agency, or in any other forum or context.

c. In any judgment under this law against the Tribe, the court may award damages and penalties as provided by TERISA.

15 M.P.T.L. § 6

§ 6. Limitations on TERISA Actions

a. All actions against the Tribe shall be tried to the court and not to a jury. No costs shall be taxed against the Tribe.

b. In all actions where it is alleged that the action of an agent, servant, or employee of the Tribe acting within the scope of his or her employment constitutes a violation of TERISA, there shall be no separate cause of action existing against said agent, servant, or employee, but rather all such claims must be brought against the Tribe. Nothing in this law shall be construed to waive the Tribe's immunity to allow suit against such individual, and the Tribe's immunity from suit is waived only for purposes of an action against the Tribe in Tribal Court as specifically permitted pursuant to Section 2 of this law.

c. Actions arising under this law must be brought within the time periods prescribed by ERISA for a particular claim or cause of action.

d. When interpreting this law, the court shall follow tribal law and precedent and may be guided by the federal law and decisions.

15 M.P.T.L. § 7

§ 7. Effective Date

The amendments to this law made pursuant to TCR 112003-02 of-03 shall be applicable to claims pending on November 20, 2003 ("Enactment Date"), and to claims that accrued one year prior to the Enactment Date.

TITLE 16. GENERAL REVENUE AND TAXATION CODE

CHAPTER 1. ADMINISTRATION

16 M.P.T.L. ch. 1 § 1

§ 1. Office of Revenue and Taxation

The Office of Revenue and Taxation under the control of the tribal Finance Committee is responsible for administering the General Revenue and Taxation Code of the Mashantucket Pequot Tribal Nation. Among other powers, the Office of Revenue and Taxation may issue regulations and make rulings necessary to carry out the Tribe's revenue laws, examine the records of any person liable for sales tax, and require reports from sellers as necessary to enforce the tax.

Contact Information: The mailing address of the Office of Revenue and Taxation is, 1 Matt's Path, P.O. Box 3008, Mashantucket, CT 06339-3008. The telephone number is, (860) 396-3175.

16 M.P.T.L. ch. 1 § 2

§ 2. Records and Record Keeping

a. The method of accounting used for financial statement purposes must be used to comply with the General Revenue and Taxation Code unless permission is granted by the Office of Revenue and Taxation.

b. Every seller, retailer and person liable to collect any taxes or fees has to keep records for a period of at least three years from the date the return was filed. All of these records are subject to audit.

§ 3. Collections and Remittance

a. Retailers are responsible for collecting and remitting sales taxes. Retailers are collection agents and, as such, must register with the Office of Revenue and Taxation, unless the retailer is wholly owned and operated by the Mashantucket Pequot Tribal Nation. A collection agent means any person responsible to collect taxes pursuant to the General Revenue and Taxation Code.

A collection agent is liable for uncollected taxes, and therefore, is a taxpayer. The Office of Revenue and Taxation is authorized to issue registration procedures, forms, and instructions to administer the General Revenue and Taxation Code.

b. All sellers liable for collecting and remitting sales tax must file periodic returns as provided by the Office of Revenue and Taxation.

CHAPTER 2. HOTEL OCCUPANCY

§ 1. Definitions

a. "Complimentary" or "Comp" means any provision of goods or services, including rooms, as evidenced by a wampum point charge or other similar credit system. For the purpose of this tax any rooms or services provided on a comp basis are considered sales.

b. "Hotel" means any building regularly used and kept open as such for the feeding and lodging of guest.

c. "Gross Receipts" mean the total amount charged for the room and any occupancy-related services. Gross Receipts are deemed to have been received on a daily basis as rooms are rented or services are provided.

d. "Occupancy" means the use or possession, or the right to the use or possession, of any room or rooms in a hotel or lodging house or the right to the use or possession of the furnishings or the services and accommodations accompanying the use and possession of such room or rooms.

e. "Retailer" means any person selling goods or services on the Mashantucket Pequot Tribal Nation's Reservation.

f. "Room" means any room or rooms of any kind in any part or portion of a hotel or lodging house let out for use or possession for lodging purposes.

§ 2. Imposition and Rate of Tax

a. For the privilege of the use and occupation of a Room in a Hotel located on the Mashantucket Pequot Reservation for a consideration, a tax is hereby imposed on all use and occupancy of any Room or Rooms and Occupancy-related services at a rate of 12% with respect to each use and occupancy of any Room or Rooms in a hotel or lodging house.

b. The tax shall be imposed upon the Person for whom the Room, goods or services are provided and collected by the provider of the Room, goods or services.

CHAPTER 3. FOOD AND BEVERAGE

16 M.P.T.L. ch. 3 § 1

§ 1. Definitions

a. "Person" means and includes any individual, firm, association, corporation, unincorporated entity, or any other group or combination acting as a unit.

b. "Sale" and "Selling" mean and include the furnishing, preparing, or serving for a consideration of food, meals or drinks.

c. "Sales Price" means the total amount for which goods or service is sold or the total amount received for any service rendered, whether paid in money or otherwise, without deduction on account except for any item, good or service exempt from taxation. Such total amounts include all of the following: (1) any services that are a part of the sale; and (2) any amount for which credit is given to the purchaser by the seller unless provided otherwise by regulation; and (3) all receipts, cash, credits and property of any kind.

16 M.P.T.L. ch. 3 § 2

§ 2. Imposition and Rate of Tax

a. For the Sale of food and beverage in any location on the Mashantucket Pequot Reservation, a tax is hereby imposed at a rate of 6% of the total sales price.

b. The tax shall be imposed upon the Person purchasing the goods or services and collected by the provider of the goods or services.

CHAPTER 4. RETAIL

16 M.P.T.L. ch. 4 § 1

§ 1. Definitions

a. "Person" means and includes any individual, firm, association, corporation, unincorporated entity, or any other group or combination acting as a unit.

b. "Sale" and "Selling" mean and include the furnishing, preparing, or serving for a consideration of tangible personal property.

c. "Sale Price" means the total amount for which goods are sold whether paid in money or otherwise, without deduction on account except for any item, good or service exempt from taxation. Such total amounts include all of the following:

(1) any amount for which credit is given to the purchaser by the seller unless provided otherwise by regulation; and (2) all receipts, cash, credits and property of any kind.

16 M.P.T.L. ch. 4 § 2

§ 2. Imposition and Rate of Tax

a. For the Sale of tangible personal property in any location on the Mashantucket Pequot Reservation, a tax is hereby imposed at a rate of 6% of the total sales price.

b. The tax shall be imposed upon the Person purchasing the goods and collected by the provider of the goods.

CHAPTER 5. ADMISSIONS

16 M.P.T.L. ch. 5 § 1

§ 1. Definitions

a. "Person" means and includes any individual, firm, association, corporation, unincorporated entity, or any other group or combination acting as a unit.

b. "Admissions Charge" means the amount assessed for the right or privilege to have access to a place or location where amusement, entertainment or recreation is provided.

16 M.P.T.L. ch. 5 § 2

§ 2. Imposition and Rate of Tax

a. There is hereby imposed a tax of 10% on the Admission Charge to any place of amusement, entertainment or recreation located within the Mashantucket Pequot Reservation, except that no tax shall be imposed with respect to any Admission Charge

- (1) when the Admission Charge is less than one dollar;
- (2) to any event at the Mashantucket Pequot Museum and Research Center; and
- (3) to Mashantucket Pequot bingo events.

b. The tax shall be imposed upon the Person receiving the right or privilege of admission and collected by the provider of the event.

CHAPTER 6. REAL ESTATE HOME OWNERSHIP

16 M.P.T.L. ch. 6 § 1

§ 1. Imposition and Rate of Tax

a. In lieu of the monthly administrative fee (presently \$75) charged to each homeowner, there is hereby imposed a Real Estate Home Ownership Tax at a rate of \$900 per annum, payable at the rate of \$75 per month.

b. The Real Estate Home Ownership Tax shall be payable by every homeowner on the Mashantucket Pequot Nation's Reservation incident to his/her ownership interest in a home under any Tribal Housing Program.

16 M.P.T.L. ch. 6 § 2

§ 2. Effective Date

The Real Estate Home Ownership tax shall be effective January 1, 1998.

TITLE 17. MASHANTUCKET PEQUOT TRIBE LIQUOR CONTROL CODE

CHAPTER 1

17 M.P.T.L. ch. 1 § 1

§ 1. Definitions; For the Interpretation of this Code, unless the Context Indicates a Different Meaning

a. "Alcohol" means the product of distillation of any fermented liquid, rectified either once or more often, whatever may be the original thereof, and includes synthetic ethyl alcohol which is considered nonpotable.

b. "Alcoholic Liquor" or "Alcoholic Beverage" includes alcohol, beer, spirits and wines and every liquid or solid, patented or not, containing alcohol,

spirits, wine or beer and capable of being consumed by a human being for beverage purposes. Any liquor or solid containing more than one of the four varieties so defined is considered as belonging to that variety which has the higher percentage of alcohol, according to the following order: Alcohol, spirits, wines and beer. The provisions of this Code shall not apply to any liquid or solid containing less than one-half of 1% of alcohol by volume.

c. "Backer" means, except in cases where the permittee is himself the proprietor, the proprietor of any business or institution established by the Mashantucket Pequot Tribe, incorporated or unincorporated, engaged in the sale of Alcoholic Liquor on the Reservation, in which business a permittee is associated, whether as employee, agent or part owner.

d. "Beer" means any beverage obtained by the alcoholic fermentation of an infusion or decoction of barley, malt and hops in drinking water.

e. "Charitable Organization" means any nonprofit institution established for charitable or educational purposes by the Mashantucket Pequot Tribe.

f. "Commission" means the Land Use Commission and "Commissioner" means the Land Use Commissioner or the Office of the Land Use Commissioner.

g. "Gaming Facility" means that area of the Reservation in which gaming is conducted, as authorized by the Mashantucket Pequot Final Gaming Procedures, 56 Fed. Reg. 24966 (May 31, 1991) and the Mashantucket Pequot Gaming Law.

h. "Mashantucket Pequot Tribe" or "Tribe" means the federally recognized Tribe of the same name pursuant to 25 U.S.C. §§ 1751 et seq.

i. "Minor" means any person under 21 years of age.

j. "Nonprofit Public Museum" means any public museum established for nonprofit, charitable, literary and/or educational purposes by the Tribe.

k. "Person" means natural person including partners but shall not include corporations, limited liability companies, joint stock companies or other associations of natural persons.

l. "Premises" means, if not otherwise defined herein, any public building or entity owned by the Tribe and located on its Reservation.

m. "Reservation" means the lands of Mashantucket Pequot Reservation held in trust by the United States.

n. "Spirits" means any beverage that contains alcohol obtained by distillation mixed with drinkable water and other substances in solution, including brandy, rum, whiskey and gin.

o. "Tribal Council" or "Council" means the governing body of the Mashantucket Pequot Tribe.

p. "Wine" means any alcoholic beverage obtained by the fermentation of the

natural sugar content of fruits, such as grapes or apples or other agricultural products, containing sugar, including fortified wines such as port, sherry and champagne.

17 M.P.T.L. ch. 1 § 2

§ 2. Land Use Commission Enforcement

a. The Commissioner shall enforce the provisions of this Code on the Reservation excluding the Gaming Facility in which areas the laws and regulations of the state of Connecticut applicable to the sale and distribution of alcoholic beverages are enforced by the State pursuant to Section 14(b) of the Mashantucket Pequot Final Gaming Procedures. It may generally do whatever is reasonably necessary for the carrying out of this Code; and it may call upon other departments of the tribal government such as the tribal police and legal counsel for such information and assistance as it deems necessary in the performance of its duties.

b. No member of the Commission and no employee of the Commissioner who carries out the duties and responsibilities pursuant to this Code may, directly or indirectly, individually or as a member of a partnership or as a shareholder of a corporation, have any interest whatsoever in dealing in or in the manufacture of Alcoholic Liquor, nor receive any Commission or profit whatsoever from, nor have any interest whatsoever in, the purchases or sales made by the persons authorized by this Code to purchase or sell Alcoholic Liquor. No provision of this Section shall prevent any such Commission member or employee from purchasing and keeping in his possession, for the personal use of himself or members of his family or guests, any Alcoholic Liquor which may be purchased or kept by any person by virtue of this Code.

c. The moneys received from the permit fees shall be deposited into the general funds of the Tribe.

d. The Commissioner shall submit to the Tribal Council an annual report of its acts. The Commissioner shall keep a record of proceedings and orders pertaining to all permits granted, refused, suspended or revoked and of all reports sent to its office. It shall furnish, without charge, for official use only, certified copies of permits and documents relating thereto, to officials of the tribal government and of the state of Connecticut. All records pertaining to Applicants and to permits of the current year or of the previous three years, including applications, approvals and denials, permits and licenses, documents requested through proper legal documents in related legal proceedings, shall be open to public inspection at reasonable times during office hours. All other records may be regarded as confidential by the Commissioner, except to the Tribal Council and in response to judicial process.

17 M.P.T.L. ch. 1 § 3

§ 3. Inspections, Inquiries, Hearings

The Commissioner is authorized to conduct any inspection, inquiry, or investigation and the Commission may conduct a hearing under oath relative to the matter of inquiry or investigation. At any hearing conducted by the Commission, it may require the production of records, papers and documents pertinent to such inquiry.

17 M.P.T.L. ch. 1 § 4

§ 4. Nature and Duration of Permit. Renewals by Transferee or Purchaser of Permit Premises

A permit shall be a purely personal privilege, good for one year after issuance, and revocable in the discretion of the Commission subject to appeal as provided in Section 20, and shall not constitute property, nor shall it be subject to attachment and execution, nor shall it be alienable, nor shall it descend by the laws of testate or intestate devolution, but it shall cease upon the death of the permittee.

17 M.P.T.L. ch. 1 § 5

§ 5. Issuance of Permits

The Commissioner may issue permits in the classes described in this Code.

17 M.P.T.L. ch. 1 § 6

§ 6. Temporary Permit for Outings, Picnics or Social Gatherings

A temporary beer permit shall allow the sale of beer and a temporary liquor permit shall allow the sale of alcoholic liquor at any outing, picnic or social gathering conducted by a bona fide noncommercial organization established by the Mashantucket Pequot Tribe, which organization shall be the Backer of the permittee under such permit. The profits from the sale of such beer or Alcoholic Liquor shall be retained by the organization conducting such outing, picnic or social gathering and no portion thereof shall be paid, directly or indirectly, to any individual or other corporation. Such permit shall be issued subject to the approval of the Commissioner and shall be effective only for the time limited by the Commissioner. The combined total of temporary beer permits and temporary liquor permits issued to an organization shall not exceed four during any one calendar year. The fee for a temporary beer permit shall be \$15 per day and for a temporary liquor permit shall be \$25 per day.

17 M.P.T.L. ch. 1 § 7

§ 7. Ninety-day Provisional Permit

A 90-day provisional permit shall allow the retail sale of Alcoholic Liquor by any applicant and his Backer, if any, who has made application for a liquor

permit pursuant to Section 11 and may be issued at the discretion of the Commissioner. If said applicant or his Backer, if any, causes any delay in the review conducted by the Commissioner pursuant to said Section, the 90 day provisional permit shall cease immediately. Only one such permit shall be issued to any applicant and his Backer, if any, for each location of the place of business which is to be operated under such permit and such permit shall be nonrenewable but may be extended due to delays not caused by the applicant. The fee for such 90 day permit shall be \$500.

17 M.P.T.L. ch. 1 § 8

§ 8. Nonprofit Public Museum Permit

A nonprofit public museum permit shall allow the retail sale of Alcoholic Liquor by a nonprofit public museum located on the Reservation to be consumed on its premises by its patrons on any day on which such nonprofit public museum is open to visitors from the general public. Proceeds derived from such sales, except for reasonable operating costs, shall be used in furtherance of the charitable, literary and educational activities of such nonprofit public museum. Section 36, insofar as said Section refers to local regulation of sales, shall not apply to such permit. The annual fee for a nonprofit public museum permit shall be \$200.

17 M.P.T.L. ch. 1 § 9

§ 9. Charitable Organization Permit

A Charitable Organization permit shall allow the retail sale of Alcoholic Liquor by the drink to be consumed on the premises located within the Reservation. Such permit shall be issued on a daily basis subject to the hours of sale in Section 36 and only four such permits shall be issued to the same Charitable Organization in any calendar year. The fee for a Charitable Organization permit shall be \$25.

17 M.P.T.L. ch. 1 § 10

§ 10. Storage of Liquor. Approval of Facilities

Each permit shall also allow the storage, on the premises and at one other secure location registered with and approved by the Commissioner, of sufficient quantities of Alcoholic Liquor allowed to be sold under such permit as may be necessary for the business conducted by the respective permittees or their Backers.

17 M.P.T.L. ch. 1 § 11

§ 11. Applications for Permits, Renewals. Fees. Publication, Remonstrance, Hearing

a. For the purposes of this Section, the "filing date" of an application means the date upon which the Commissioner, after approving the application for processing, mails or otherwise delivers to the Applicant a placard containing such date.

b. Any person desiring a liquor permit or a renewal of such a permit shall make a sworn application therefor to the Commissioner upon forms to be furnished by the Commissioner, showing the name and address of the applicant and of the Backer, if any, and the location of the place of business which is to be operated under such permit. Such application shall include a detailed description of the type of live entertainment that is to be provided. The application shall also indicate any crimes of which the applicant or his Backer may have been convicted. Applicants shall submit documents sufficient to establish that any tribal regulations concerning hours and days of sale will be met. The tribal fire marshal or his certified designee shall be responsible for approving compliance with the applicable fire regulations. The Commissioner may, at its discretion, conduct a review to determine whether a permit shall be issued to an applicant.

(1) The applicant shall pay to the Commissioner a nonrefundable application fee, which fee shall be in addition to the fees prescribed in this Code for the permit sought. An application fee shall not be charged for an application to renew a permit. The application fee shall be in the amount of \$10 for the filing of each application for a permit by a Charitable Organization, or a temporary permit; and for all other permits in the amount of \$100 for the filing of an initial application. Any permit issued shall be valid only for the purposes and activities described in the application.

(2) The applicant, immediately after filing an application, shall give notice thereof, with the name and residence of the permittee, the type of permit applied for and the location of the place of business for which such permit is to be issued and the type of live entertainment to be provided, all in a form prescribed by the Commissioner, by publishing notice of the same in a publication having a circulation on the Reservation at least once. The applicant shall affix, and maintain in a legible condition upon the outer door of the building wherein such place of business is to be located and clearly visible to the public, the placard provided by the Commissioner, not later than the day following the receipt of the placard by the applicant. If such outer door of such premises is so far from the public view that such placard is not clearly visible as provided, the Commissioner shall direct a suitable method to notify the public of such application. When an application is filed for any type of permit for a building that has not been constructed, such applicant shall erect and maintain in a legible condition a sign not less than six feet by four feet upon the site where such place of business is to be located, instead of such placard upon the outer door of the building. The sign shall set forth the type of permit applied for and the name of the proposed permittee shall be clearly visible to the public and shall be so erected not later than the day following the receipt of the placard. Such applicant shall make a return to the Commissioner, under oath, of compliance with the foregoing

requirements, in such form as the Commissioner may determine, but the Commissioner may require any additional proof of such compliance. Upon receipt of evidence of such compliance, the Commission may hold a hearing as to the suitability of the proposed location. The provisions of this subsection shall not apply to temporary permits and Charitable Organization permits.

c. Any 10 residents of the reservation may file with the Commissioner, within three weeks from the filing date of the application for an initial permit, and in the case of renewal of an existing permit, at least 21 days before the renewal date of such permit, a remonstrance. Upon such remonstrance, the Commission, upon written application, shall hold a hearing and shall give such notice as it deems reasonable of the time and place at least five days before such hearing is had. The remonstrance shall designate one or more agents for service, who shall serve as the recipient or recipients of all notices issued by the Commissioner. The decision of the Commission on such application shall be final with respect to the remonstrance.

d. No new permit shall be issued until the foregoing provisions of subsections (a) and (b) of this Section have been complied with.

e. The Commissioner may renew a permit that has expired if the applicant pays a nonrefundable late fee of \$100, which fee shall be in addition to the fees prescribed in this Code for the permit applied for.

17 M.P.T.L. ch. 1 § 12

§ 12. Second Application

a. No person whose application for a permit has been denied on the ground that he is an unsuitable person may make another application for a permit within one year thereafter.

b. No person whose permit has been revoked may make an application for a permit under this Code within one year thereafter.

17 M.P.T.L. ch. 1 § 13

§ 13. Granting and Denial of Permits. Notice of Hearing

Permits may be granted without a hearing by the Commissioner in its discretion; but, in any case of the denial of or refusal to renew a permit, the Commissioner shall, in such manner as it directs, notify the applicant or permittee of its proposed action and set a day and place for a hearing thereon, giving the applicant or permittee reasonable notice in advance thereof. If, at or after such hearing, the Commission denies or refuses to renew the permit, as the case may be, notice of such decision shall forthwith be given to such applicant or permittee in such manner as the Commission directs.

17 M.P.T.L. ch. 1 § 14

§ 14. Mandatory Refusal of Permits to Certain Persons. Exceptions

The Commissioner shall refuse permits for the sale of Alcoholic Liquor to the following persons:

- a. any member of the tribal law enforcement or judiciary, which includes any officer or employee of the tribal police department and any judge or staff member of the Mashantucket Pequot Tribal Court or Court of Appeals; or
- b. a minor.

17 M.P.T.L. ch. 1 § 15

§ 15. Discretionary Refusal of Permit; Location or Character of Premises; Other Grounds

The Commissioner may refuse to grant permits for the sale of Alcoholic Liquor if he has reasonable cause to believe:

- a. that the proximity of the permit premises will have a detrimental effect upon any social or governmental institution as established by the Tribal Council or any residential area;
- b. that the place has been conducted as a lewd or disorderly establishment; or
- c. that there is any other reason as provided by tribal law or regulation which warrants such refusal.

17 M.P.T.L. ch. 1 § 16

§ 16. Discretionary Refusal of Permits; Disqualification of Applicant

a. The Commissioner may, in his discretion, refuse a permit for the sale of Alcoholic Liquor if he has reasonable grounds to believe:

- (1) that the applicant appears to be financially irresponsible or neglects to provide for his family, or neglects or is unable to pay his just debts;
- (2) that the applicant has been provided with funds by any wholesaler or manufacturer or has any forbidden connection with any other class of permittee as provided herein or as provided in the Connecticut Liquor Control Act;
- (3) that the applicant is in the habit of using alcoholic beverages to excess;
- (4) that the applicant has willfully made any false statement to the Commissioner in a material matter;
- (5) that the applicant has violated this Code, or has been convicted of violating the liquor laws of any state or of the United States or has been convicted of a felony or has such a criminal record that the Commissioner

reasonably believes he is not a suitable person to hold a permit;

(6) if the permittee-applicant has not been delegated full authority and control of such premises and of the conduct of all business therein. Any Backer shall be subject to the same disqualifications as herein provided in the case of an applicant for a permit.

b. A permittee may file a designation of an authorized agent with the Commissioner to issue or receive all notices or documents provided for in this Section. The permittee shall be responsible for the issuance or receipt of such notices or documents by the agent.

17 M.P.T.L. ch. 1 § 17

§ 17. Permit to Specify Location and Revocability. Removal to Another Location

a. Every permit for the sale of Alcoholic Liquor shall specify the location including the particular building or place in which such liquor is to be sold, and shall not authorize any sale in any other place or building. Such permit shall also be made revocable in terms for any violation of any of the provisions of this Code.

b. Nothing in subsection (a) of this Section shall be construed as prohibiting the Commissioner from permitting the removal of such permit premises to any location, for any reason, provided:

(1) removal to the proposed location complies with all land use regulations;

(2) the proposed location is not found to be unsuitable or prohibited by any other provision of this Code.

The removal of the permit premises from the particular building or place specified in the permit without the approval of the Commissioner shall be grounds for the suspension or revocation of the permit.

17 M.P.T.L. ch. 1 § 18

§ 18. Permit to be Recorded

Each permit granted or renewed by the Commissioner shall be of no effect until a duplicate thereof has been filed by the permittee with the Tribal Council.

17 M.P.T.L. ch. 1 § 19

§ 19. Permit to be Hung in Plain View

Every permittee shall cause his permit or a duplicate thereof to be framed and hung in plain view in a conspicuous place in any room where the sales so

permitted are to be carried on.

17 M.P.T.L. ch. 1 § 20

§ 20. Revocation or Suspension of Permits

a. The Commission may, of its own motion, revoke or suspend any permit upon cause found after hearing, provided 10 days written notice of such hearing has been given to the permittee setting forth the charges upon which such proposed revocation or suspension is predicated. Any appeal from such order of revocation or suspension shall be taken in accordance with the applicable provisions of the Land Use Law.

b. The surrender of a permit for cancellation or the expiration of a permit shall not prevent the Commission from suspending or revoking any such permit pursuant to the provisions of this Section.

17 M.P.T.L. ch. 1 § 21

§ 21. Conviction of Permittee; Revocation or Suspension of Permit; Forfeiture

When any permittee has violated any of the provisions of this Code or has been convicted of a violation of any of the laws of the United States, the laws of the Mashantucket Pequot Tribe, or of any state, pertaining to the manufacture, sale, transportation or taxation of distilled spirits, beer and wine, or of any felony, or has forfeited his bond to appear in court to answer for any such violation, the Commission may, in its discretion, revoke or suspend his permit and order the forfeiture of all moneys that have been paid therefor, and such revocation or suspension and forfeiture shall be in addition to the penalties for such offense.

17 M.P.T.L. ch. 1 § 22

§ 22. Revocation of Permit Obtained by Fraud

Whenever any permit under this Code has been obtained by fraud or misrepresentation, the Commission, upon proof that such permit was so obtained, shall, upon hearing had, revoke the same, and all moneys paid therefor shall be forfeited.

17 M.P.T.L. ch. 1 § 23

§ 23. Offer in Compromise in Lieu of Suspension

The Commissioner, in its discretion, may accept from any permittee or Backer an offer in compromise in such an amount as may in the discretion of the Commissioner be proper under the circumstances in lieu of the suspension of any

permit previously imposed by the Commissioner. Any sums of money so collected by the Commissioner shall be paid forthwith to the general funds of the Tribe.

17 M.P.T.L. ch. 1 § 24

§ 24. Certificate of Revocation, Suspension or Reinstatement

The Commissioner shall transmit a certificate of the revocation, suspension or reinstatement of any permit by it to the Tribal Council who shall attach such certificate to the duplicate copy of such permit on file.

17 M.P.T.L. ch. 1 § 25

§ 25. Appeal

Any applicant for a permit or for the renewal of a permit for the sale of Alcoholic Liquor whose application is refused or any permittee whose permit is revoked or suspended by the Commission or any 10 residents who have filed a remonstrance pursuant to the provisions of Section 11 and who are aggrieved by the granting of a permit by the Commission may appeal therefrom in accordance with the appellate provisions of the Land Use Law.

17 M.P.T.L. ch. 1 § 26

§ 26. Substitution of Permittees. Fee

In any case a new permittee may be substituted when so requested, provided the person so substituted shall be a suitable person as defined and set forth in this Code, and such person shall be permitted to serve in the place and stead of the original permittee for the remainder or any part thereof of the term of the permit upon which he has been substituted and such a substitution may be made upon the death of a permittee, when so requested. A substitute permittee under this Section shall not be subject to the provisions of Section 11. In the case of an application to permanently substitute the identity of the permittee, the applicant shall pay to the Commissioner a nonrefundable application fee of \$30.

17 M.P.T.L. ch. 1 § 27

§ 27. Consumer Bars

The Commissioner may permit more than one consumer bar in any premises for which a permit has been issued under this Code for the retail sale of alcoholic liquor to be consumed on the premises. A consumer bar is a counter, with or without seats, at which a patron may purchase and consume or purchase alcoholic liquor. The fee for each additional consumer bar shall be \$150 per annum.

§ 28. Unauthorized Sale Prohibited

a. The sale of Alcoholic Liquor, except as permitted by this Code, is prohibited, and any person or permittee who operates any establishment which is a place where Alcoholic Liquor is kept for sale or exchange contrary to law shall be liable to the penalties provided in Section 41.

b. The sale of Alcoholic Liquor without a permit issued under the provisions of this Code in any Premises located on the Reservation shall be unlawful. Any association or organization without such a permit, who sells or permits to be sold, to or by its members, guests or other persons, any alcoholic liquor shall be subject to the penalties provided in Section 41.

§ 29. Unsuitable Persons Prohibited from having Financial Interest in Permit Businesses; Employment of Minors

a. No person who is declared to be an unsuitable person to hold a permit to sell Alcoholic Liquor shall be allowed to have a financial interest in any such permit business.

b. Any person over age 18 may be employed by an employer holding a permit issued under this Code. A minor performing paid or volunteer services of an emergency nature shall be deemed to be an employee subject to the provisions of this Section.

§ 30. Sales to Minors, Intoxicated Persons and Drunkards. Exceptions

Any permittee who, by himself, his servant or agent, sells or delivers Alcoholic Liquor to any minor, or to any intoxicated person, or to any habitual drunkard, knowing him to be such an habitual drunkard, shall be subject to the penalties of Section 41. Any person who delivers or gives any such liquors to such minor, except on the order of a practicing physician, shall be fined not more than \$1,500. The provisions of this Section shall not apply:

(1) to a sale or delivery made to a person over age 18 who is an employee pursuant to Section 29 and where such sale or delivery is made in the course of such person's employment or business

(2) to a sale or delivery made in good faith to a minor who practices any deceit in the procurement of an identity card, who uses or exhibits any such identity card belonging to any other person or who uses or exhibits any such identity card which has been altered or tampered with in any way, or

(3) to a delivery made to a minor by a parent, guardian or spouse of the minor, provided such parent, guardian or spouse has attained the age of 21 and provided such minor possesses such Alcoholic Liquor while accompanied by such parent, guardian or spouse.

17 M.P.T.L. ch. 1 § 31

§ 31. Statement from Purchaser as to Age

a. For the purposes of Section 30, any permittee shall require any person whose age is in question to fill out and sign a statement in the following form on one occasion when each such person makes a purchase:

(MM/DD), (YYYY)

I, _____, hereby represent to _____, a liquor permittee of the Mashantucket Pequot Land Use Commission, that I am over the age of 21 years, having been born on (MM/DD), (YYYY), at (CITY, STATE).

This statement is made to induce said permittee to sell or otherwise furnish alcoholic beverages to the undersigned. I understand that the Mashantucket Pequot Tribe Liquor Control Code along with Title 30 of the Connecticut General Statutes both prohibit the sale of alcoholic liquor to any person who is not 21 years of age.

I understand that I am subject to a fine of \$100 for the first offense and not more than \$250 for each subsequent offense for willfully misrepresenting my age for the purposes set forth in this statement.

_____ (Name)

_____ (Address)

Such statement once taken shall be applicable both to the particular sale in connection with which such statement was taken, as well as to all future sales at the same premises, and shall have full force and effect under subsection (b) as to every subsequent sale or purchase. Such statement shall be printed upon appropriate forms to be furnished by the permittee and approved by the Commissioner and shall be kept on file on the permit premises, alphabetically indexed, in a suitable file box, and shall be open to inspection by the Commissioner or any of its agents at any reasonable time. Any person who makes any false statement on a form signed by him as required by this Section shall be fined not more than \$100 for the first offense and not more than \$250 for each subsequent offense.

b. In any case where such a statement has been procured and the permittee is subsequently charged with serving or furnishing alcoholic beverages to a minor, if such permittee, in proceedings before the Commission, introduces such statement in evidence and shows that the evidence presented to him to establish the age of the purchaser was such as would convince a reasonable man, no penalty shall be imposed on such permittee.

17 M.P.T.L. ch. 1 § 32

§ 32. Inducing Minors to Procure Liquor. Exception

Any person who, for any purpose, induces any minor to procure Alcoholic Liquor from any person permitted to sell the same shall be subject to the penalties prescribed in Section 41. The provisions of this Section shall not apply to the procurement of liquor by a person over age 18 who is an employee or permit holder under Section 29 where such procurement is made in the course of such person's employment or business.

17 M.P.T.L. ch. 1 § 33

§ 33. Operator's License as Proof of Age. Misrepresentation of Age to Procure Liquor

Each person who attains the age of 21 years and has a motor vehicle or motorcycle operator's license, containing a full-face photograph of such person, may use and each permittee may accept such license as legal proof of the age of the licensee for the purposes of this Code. Any person who misrepresents his age or uses or exhibits, for the purpose of procuring Alcoholic Liquor, an operator's license belonging to any other person, shall be fined not less than \$200 nor more than \$500.

17 M.P.T.L. ch. 1 § 34

§ 34. Procuring Liquor by Person Forbidden to Purchase or by False Statement, Public Possession of Liquor by Minors Prohibited. Exceptions

a. Any person to whom the sale of alcoholic liquor is by law forbidden who purchases or attempts to purchase such liquor or who makes any false statement for the purpose of procuring such liquor shall be fined not less than \$200 nor more than \$500.

b. Any minor who possesses any alcoholic liquor in any public place or place open to the tribal community, including any club which is open to the public, shall be fined not less than \$200 nor more than \$500. The provisions of this subsection shall not apply to

(1) a person over age 18 who is an employee pursuant to Section 29 and who possesses alcoholic liquor in the course of his employment or business,

(2) a minor who possesses alcoholic liquor on the order of a practicing physician, or

(3) a minor who possesses alcoholic liquor while accompanied by a parent, guardian or spouse, who has attained the age of 21.

17 M.P.T.L. ch. 1 § 35

§ 35. Loitering on Permit Premises

Any permittee who, by himself, his servant or agent, permits any minor or any person to whom the sale or gift of Alcoholic Liquor has been forbidden according to law to loiter on his premises where such liquor is kept for sale, or allows any minor other than a person over age 18 who is an employee pursuant to Section 29 or a minor accompanied by his parent or guardian, to be in any room where Alcoholic Liquor is served at any bar, shall be subject to the penalties of Section 41.

17 M.P.T.L. ch. 1 § 36

§ 36. Hours and Days of Closing

a. The sale or the dispensing or consumption or the presence in glasses or other receptacles suitable to permit the consumption of Alcoholic Liquor by an individual in places operating a permit issued by the Commission shall be unlawful on:

(1) Monday, Tuesday, Wednesday, Thursday and Friday between the hours of one o'clock a.m. and nine o'clock a.m.;

(2) Saturday between the hours of two o'clock a.m. and nine o'clock a.m.;

(3) Sunday between the hours of two o'clock a.m. and eleven o'clock a.m.;

(4) Christmas, except for alcoholic liquor that is served with hot meals during the hours otherwise permitted by this Section for the day on which Christmas falls; and

(5) January first between the hours of three o'clock a.m. and nine o'clock a.m., except that on any Sunday that is January first the prohibitions of this Section shall be between the hours of three o'clock a.m. and eleven o'clock a.m.

b. Tribal Council may, by vote of a tribal meeting or by Law, reduce the number of hours during which sales shall be permissible. Such action shall become effective on the first day of the month succeeding such action;

c. Nothing in this Section shall be construed to require any permittee to continue the sale or dispensing of Alcoholic Liquor until the closing hour established under this Section.

17 M.P.T.L. ch. 1 § 37

§ 37. Bottle Size. Prohibition against Sale of Certain Size

No Alcoholic Liquor, except wine, shall be sold or offered for sale on the

Reservation 100 milliliter containers or bottles.

17 M.P.T.L. ch. 1 § 38

§ 38. Containers to be Sealed

Alcoholic Liquors, except beer, cider, wine and cordials shall be purchased by the holders thereof in sealed bottles or containers and poured for sale and consumption from the original bottles or containers. No such bottle or container shall be refilled in whole or in part.

17 M.P.T.L. ch. 1 § 39

§ 39. Gifts, Loans and Discounts Prohibited between Permittees. Tie-in Sales

No permittee or group of permittees licensed under the provisions of this Code in transaction with another permittee or group of permittees shall directly or indirectly offer, furnish or receive any free goods, gratuities, gifts, prizes, coupons, premiums, combination items, quantity prices, cash returns, loans, discounts, guarantees, inducements or special prices, or other inducements with the sale of alcoholic beverages or liquors. No permittee shall require any purchaser to accept additional Alcoholic Liquors in order to make a purchase of any other Alcoholic Liquor.

17 M.P.T.L. ch. 1 § 40

§ 40. Liquor Seller Liable for Damage by Intoxicated Person

a. If any person, by himself or his agent, sells any Alcoholic Liquor to an intoxicated person on the Reservation, and such purchaser, in consequence of such intoxication, thereafter injures the person or property of another whether within or without the Reservation, such seller shall pay damages to the person or persons injured, up to the aggregate amount of \$250,000, to be recovered in an action under this Section, provided the aggrieved person or persons shall give written notice to such seller within 60 days of the occurrence of such injury to person or property of his or their intention to bring an action under this Section. In computing such 60-day period, the time between the death or incapacity of any aggrieved person and the appointment of an executor, administrator, conservator or guardian of his estate shall be excluded, except that the time so excluded shall not exceed 120 days. Such notice shall specify the time, the date and the person to whom such sale was made, the name and address of the person injured or whose property was damaged, and the time, date and place where the injury to person or property occurred. No action under the provisions of this Section shall be brought but within one year from the date of the act or omission complained of. The damages recovered under this section up to the limit provided herein shall be calculated in the same manner as damages are calculated under 4 M.P.T.L. ch. 1 (Tort Claims) as the same may be amended from time to time. Such injured person shall have no cause of action against Seller for negligent sale of alcoholic beverages.

b. The Tribe hereby expressly waives its sovereign immunity from suits in the tribal court for actions brought pursuant to this Section founded upon an action of the Tribe, a tribal enterprise or institution, or their agents, servants, or employees acting within the scope of their authority, and nothing herein shall be construed to waive the sovereign immunity of the Tribe to the extent that sovereign immunity would be applicable to such individual and such sovereign immunity is waived only for purposes of an action against the Tribe as specifically authorized pursuant to this Section. Any action brought pursuant to this Section shall name the backer as the party defendant, and there shall be no separate cause of action existing against an agent, servant or employee of the Tribe, a tribal enterprise, or institution, when acting within the scope of their authority.

c. The tribal court is hereby authorized and shall have jurisdiction over all actions brought pursuant to this Section.

17 M.P.T.L. ch. 1 § 41

§ 41. Penalties

Any person found by the Commission to have violated any provision of this Code for which a specified penalty is not imposed, shall, for each offense, be fined not more than \$1,000 and may be referred to the State Department of Consumer Protection, Liquor Division.

17 M.P.T.L. ch. 1 § 42

§ 42. Recognition of State Permits and Licenses

The Commissioner may recognize a valid Connecticut state liquor permit as a tribal liquor permit upon review of the permit and the application submitted to the State Department of Consumer Protection, Liquor Division, provided that the type of permit sought is one provided for in this Code.

LEGISLATIVE HISTORY TO THE MASHANTUCKET PEQUOT LIQUOR CONTROL CODE

17 M.P.T.L. Leg. History

A. Regulation of the Sale or Dispensing of Alcohol at Mashantucket

1. Background

The state of Connecticut Department of Consumer Protection ("DCP") regulates the sale and distribution of alcoholic beverages within the gaming facilities located on the Reservation pursuant to the terms and conditions of the Final Mashantucket Pequot Gaming Procedures. 56 Fed. Reg. 24996 (May 31, 1991) (the "Gaming Procedures"). Prior to the opening of the Mashantucket Pequot Museum

and Research Center ("MRC"), the Tribe informed the State of its intention to regulate the sale and distribution of alcohol on the Reservation in areas not covered by the Gaming Procedures. (A copy of the Tribe's letter discussing its intent to regulate is attached hereto as Attachment A.) The federal statutes and court decisions in this area indicate that the State maintains an interest in the regulation of liquor within Indian Country, concurrent with the interests of the Tribe. (see 18 U.S.C. § 1161, attached hereto as Attachment B and supporting case authority.) The DCP requested the Connecticut Attorney General to review the Tribe's request for recognition as the primary regulatory authority for the sale and distribution of alcoholic beverages in areas outside the gaming facilities. The Attorney General rendered an opinion concurring with the Tribe's position finding that the state of Connecticut is authorized by federal law to regulate the sale of alcohol in Indian country. (The Attorney General's opinion, which is attached as Attachment C, also covered the Mohegan Reservation.) The Tribe then applied for and received a provisional state liquor permit for the MRC.

The Tribal Council thereafter considered and adopted the Mashantucket Pequot Liquor Control Code (the "Code") 17 M.P.T.L. ch. 1, thus authorizing the Tribe to regulate the service of alcohol for all establishments on the Reservation excluding those governed by the Gaming Procedures. On January 20, 1999, the Tribe held a Referendum with the tribal membership on the issue of whether the Tribe should continue to permit the service of alcohol at the MRC. The tribal membership voted not to sell or distribute alcohol at the MRC and the application for a final liquor permit with the DCP subsequently was withdrawn.

2. Policy

The Tribe's primary purpose in enacting the Liquor Control Code is to further exercise the Tribe's inherent sovereign rights and to self-regulate wherever possible and prudent. Through this legislative action, the Tribal Council seeks to protect important tribal interests such as promoting self-government, encouraging self-sufficiency, accountability and economic development.

3. Content

The Code designates the Mashantucket Pequot Land Use Commission ("Commission") as the Tribe's regulating body for liquor control purposes. The Commission reports directly to the Tribal Council. It has the authority to grant or revoke a permit, hold hearings, impose fines, and conduct investigations in order to enforce the Code.

The Code differs from the State's liquor laws in that it allows for fairly limited types of liquor permits, such as a temporary permit for picnics and social gatherings, a nonprofit public museum permit, and for a charitable organization permit. The Code also defines requirements for the storage of alcohol, prohibits service to minors and intoxicated patrons, and delineates the days and hours when the sale of liquor is permitted. Violations of the Code are punishable by a fine, not to exceed \$1,000.

B. Jurisdiction of the Tribal Court

1. General

The Mashantucket Pequot Tribal Court has been established as a court of general jurisdiction over all causes of action except as may be limited by tribal or federal law. 1 M.P.T.L. ch. 1. The court's authority to hear specific types of claims and causes of action is defined by the jurisdictional grant in each enactment of tribal law. The court's authority to hear claims against the Tribe or an arm of the tribal government such as the Gaming Enterprise must be based on a clear and unequivocal waiver of the Tribe's immunity from suit, and such waiver must be strictly construed. Damages and other remedies that can be awarded against the Tribe also are defined by specific legislative enactments of the Tribal Council.

In adopting the Liquor Control Code, the Tribal Council granted the court jurisdiction to hear causes of action for persons who have sustained injuries to their person or property as a result of the service of alcohol to an intoxicated person on the Reservation.

2. Service of Alcohol to Intoxicated Persons

a. Cause of Action

Section 40 of the Code expressly provides a limited waiver of the Tribe's immunity from suit and creates a cause of action against the backer of an establishment who sells alcoholic liquor to an intoxicated person on the Reservation, if such purchaser, in consequence of such intoxication, thereafter injures the person or property of another. This legislation is meant to protect those innocent victims injured on or off the Reservation by an intoxicated person who was served alcohol by an establishment located on the Reservation. The maximum penalty under the Code is \$25,000.

b. Scope of Provision

Section 40 applies to any action that may be brought against the Tribe or the Gaming Enterprise as the backer of an establishment as defined in the Code, and to any action pending in the tribal court at the time of the Code's enactment against the Tribe, the Gaming Enterprise or agent or employee thereof, claiming liability based upon the service of alcohol. This Section of the Code, unlike the regulatory portions of the Code, applies to any service of alcoholic beverage on the Reservation, including service within the gaming facilities. In enacting the Code, the Tribal Council considered both pending cases and those filed in the past in which there were questionable tribal court remedies.

The Council's concern for providing an appropriate and definite remedy within the tribal legal and judicial systems was an important factor in adopting this particular provision. Therefore, the strict notice provisions in the law are not meant to apply to pending actions.

TITLE 18. MANDATORY SCHOOL ATTENDANCE & TRUANCY

18 M.P.T.L. § 1

§ 1. Mandatory School Attendance

a. Children and youth of the Mashantucket Pequot Tribe ("Tribe") are the greatest asset of the Tribe and need to acquire skills and experience to lead and govern the Tribe, to make meaningful contributions to the tribal community, and to achieve their full human potential. Accordingly, the purpose of this Law is to set forth the requirements for school attendance and the process for identifying and providing services to children and families when children fail to attend school.

b. All children of school age shall be enrolled in an accredited public or private or approved alternative school program and shall attend every day that school is regularly in session. For purposes of this Law, "truant" means a child age five through eighteen inclusive (excluding an emancipated minor), who is enrolled in a public or private school and has four unexcused absences from school in any one month or ten unexcused absences from school in any school year.

c. Five incidents of unexcused tardiness will be considered as one unexcused absence from school. Fines will be administered accordingly.

18 M.P.T.L. § 2

§ 2. Parental Responsibility

a. It is the responsibility of each parent and/or legal guardian of the child to ensure that his/her child attend school in accordance with the requirements of this Law and the laws of the state in which he/she resides.

b. As a condition of receiving services and benefits from the Tribe, the parent or legal guardian of the child shall sign a release of school information at the beginning of each school year allowing the Department of Education and the Truancy Officer access to school attendance records as determined by the Department of Education.

18 M.P.T.L. § 3

§ 3. Applicability

a. This Law shall apply to all children of age to start kindergarten through and including age 18 residing on the Mashantucket Pequot Reservation, including dependents of members of the Mashantucket Pequot Tribe or of their spouses or significant others, and to all children who receive services and benefits from the Tribe whether residing on or off tribal lands.

b. This Law shall not apply to any child receiving equivalent educational instruction in a qualified home school program, per MPTN Education Department requirements.

c. This Law shall exclude emancipated minors who have provided documentation of

their emancipated status to the MPTN Department of Education.

18 M.P.T.L. § 4

§ 4. Truancy Officer and Duties

a. There is hereby established within the Mashantucket Pequot Tribal Police Department the position of Truancy Officer who, in conjunction with the Director of the Department of Education, shall have the following authority and duties:

(1) verify that all children subject to this law attend school as required herein;

(2) make inquiries pertaining to the attendance of any child subject to the provisions of this law, to his/her parent or legal guardian and/or to the school in which the child is enrolled; and

b. Whenever a child fails to attend school, the Truancy Officer shall:

(1) inquire as to the circumstances of the absence, and the child and his/her parent or legal guardian shall explain to the Truancy Officer the reason for the child's failure to attend school;

(2) bring the child to the child's home or other appropriate place, if necessary, and hold the child until the Truancy Officer can relinquish custody of the child to his/her parent or legal guardian;

(3) make a report of the truancy incident, and send a copy of that report to the child's parent or legal guardian, the Director of the Department of Education.

c. It shall be the duty and obligation of each child and every parent or legal guardian to provide whatever information is reasonably requested by the Truancy Officer as to the circumstances, activities, and whereabouts of his/her child or other information relating to the child's school attendance.

18 M.P.T.L. § 5

§ 5. Department of Education Policies and Procedures Concerning Mandatory School Attendance and Truancy

a. The Department of Education shall adopt and implement policies and procedures concerning truants. Such policies and procedures shall include, but need not be limited to, the following:

(1) notifying the parent or legal guardian of a child enrolled in a grade from kindergarten through grade 12, inclusive, in writing on an annual basis of the obligations of the parent or legal guardian pursuant to this Law;

(2) obtaining from the parent or legal guardian of a child a release of information pursuant to Sections 2(b) and 4(c) of this Law, and a home, cell and work telephone number and e-mail address or other means of contacting such parent or legal guardian during the school day;

(3) establishing a system of monitoring individual unexcused absences of children in grade kindergarten through grade twelve, which shall provide that whenever a child in any such grade fails to report to school on a regularly scheduled school day and no indication has been received by the school that the child's parent or legal guardian is aware of the child's absence, an extensive and thorough effort to notify the parent or legal guardian shall be made by the Truancy Officer and the Department of Education;

(4) coordinating service and referrals of children to the Department of Child Protective Services or other tribal departments providing child and family services; and

(5) holding a meeting with the parent or legal guardian of each child who is truant, and appropriate school personnel to review and evaluate the reasons for the child being truant, provided such meeting shall be scheduled not later than five school days after the child's fourth unexcused absence in a month, or tenth unexcused absence in a school year.

b. If the parent or legal guardian of a child who is truant fails to attend the meeting scheduled pursuant to Section 5(a) of this Law, or if such parent or legal guardian otherwise fails to cooperate with the Department of Education and the Truancy Officer in attempting to solve the truancy problem, the Department of Education's policies and procedures shall require the Director of Education and the Truancy Officer to file a written complaint within ten school days of the scheduled meeting with the School to the Tribal Court alleging their belief that the acts or omissions of the child are such that his/her family is a family with service needs.

18 M.P.T.L. § 6

§ 6. Notice of Truancy and Fines

a. Whenever a child is truant, the Truancy Officer shall personally serve a written notice to the parent or legal guardian of the child of such truancy and that such truancy violates tribal law. The first notice to the parent or legal guardian of the child shall serve as a warning of this violation and shall require the parent legal guardian of the child to attend a meeting pursuant to Section 5(a) of this Law. The notice shall also inform the parent or legal guardian of the child that a subsequent notice of an unexcused absence will result in the parent or legal guardian of the child being penalized a mandatory fine of \$500 per child per day of unexcused absence from school, and in addition, those children over the age of 12 years will be directed to the Department of Education to make up the missed hours through private tutoring.

b. A subsequent notice of an unexcused absence within a school year shall result in the fines and penalties described above.

c. All additional notices of unexcused absences violation within a school year shall result in the imposition of a fine of not less than \$1,000 per child per day of unexcused absence from school. Children over the age of 12 years, in addition to the above referenced fines, will be directed to the Department of Education to make up the missed hours through private tutoring to correct the educational deficit that occurred due to extensive unexcused absences. Pursuant to Section 5(b) of this Law, the Department of Education and the Truancy Officer shall file a written complaint in accordance with applicable tribal child welfare and juvenile laws alleging the belief that the acts or omissions of the child are such that his/her family is a family with services needs or the child is a youth in crisis.

d. The Truancy Officer shall send a copy of all notices of truancy fines to the Finance Department to ensure payment of fines, the proceeds from which fines shall be used to cover expenses relating to any parenting classes, counseling or truancy prevention programs required by this Law.

e. Any truant child may not participate in the Tribe's Summer Youth Work Program for the summer following the school year in which the child was truant.

f. The Department of Finance shall be authorized to deduct the amount of said fine from any income that may be due and payable to the parent or legal guardian of the child including, but not limited to, salary, incentive payments and any other periodic payment. No deduction authorized under this Law shall exceed 25% of the parent's or legal guardian's disposable weekly income.

g. Any truant child 16 years of age or older shall be personally responsible to pay all truancy fines. This requirement shall not excuse the parent or legal guardian of the child from the obligation to pay any such fines in the first instance unless the fines are paid first by the truant child. In the event the parent or legal guardian of the child pays any such fines, the truant child shall be obligated to reimburse the parent or legal guardian of the child for any such payment. Any future tribal income due and payable to the truant child shall be subject to the obligation to pay outstanding fines or reimbursement at a rate not to exceed 25% of the child's disposable weekly income and the Department of Finance shall ensure that such reimbursement is made accordingly.

18 M.P.T.L. § 7

§ 7. Appeals

a. Any parent or legal guardian of the child who has received a written notice of a fine or penalty from the Truancy Officer may, within ten working days of receipt of the notice, contest such fine or penalty in writing to the Truancy Officer and the Director of the Department of Education. The fine or penalty shall be upheld except when the parent or legal guardian of the child provides satisfactory information or proof of extraordinary circumstances occasioning the truancy. The Truancy Officer and the Director of the Department of Education shall make a written determination of their findings concerning the imposition of the truancy fine and shall send such determination to the parent

or legal guardian of the child within ten working days of receipt of the notice of contest.

b. The parent or legal guardian of the child may within ten working days of determination appeal the truancy fine to the Tribal Court. The Tribal Court shall have jurisdiction over all truancy appeals. The filing of an appeal shall not bar or toll the payment of the fine.

c. A parent or legal guardian may not use as a legal defense against the imposition of any fine or penalty allowed hereunder the following:

(1) that the child is acting without the knowledge or authority of his or her parent or legal guardian;

(2) that the parent or legal guardian claims to be unaware of the truancy condition;

(3) that the parent or legal guardian claims to be unable to control his or her child;

(4) if the child was seen or found outside of his/her residence and apart from the company of the parent or legal guardian during regular school hours, illness of the child will not be accepted as a defense against the imposition of the penalties or fines hereunder.

18 M.P.T.L. § 8

§ 8. Failure to Comply

Failure to comply with any part of this Law may subject the child or parent or legal guardian of the child to additional fines, penalties and referrals for remedial services, intervention or sanctions.

TITLE 19. ESCHEAT AND ABANDONED PROPERTY

CHAPTER 1. DEFINITIONS

19 M.P.T.L. ch. 1 § 1

§ 1. Scope

The definitions in this Chapter shall apply to all actions under this Title.

19 M.P.T.L. ch. 1 § 2

§ 2. Definitions

a. "Abandoned Funds" means cash or cash equivalents, including securities, outstanding checks, unredeemed gift certificates and customer deposits, and excluding chips and tokens, and racebook, keno and slot tickets.

b. "Apparent Owner" means the person whose name appears on the records of the holder as the person entitled to the funds held by the holder, or his or her legal representative.

c. "Holder" means the Mashantucket Pequot Tribal Nation ("Tribe") or the Mashantucket Pequot Gaming Enterprise ("Gaming Enterprise"), as the case may be, in possession of property subject to this law that belongs to another.

d. "Gaming Enterprise Site" means that area defined in 4 M.P.T.L.

e. "Proper Authority" within the Gaming Enterprise site means the Security Department's Lost and Found office; outside the Gaming Enterprise site means the Security Desk in the building, the Mashantucket Pequot Tribal Police, or other authority established by the Tribe.

f. "Treasurer" means the Treasurer of the Mashantucket Pequot Tribal Council.

g. "Property" means anything of the value of \$25 or more, including items or articles of clothing, jewelry, sports equipment, cellular telephones, electronic devices, and computers, but excludes Abandoned Funds.

CHAPTER 2. ABANDONED PROPERTY

19 M.P.T.L. ch. 2 § 1

§ 1. On the Gaming Enterprise Site

Property found or located on the Gaming Enterprise Site shall be handled pursuant to the Lost and Abandoned Property policies and procedures of the Gaming Enterprise and, unless provided otherwise in such policies and procedures, shall be delivered to the Proper Authority within 24 hours.

19 M.P.T.L. ch. 2 § 2

§ 2. On the Mashantucket Pequot Reservation

a. Duty of Finder. Property found or located on the Mashantucket Pequot Reservation and outside of the Gaming Enterprise site shall be handled pursuant to the Lost and Abandoned Property policies and procedures of the Tribe, and shall be delivered to the Proper Authority within 24 hours. At the time of delivery to the Proper Authority, the following information shall be obtained:

(1) the date, time and place of the finding;

(2) the name, address, and telephone number of the finder of the property or, if an employee, the employee's employee identification number and officer number; and

(3) a description and relative value of the property.

b. Notice of Means of Recovery of Property. The Proper Authority of the Tribe shall provide its community a general notice indicating the time, place, and manner that lost or abandoned property may be recovered, but it is not required to advertise a description of any property it receives. The Proper Authority of the Tribe shall retain custody of the property for three months from the date of receipt thereof, unless it is claimed by the owner within the three-month period. Perishable, obnoxious, dangerous or harmful articles may be sold or otherwise disposed of as soon as practicable on the best terms available.

c. Restoration to Owner if Claimed. If the owner of the property claims it within the three-month period, the property or the proceeds from the sale or other disposition thereof shall be restored to the owner upon payment or deduction of all proper charges.

19 M.P.T.L. ch. 2 § 3

§ 3. Procedure if Unclaimed

a. If the owner fails to claim the property within the three-month period, the property or the proceeds from the sale or other disposition thereof shall become the property of the Tribe.

b. Unclaimed property at the Gaming Enterprise site shall be disposed of pursuant to the Gaming Enterprise's Lost and Abandoned Property Policy and Procedures.

c. Unclaimed property elsewhere on the Mashantucket Pequot Reservation may be disposed of by the Proper Authority through sale or other proper means of disposition, provided that a notice of such sale or other means of disposition to the tribal community shall be posted and that such notice shall include:

(1) the date and time of the sale;

(2) a list and description of all property to be disposed of;

(3) a statement that all property to be sold or otherwise disposed of has been abandoned on the Mashantucket Pequot Reservation for at least three months and has remained unclaimed by any owner;

(4) a statement that the proceeds from the sale or other means of disposition will be deposited into the Mashantucket Pequot Endowment Trust Fund and the "Silver Lining" Fund.

d. The net proceeds from the disposition of the unclaimed property shall be deposited into the Mashantucket Pequot Endowment Trust Fund and the "Silver Lining" Fund in equal amounts.

CHAPTER 3. ESCHEAT OF ABANDONED FUNDS

19 M.P.T.L. ch. 3 § 1

§ 1. Presumption of Abandonment

a. Funds held by the Tribe or the Gaming Enterprise in or for any account are presumed to be abandoned if the account has been inactive for more than three years, unless the owner has made a claim to or otherwise indicated an interest in the funds. The length of time the funds have been held as of the effective date of this law shall be included in determining the three year period.

b. De minimis Exception. Any account presumed abandoned or one which has become inactive for more than three years which has an amount equal to or less than \$50 shall be considered de minimis and will be exempted from the requirements of this law.

19 M.P.T.L. ch. 3 § 2

§ 2. Duties of Holder of Abandoned Funds

a. Within one year before a presumption of abandonment is to take effect with respect to any funds, the holder shall give notice to the Apparent Owner thereof by first class mail directed to the Apparent Owner's last-known address, advising that evidence of the Apparent Owner's interest in the funds shall be indicated or the funds will become property of the Tribe. If the Apparent Owner of Abandoned Funds is an active employee of the Tribe or Gaming Enterprise, the Holder may attach written notice to such employee's current pay stub in lieu of first class mail. The Holder shall maintain adequate record of all notices given to Apparent Owner evidencing compliance with this Section.

b. Once a presumption of abandonment has taken effect, the Holder shall provide the Treasurer with a report indicating the status of the funds held and the status of the inactive account. A copy of this report shall be provided to the Tribe's Department of Finance. Each report shall include:

- (1) the name, if known, of each person appearing to be the owner of the funds;
- (2) the dollar amount of the funds;
- (3) the nature, description and identifying number of the account in which the funds were held;
- (4) the date of the last transaction with the owner with respect to the funds;

(5) any other information as the Treasurer may require.

c. Together with the report to the Treasurer, the Holder shall deliver funds that are presumed to be abandoned to the Tribe's Department of Finance.

d. The Treasurer and Department of Finance shall keep a permanent record of all submitted reports and deposited funds.

19 M.P.T.L. ch. 3 § 3

§ 3. Disposition of Funds Received by Treasurer

Any funds subject to the provisions of this chapter shall be deposited into the Mashantucket Pequot Endowment Trust Fund and into the "Silver Lining" Fund up to \$20,000.

19 M.P.T.L. ch. 3 § 4

§ 4. Claims for Abandoned Funds

a. Any person claiming an interest in funds subject to the provisions of this Chapter may claim such funds within two years from the date such funds were delivered to the Department of Finance. That person shall file a written claim with the Treasurer or the Department of Finance, setting forth the facts upon which that person claims to be entitled to recover the funds. The Treasurer may prescribe the form that the written claim shall take.

b. The Treasurer or his designee shall consider each claim within 90 days after it is filed. The Treasurer may hold hearings on any claim. The Treasurer shall deliver a decision in writing on each claim heard, with a finding of fact and a statement of the reasons for the decision. Any person aggrieved by a decision of the Treasurer may appeal to the tribal court, which review shall be limited to the record before the Treasurer.

c. The Treasurer shall pay each claim allowed without deduction for costs and without interest.

d. The procedures of this Section shall be the exclusive remedy available to any person claiming an interest in funds that were delivered to the Department of Finance under the provisions of this Chapter.

e. All Abandoned Funds remaining unclaimed 24 months after the date of the report to the Treasurer is filed, as set forth under Section 2(b) of this Chapter, shall become the property of the Tribe and no longer eligible for claim of recovery under this Section.

TITLE 20. MASHANTUCKET PEQUOT CIVIL RIGHTS CODE

CHAPTER 1

20 M.P.T.L. ch. 1 § 1

§ 1. Civil Rights

a. The Tribe shall not:

(1) make or enforce any law prohibiting the free exercise of religion or abridging the freedom of speech, or of the press, or the right of the people to peaceably assemble and to petition for a redress of grievances;

(2) violate the right of the people to be secure in their persons, houses, papers, and effects against unreasonable search and seizures, nor issue warrants, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or thing to be seized;

(3) subject any person for the same offense under tribal law to be twice put in jeopardy;

(4) compel any person in any criminal case to be a witness against himself or herself;

(5) take any private property for a public use without just compensation;

(6) deny to any person in a criminal proceeding the right to a speedy and public trial, to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him or her, to have compulsory process for obtaining witnesses in his or her favor, and at his or her own expense to have the assistance of counsel for his or her defense;

(7) require excessive bail, impose excessive fines, inflict cruel and unusual punishments, and in no event impose for conviction of any one offense any penalty or punishment greater than imprisonment for a term of one year and a fine of \$5,000 or both;

(8) deny to any person within its jurisdiction the equal protection of its laws or deprive any person of liberty or property without due process of law;

(9) pass any bill of attainder or criminal ex post facto law; or

(10) deny to any person accused of an offense punishable by imprisonment the right, upon request, to a trial by jury of not less than six persons.

b. The tribal court shall interpret the rights enumerated under this Title in a manner that is consistent with tribal custom, practice and tradition. The tribal court is not bound by interpretations by state and federal courts of similar language found in state and federal constitutions.

20 M.P.T.L. ch. 1 § 2

§ 2. Jurisdiction and Waiver of Sovereign Immunity From Suit

a. The tribal court shall have jurisdiction over claims alleging a violation or violations of the rights enumerated under Section 1 of this Title.

b. The Tribe hereby expressly waives its sovereign immunity from suit in the tribal court for claims against the Tribe alleging a violation(s) of the rights enumerated in Section 1, as provided for and defined in this Title. Nothing herein shall be construed as a waiver of the sovereign immunity of the Tribe from suit in state or federal court or in any action before any state or federal agency, or in any other forum or context.

c. There shall be no cause of action in the tribal court under this Title relating to, or which may affect, activities of the Elders Council or Peacemakers Council.

d. There shall be no cause of action in the tribal court under this Title relating to, or which may affect, the Tribe's Indian Preference Policy.

20 M.P.T.L. ch. 1 § 3

§ 3. Claims Against the Tribe

a. Claim. Any person, whether a tribal member or non-member, may bring an action against the Tribe for violations of the rights enumerated in Section 1 of this Title.

b. Tribe as Defendant. Claims under this Title shall be brought only against the Tribe and there shall be no separate cause of action against any division, agency, committee, office, entity or instrumentality of the Tribe, or against any officer, agent, servant or employee of the Tribe; provided that, an action against the Tribe may be based upon the actions of an officer, agent, servant or employee of the Tribe or of a division, agency, committee, office, entity or instrumentality of the Tribe, including the Gaming Enterprise.

c. Complaint. A claim brought under this Title shall be brought by the filing of a complaint which complies in all aspects with the Mashantucket Pequot Rules of Civil Procedure and which also shall allege, with specificity, the following:

(1) the act or acts which resulted in the violation of rights enumerated in Section 1;

(2) the date or dates of the alleged violation(s);

(3) the specific acts which resulted in the alleged violation and the officer, agent, servant, or employee or, the division, agency, committee, office, entity or instrumentality of the Tribe which committed or is alleged to be responsible for such acts;

(4) the specific right or rights which have been violated with citations to the section or sections of this Title; and

(5) the date on which the Notice of Claim, required under Section 3(d) of this Title, was filed with a copy of the Notice of Claim attached to the complaint.

d. Notice of Claim. Claims brought under this Title shall be preceded by a written notice of claim filed with the tribal clerk by the claimant or the claimant's representative within 180 days after the claim accrues. Claims are deemed to accrue on the date of the alleged violation of rights under this Title. The Notice of Claim shall contain the following information: (1) the name and address of the claimant and the name and address of the claimant's attorney, if any; (2) a concise statement of the factual basis of the claim, including the date, time, place, and circumstances of the alleged violation(s) of right(s) complained of; (3) a concise statement of the nature and extent of the injury claimed to have been suffered; (4) a statement of the amount of monetary damages that is being requested and whether declaratory relief is being requested; and (5) the name of any officer, agent, servant, employee or the division, agency, committee, office, entity or instrumentality of the Tribe involved, if known.

e. Awards. In a judgment under this Title, the court may enter an award as follows:

(1) The court may enter an award for actual damages resulting from a violation of the rights enumerated in Section 1 of this Title.

(2) In addition to an award of actual damages, the court may enter an award for pain and suffering or mental anguish provided that, in no event shall the total award of actual damages plus pain and suffering for injuries arising from the set of facts and circumstances alleged in the complaint exceed the amount of \$250,000.

(3) Attorney's fees may be awarded in the discretion of the court to the prevailing party against the Tribe only when the court determines that the action(s) of the Tribe were wholly unreasonable and particularly egregious. If the Tribe is the prevailing party, the court shall award attorney's fees only upon a finding that the plaintiff's claim is frivolous, unreasonable or without foundation in the law or fact. An award of attorney's fees must be supported by contemporaneous records of hours billed and the billing rate(s) charged which must be consistent with prevailing billing rates of attorneys practicing before the tribal court. In no event shall an award of attorney's fees exceed 25% of the total damage award.

(4) The court may enter a judgment for declaratory relief.

(5) The court shall not enter any other award or judgment under this Title, including:

(i) no award based upon any rule of law imposing absolute or strict liability;

(ii) no award or other judgment imposing punitive or exemplary damages;

(iii) no award based upon a claim for loss of consortium; and

(iv) no award, order or judgment for injunctive relief, whether restraining action or commanding positive action be taken.

f. Statute of Limitations. No claim under this Title shall be brought but within one year from the date of the violation(s) of right(s) complained of.

20 M.P.T.L. ch. 1 § 4

§ 4. Miscellaneous

a. All actions against the Tribe shall be tried to the court and not to a jury. No costs shall be taxed against the Tribe.

b. In all actions where it is alleged that the liability of the Tribe is based upon the action of an officer, agent, servant, or employee acting within the scope of his or her employment there shall be no separate cause of action against the officer, agent, servant or employee. Nothing in this Law shall be construed to waive the sovereign immunity of the Tribe to the extent that sovereign immunity would be applicable to such individual.

20 M.P.T.L. ch. 1 § 5

§ 5. Application of Law

This law shall be applicable to claims accruing after the enactment date. For claims arising prior to the enactment of this law or pending in the tribal court on the date of enactment, there shall be no cause of action recognized under tribal law, except as provided in Section 6 of this Title.

20 M.P.T.L. ch. 1 § 6

§ 6. Repeal of Prior Law

The sections of tribal law entitled "Indian Civil Rights Act" and "Waiver of Tribal Sovereign Immunity" contained in the tribal law concerning the criminal court, formerly codified at Title I, Chapter 3, Sections 10 and 11 of the Mashantucket Pequot Tribal Laws, are hereby repealed and are of no further force and effect, except that: (a) any claims alleged pursuant to those sections, and which are pending in the tribal court on the date of the enactment of this Title, shall be recognized as claims under this Title; and (b) any claim pursuant to those sections, which accrued within one year prior to the enactment of this law, may be brought under this Title by filing the notice and complaint required hereunder within 180 days after the enactment of this Title.

LEGISLATIVE HISTORY--MASHANTUCKET PEQUOT CIVIL RIGHTS CODE AND FOR AMENDMENTS TO TITLE 8. EMPLOYMENT REVIEW CODE

20 M.P.T.L. Leg. History

I. Introduction

Civil rights or civil liberties, in the context of state and federal law, mean "personal, natural rights guaranteed and protected by Constitution," including freedom of speech, free exercise of religion, freedom from discrimination or the unequal treatment under the law based upon race, gender, age, religion, etc. In the state and federal constitutions, most of the rights and liberties guaranteed to individuals are defined in terms of restraints on the government.

The state and federal constitutions do not restrict or restrain action by tribal governments, since tribes pre-date these constitutions and do not derive their sovereignty from either the state or federal governments--tribes being inherently sovereign.

In 1968, Congress enacted the Indian Civil Rights Act, 25 U.S.C. §§ 1301-1303 (the "ICRA"), which imposes restraints on Indian tribes when "exercising powers of self-government." The ICRA, also called the Indian Bill of Rights, is similar but not identical to the Bill of Rights (the first ten amendments to the federal Constitution) in the U.S. Constitution.

In *Santa Clara Pueblo v. Martinez*, 436 U.S. 49 (1978), the U.S. Supreme Court reviewed the ICRA and found that the only type of claim an individual could pursue in the federal courts to enforce the rights enumerated in the ICRA was under the habeas corpus provision. An individual may bring a claim under the habeas provision to "test the legality of detention by order of an Indian tribe." 25 U.S.C. § 1303. Other than challenging an order of detention by an Indian tribe, an individual who believes that his or her rights have been violated by the action of a tribal government may not bring suit against the tribal government in federal (and certainly not in state) court. However, in *Santa Clara Pueblo*, the U.S. Supreme Court stated that "tribal forums are available to vindicate rights created by the ICRA and [25 U.S.C.] § 1302 has the substantial and intended effect of changing the law which these forums are obliged to apply." *Id.* at 65.

Tribes have addressed civil rights in different ways. Some tribes have incorporated the enumerated rights in the ICRA (some in a modified fashion) in a tribal constitution (examples include: Poarch Band of Creek Indians, Menominee Tribe, Gay Head Wampanoag Tribe), while others have adopted laws addressing civil rights. Tribal courts have come to different conclusions concerning whether an individual may sue an Indian tribe in tribal court pursuant to the ICRA, or whether the tribe must expressly waive its immunity from suit in the tribal court for claims under the ICRA. For example, in *Winnebago Tribe of Nebraska v. Bigfire*, 24 Indian L. Rptr. 6232 (Winnebago Tribal Ct. 1997), the court opined that an express waiver of tribal immunity is necessary before an ICRA claim may be brought in tribal court, while the Inter-Tribal Court of Appeals of Nevada has determined that a civil rights

action could proceed in the tribal court because the ICRA constituted a waiver in the tribal forum. See *Works v. Fallon Paiute-Shoshone Tribe*, 24 Indian L. Rptr. 6078 (Inter-Tribal Court of App., Nev. 1997).

Presently, the Mashantucket Pequot Tribal Laws do not affirmatively protect an individual's rights vis-à-vis tribal governmental action, with the exception of a provision in Title 1 addressing actions by the tribal police. See 1 M.P.T.L. ch. 3, Sections 10 & 11. In a chapter addressing the court's jurisdiction over criminal matters, the law adopts the Indian Civil Rights Act and states that it shall be applied in tribal court. That provision also contains a waiver of sovereign immunity but only for an "action taken by the tribal police alleging a violation of the Indian Civil Rights Act provided the alleged violation occurred within the nation lands." The limitation of awards under this waiver is set at a total award of \$500,000 per incident and the law prohibits any award for punitive damages, for loss of consortium, and limits an award for pain and suffering to 50% of the award for actual damages, all similar to the tort law originally enacted.

To date, there have been no claims brought in the tribal court against the tribal police under this provision. However, litigants and the court have used these provisions to incorporate the ICRA into other areas, and to provide a forum for claims against the Gaming Enterprise particularly in the employment context.

The Mashantucket Pequot Civil Rights Code is being adopted as a new title of the Mashantucket Pequot Tribal Laws to address civil rights of individuals as they relate to the tribal government and the various entities organized as arms of the tribal government. In passing this Code, the Tribal Council recognizes the rights of individuals and provides a cause of action in the Mashantucket Pequot Tribal Court to enforce these rights.

II. Section by Section Analysis of Civil Rights Code

1. Section 1. Civil Rights

Section 1 of the Tribal Civil Rights Code provides an enumeration of rights which is similar, but not identical to those provided in the Indian Civil Rights Act. One difference is the insertion of the word "criminal" before "ex post facto" in Section 1(a)(9). This change is meant to clarify that this prohibition is relevant only in the criminal context and does not apply in the civil context. In addition, the words "under tribal law" have been inserted in Section 1(a)(3) (concerning double jeopardy) to clarify that this pertains to prosecutions under tribal law and would not pertain to prosecutions by separate sovereigns, such as the federal government and tribal government.

The enumerated rights are framed as a prohibition against the Tribe taking action, such as making or enforcing any law prohibiting the free exercise of religion or abridging the freedom of speech. The one significant difference between Section 1 of the Tribe's Civil Rights Code and the ICRA is that the proposed law does not contain the language "when exercising powers of

self-government," which the ICRA does contain. The ICRA provides that the tribe shall not do certain enumerated things, when exercising powers of self-government and self-government is defined in the ICRA. The tribal law offers broader protections to individual rights because it does not contain this language. This language was deleted in order to make clear that this law would cover claims based upon alleged actions taken by the Gaming Enterprise or the Museum and Research Center for example, such as a discrimination claim by an employee. Although the Gaming Enterprise and the Museum are arms of tribal government, there may be confusion or disagreement concerning whether actions taken by these entities would or their officers, agents and employees would be covered as exercises of "self government," which is generally understood to encompass legislative and judicial acts of the tribal government, but may not necessarily include actions taken by an arm of tribal government.

Section 1 of this law also contains a provision directing the tribal court to interpret this law in a manner which is consistent with tribal custom, practice and tradition. The Tribal Council expressly has provided that the tribal court shall not be bound by interpretations of similar language by state and federal courts, leaving the tribal court free to interpret these provisions under tribal law.

2. Section 2. Jurisdiction and Waiver of Sovereign Immunity from Suit

Section 2 provides an express grant to the court of jurisdiction over the defined civil rights claims and provides a waiver of the Tribe's sovereign immunity for such claims. Additionally, this Section expressly states that this law does not create a cause of action which would affect actions of the Elders Council or the Peacemakers Council, which is intended to give deference to the decisions of those forums. It is not the intent of Council to provide a cause of action allowing challenges to the decisions of the Elders or Peacemakers Council pursuant to this Law. Section 2(d) clarifies that this law does not provide any cause of action based upon the Tribe's Indian preference policy. This provision was added to clarify that the "equal protection" of tribal laws provided for in Section 1(a)(8) does not affect or modify, in any manner, the Tribe's policies and laws concerning Indian preference, and the enforcement of the Indian preference policy shall not be considered a violation of any rights enumerated in this law and shall not form the basis of any action under this law.

3. Section 3. Claims Against the Tribe

Section 3 describes how the claim may be brought under this Title. This Section specifies that the claim may be brought only against the Tribe and cannot be brought against a separate arm, agency, department or subdivision of the Tribe or against an officer, agent or employee of the Tribe or of an arm, agency, department or subdivision. Further, this Section specifies the information that must be contained in a complaint to commence the action in tribal court; requires that a Notice of Claim be filed within 180 days after the claimed violation of rights occurred; and describes the type of awards which the court may enter.

More particularly, the law allows the court to enter an award of money damages

for actual damages incurred and an award for pain and suffering; however, the law limits the total award for actual damages and pain and suffering to \$250,000. However, this total limitation of \$250,000 is intended to cover any claims relating to a set of facts and circumstances which form the basis of the claim. It is not the intent to allow \$250,000 for each claimed violation of rights under this Title. Therefore, if one set of facts and circumstances allegedly gives rise to several alleged violations of rights, the total recovery is limited to \$250,000.

This law allows the court to award attorneys' fees to the prevailing party. However, the standard that a party must meet in order for the court to make such an award is difficult. To award attorney's fees against the Tribe, a party must show that the Tribe's action was "wholly unreasonable and particularly egregious," and if a plaintiff's claim is frivolous, unreasonable or without foundation in the law or fact, the court may award attorney's fees against a plaintiff and in favor of the Tribe.

Similar to tribal law for torts against the Tribe, Title 12 (Civil Actions Law), a claimant must bring his or her claim within one year after the violation of rights occurred, while maintaining a requirement that the plaintiff file a notice of claim within 180 days of the violation. It is intended that this notice requirement and statute of limitations be strictly construed and be interpreted as a substantive, rather than a procedural, requirement.

The law provides that the court may order declaratory relief, but prohibits an order or award for injunctive relief. Injunctive relief expressly includes both an order to take positive action and orders restraining action. Similar to provisions in Title 4 (Tort Law/Gaming Enterprise) and Title 12 (Civil Actions Law), the court may not enter awards based upon strict or absolute liability theories; or to impose punitive or exemplary damages; or for loss of consortium claims.

4. Section 4. Miscellaneous

Section 4, called "Miscellaneous," provides that actions against the Tribe under this law must be tried by the court (a judge) and not a jury; no costs shall be assessed against the Tribe; and suits in which a claimant is complaining about the action of an officer, agent, servant or employee acting within the scope of employment, the claimant cannot bring an action against the individual. These provisions are identical to provisions in tribal law addressing tort and contract claims.

5. Section 5. Application of Law

Section 5 states that this law shall apply only to claims arising after its enactment date and does not provide for a cause of action if the violation of rights occurred prior to the enactment of the law. This applies even if a claimant has a pending action in the tribal court. The only exception made to this rule (in Section 6 of the proposed law) is if a claimant has an action pending in the tribal court pursuant to the present tribal law regarding civil rights claims against the tribal police, or if such a person has a claim

against the tribal police which arose within one year prior to the enactment of the law. In that case, such a claimant could pursue the claim under this title. If there is such a claim, the claimant must file a notice of claim and a complaint within 180 days after the enactment of the law.

6. Section 6. Repeal of Prior Law

Section 6 also repeals the prior law concerning the tribal police, since those types of claims would now be governed by this Title.

The issue of an individual's rights, whether a tribal member or nonmember, in relation to the Tribal government is an important issue throughout Indian country. A review of decisions in the *Indian Law Reporter* and of commentaries by legal scholars demonstrates the complexity of the issues and the struggle within Indian communities to address these issues in a manner consistent with the community's practices, customs and traditions. Much of the debate or controversy focuses on whether the ICRA, a law imposed upon tribes by Congress, is enforceable in tribal courts and the interpretation of its provisions. One theme running through much of the commentary and some of the decisions is that tribes themselves must address these issues either through the enactment of tribal law or inclusion of rights within tribal constitutions. The concern is that if the tribes do not affirmatively address the issue of civil rights, Congress may review the issue again and impose legislation more intrusive on tribal sovereignty.

At Mashantucket, the only tribal law that specifically had addressed civil rights concerned the Tribal Police. However, ICRA claims and issues have been raised by litigants in tribal court in matters involving employment actions at the Gaming Enterprise. For example, in the Johnson case, the court ruled that the ICRA required the Gaming Enterprise to allow employees to be represented by counsel in the Board of Review process. That case arose in the context of Title 8 Employment, governing the tribal court's review of final decisions by the President/CEO of the Gaming Enterprise and the chief human resources officer. From that decision, the court expanded into independent claims of ICRA violations in several other cases. The adoption of a tribal law addressing civil rights claims allows the Tribal Council to define the rights and the remedies afforded in tribal court.

III. Amendments to Title 8 Employee Review Code

The Tribal Council is aware of litigation in the employment context concerning civil rights. Within the employment context, the tribal court has discussed rights such as due process and equal protection. In most cases, these claims have been brought pursuant to Title 8. Employment, which provides an appeal process from a final decision regarding disciplinary actions, including terminations from employment. Many of these decisions have addressed civil rights through a discussion of the Indian Civil Rights Act. The Tribal Council, in connection with the enactment of the Tribal Civil Rights Code, has determined that it is necessary to amend Title 8 to allow for claims concerning violations of "procedural due process rights" in the employment context. The amendments add new subsections (d), (e), and (f) to Section 3 of Title 8. These new subsections provide that an employee who has progressed through the

Board of Review process and has received a final decision from the President/CEO or from the chief human resources officer, may seek a review in tribal court of what an employee claims to be a violation of procedural due process rights, as that term is defined in the law.

The new subsection 3(d) provides that an employee may seek review of a violation of procedural due process rights in an appeal brought under Title 8, but in order to do so, the employee must allege such a claim in the Notice of Appeal and provide the information as described in subsection 3(d). This requirement is mandatory and an employee should not be allowed to pursue such claims unless the information required is provided.

In subsection 3(e), the law states that the tribal court may only review, under Title 8, whether an employee's procedural due process rights were violated, and may not consider any other claimed violation of civil rights in an Appeal under Title 8. Any claim alleging a violation of rights, other than procedural due process rights, must be pursued under the new Civil Rights Title.

Subsection 3(f) defines "procedural due process rights" to mean the right to adequate notice, a meaningful opportunity to be heard, and the right to representation at the employee's option and expense. These rights have been generally recognized by the tribal court in the employment context.

It is the intent of the Council in adopting these amendments to specifically provide employees with the right to raise issues of procedural due process in the Board of Review process within the context of an Appeal. At the same time, the Council recognizes that in order to make such a claim, the employee must provide detailed information in the Notice of Appeal, describing the claimed violations. It is also the intent to give the employee an opportunity to raise all issues concerning the Disciplinary Action in the Appeal, without the necessity of commencing a separate action under a separate title.

TITLE 21. PUBLIC SAFETY CODE

CHAPTER 1. ANIMAL CONTROL LAW

21 M.P.T.L. ch. 1 § 1

§ 1. Tribal Animal Control Officer

The designated animal control officer shall make or cause to be made a list of all dogs and cats belonging to any member of said Tribe, and all other persons owning or caring for dogs or cats residing on said Mashantucket Pequot Reservation.

The animal control officer shall be empowered to enforce the provisions of this law. The animal control officer may lawfully take charge of any animal that he finds to be in violation of this law. Such officer may, in his discretion,

transport any animal found to be in violation of any provision of this law to a dog pound, veterinarian, or animal shelter and the owner thereof shall be responsible for all charges associated with the shelter and or treatment of the animal.

The animal control officer shall be empowered to issue a citation to any owner or keeper of an animal who is in violation of this law or who otherwise fails to comply with the requirements of this law.

21 M.P.T.L. ch. 1 § 2

§ 2. Dog and Cats to be Licensed—Fee and General Provisions

Each member of the Mashantucket Pequot Tribe and all other persons residing on the Mashantucket Pequot Reservation who own, keep, or have in their possession a dog or cat of more than three months old shall immediately license the animal.

The owner of such licensed dog or cat shall keep around its neck, a collar distinctly marked with the owners name, and the dog(s) or cat(s) registration number.

No dog or cat shall be licensed until the owner of the said dog or cat shows proof of rabies inoculation. The first rabies inoculation for the animal is valid for one year. Subsequent boosters will be valid for three years. All dogs and cats must be vaccinated against rabies by three months of age. Rabies inoculations must be kept current. A permanent license will be issued for the animal and will only be valid as long as it is accompanied by a valid rabies certificate.

Any person who owns a dog or cat and who fails to inoculate the animal within 10 days of acquiring it shall, in addition to any penalty provided by this law requiring licensing, be fined \$150.

Any animal who the animal control officer suspects of being rabid shall immediately be impounded in a facility approved by the Public Safety Committee and shall be subject to the provisions of the Connecticut General Statutes relating to the control of rabies.

Any member of said Tribe and all other persons residing on said reservation who becomes owner or keeper of a dog or cat which is not duly licensed shall be fined \$25 for the first offense and \$50 for the second offense.

21 M.P.T.L. ch. 1 § 3

§ 3. Tribal Clerk to Provide License and Tags

a. Each person shall receive from the tribal clerk a permanent license on a form prescribed by the Tribal Council, said license shall contain a description of the dog or cat and the number under which such dog or cat is licensed and

the tribal clerk shall issue to such person a tag-plate prescribed by the Tribal Council which shall contain the name of the reservation and a license number.

b. The clerk shall charge \$15 for each license to be issued pursuant to this Section.

21 M.P.T.L. ch. 1 § 4

§ 4. Barking and/or Howling Dogs

No person shall own, keep, or harbor any dog which by loud, frequent or habitual barking, howling or yelping shall disturb the peace of any person. Violation of any provision of this Section shall be fined not more than \$75.

No person shall own or harbor a dog which is a nuisance by reason of a vicious disposition.

Any person who is in violation of this Section shall be subject to a fine of \$75.

21 M.P.T.L. ch. 1 § 5

§ 5. Leash Law

It shall be unlawful for any person owning or having charge of any animal to permit such animal to run at large, unless such animal is restrained by a leash not to exceed six feet in length and is in charge of a person competent to restrain such animal.

Every female dog or cat in heat shall be confined in a building or secure enclosure in such a manner that such animal cannot come into contact with another dog or cat except for planned breeding. Any person permitting a female dog or cat in heat to run at large shall be fined \$25.

21 M.P.T.L. ch. 1 § 6

§ 6. Animals Roaming at Large

No owner or keeper of any animal shall allow such animal to roam at large upon the land of another person. The unauthorized presence of any animal on the land of any person other than the owner or keeper of such animal or on any portion of a public road when such is not attended by or under the control of such owner or keeper, shall be prima facie evidence of a violation of provisions of this Section. "At Large" means off the premises of the owner and not under the control of any person by means of personal presence and attention as will reasonably control the conduct of such animal.

The designated animal control officer shall make diligent search and inquiry

for any violation of this provision and may take into custody any animal found roaming in violation of this provision. Such animal shall than be impounded at an approved facility. If the owner or keeper is known they shall be notified immediately. An impoundment fee of \$10 will be charged for the release of the animal. If the owner or keeper is unknown a description of such animal shall be published in the lost and found column of a newspaper having circulation in the area. If such animal is not claimed by and released to the owner within seven days after the date of publication, the animal control officer may sell such animal to any person who satisfies the animal control officer that he is purchasing it as a pet and that he can give it a good home and proper care. A fee of \$5 will be charged for the sale of the animal. If any animal is not claimed by and released to the owner or purchased as a pet, the animal control officer may cause such animal to be mercifully killed by a licensed veterinarian.

In addition to seizing and impounding the animal, the animal control officer may bring suit against the owner of an animal which is found roaming at large, and such owner shall be subject to a civil forfeiture of not less than \$25 and not more than \$100 for the first offense.

Owner means any person or persons, firm, association, or corporation owning, keeping, or harboring an animal. The owner shall maintain a clean and sanitary area where the animal is housed. The animal control officer may issue such orders as deemed necessary to correct any unsafe and unsanitary condition after receiving a complaint and after notifying such person.

21 M.P.T.L. ch. 1 § 7

§ 7. Cruelty to Animals

Any person who tortures, wounds, mutilates, beats, kills, or otherwise unjustifiably injures any animal or inflicts cruelty upon it or if a minor child, his/her parent or guardian shall be subject to a civil penalty not to exceed \$1,000.

Any person who, having impounded or confined any animal, fails to give such animal proper care or fails to supply any such animal with proper food, drink or protection from the weather or abandons it shall be subject to a civil penalty not to exceed \$1,000.

Any person who unjustifiably administers any poisonous or noxious drug or substance to any domestic animal or unjustifiably exposes any such drug or substance, with intent that the same shall be taken by an animal, or causes it to be done, shall be subject to a civil penalty not to exceed \$1,000.

The animal control officer and any member of the tribal police may interfere to prevent any act of cruelty upon any dog or other animal, and any person who interferes with or obstructs or resists such officer in the discharge of such duty shall be subject to a civil penalty not to exceed \$500.

The provisions of this Section shall not apply to any licensed veterinarian

while following accepted standards of practice of the profession, to any member of the tribal police while lawfully acting within the scope of their duties, to any person acting pursuant to Section 8 of this law or to any person while lawfully engaged in the taking of wildlife.

21 M.P.T.L. ch. 1 § 8

§ 8. Fighting Animals for Amusement or Gain

a. Any person may lawfully kill or injure an animal provided that such animal has suddenly and without provocation assaulted him or another person. The force used shall be the minimum amount necessary to stop the assault.

b. Any person who knowingly 1) owns, possesses, keeps, or trains an animal engaged in an exhibition of fighting for amusement or gain, 2) possesses, keeps, or trains an animal with the intent that it be engaged in an exhibition of fighting for amusement or gain, 3) permits an act described in this subsection to take place on premises under his control, 4) acts as judge or spectator at an exhibition of animals fighting for amusement or gain, or 5) bets or wagers on the outcome of an exhibition of animal fighting for amusement or gain, shall be subject to a civil penalty not to exceed \$1,000.

c. Any person who knowingly permits an animal who has been trained or who has engaged in an exhibition of fighting for amusement or gain or any animal who has participated in an exhibition of fighting for amusement or gain to roam or who has been found to be in violation of Section 5 of this law shall be strictly liable for the damage caused by such animal and the court shall have discretion to award triple the amount of such damage.

21 M.P.T.L. ch. 1 § 9

§ 9. Complaints of Vicious Dogs

a. Whoever is assaulted by a dog, or whose own dog or cat is attacked by a dog, may within four days thereafter, make a written complaint to the animal control officer who shall investigate the said complaint. Upon the finding of just cause for the said complaint, the animal control officer shall file a written report with the office of the tribal prosecutor who shall, within 10 days of receipt of the report, file a complaint with the tribal court. The tribal prosecutor shall cause the owner of the vicious dog to be served with a complaint if the tribal prosecutor believes, or has reason to believe, that said dog is dangerous and/or vicious. If after hearing, the tribal court is satisfied that the complaint is true, the court shall order the destruction of the dog at the owner's expense, or if a minor child, at the parents' or guardian's expense.

b. If an animal is found to be vicious under this Section and/or Section 10, its owner or keeper, or if a minor child, his/her parent or guardian, may be fined up to \$500 and shall be liable for any injuries to person or animal caused by the vicious dog.

21 M.P.T.L. ch. 1 § 10

§ 10. Quarantine of Biting Animals

a. Duty to Report. When any person or animal is bitten or shows visible evidence of attack by an animal, it shall be the duty of such person or, if a minor child, his/her parent or guardian, and the owner or keeper of the animal, to immediately notify the animal control officer of the incident.

b. Quarantine of Animals. Any animal which has bitten shall be placed into quarantine for a period of 14 days. If the owner of the animal is known, the quarantine may take place on the owner's property providing that they are able to comply with the quarantine instructions. Failure to comply will result in the seizure of the animal for the remainder of the quarantine period and the owner, agent or keeper of the animal shall be subject to the general penalties provision. If the owner of the animal is unknown, the quarantine shall take place at an approved by the Public Safety Committee facility.

21 M.P.T.L. ch. 1 § 11

§ 11. Safety Provisions

a. Interference with the animal control officer or the animal control officer's representatives: No one shall interfere with, molest, hinder, or prevent the animal control officer or the animal control officer's representatives in the discharge of their duties as herein prescribed or to violate any of the provisions of this Law.

b. Penalty for violations: Unless otherwise provided in this Law, any person who violates any of the provisions of this Law shall be fined no less than \$50 nor more than \$200.

c. Any person who intentionally kills or injures any animal while such animal is in the performance of its duties under the supervision of a member of the tribal police shall be subject to a civil penalty not to exceed \$500. In addition to the said penalty, in the event the animal is killed or injured so badly that it is not able to continue its duties, the person who killed or injured the animal shall pay all costs associated with caring for and/or replacing the animal.

CHAPTER 2. SECURITY GATE PROJECT

21 M.P.T.L. ch. 2 § 1

§ 1.

The Tribal Council has enacted the security gate procedures for the use of the security gate system on the Mashantucket Pequot Reservation and it is also necessary to establish fines for violations of the security gate system.

Pursuant to the civil regulatory power of the Mashantucket Pequot Tribe, the following regulations, fines, and penalties shall apply to the Mashantucket Pequot Security Gate Procedures:

a. No person may loan or otherwise voluntarily cause to make a security pass available to an unauthorized person. Violation of the provisions of this Section shall be an infraction punishable by a fine of \$250.

b. No person may assist the entry of an unauthorized automobile through any security gate. Violation of the provision of this Section shall be an infraction punishable by a fine of \$250.

c. No person may damage any security gate. Violation of the provision of this Section shall be an infraction punishable by a minimum fine of \$500. In addition, any person in violation of this Section may be required to reimburse the Tribe for the cost of any repair to the damaged gate.

TITLE 22. TRIBAL NOTICE LAW (RESERVED)

Reserved

TITLE 23. FOREIGN JUDGMENTS, WAGE EXECUTIONS & SUBPOENAS

CHAPTER 1. RECOGNITION OF FOREIGN JUDGMENTS

23 M.P.T.L. ch. 1 § 1

§ 1. Definitions

The following words and phrases are defined for the purposes of this Title:

a. "Foreign Judgment" means any final judgment of a court or agency of competent jurisdiction in the United States, other than the Mashantucket Pequot Tribal Courts.

b. "Employer" means the Mashantucket Pequot Tribal Nation, its enterprises, governmental divisions or departments thereof, including the Mashantucket Pequot Gaming Enterprise and Pequot Pharmaceutical Network, but does not include any entity owned in whole or part by the Tribe and formed under the laws of any state.

c. "Issuing Tribunal" means the tribunal which rendered the Foreign Judgment.

d. "Judgment Creditor" means a party to whom an obligation is owed under the Foreign Judgment.

e. "Judgment Debtor" means a party who owes and is responsible for payment of an obligation under the foreign judgment.

f. "Tribal Court" means the Mashantucket Pequot Tribal Court.

23 M.P.T.L. ch. 1 § 2

§ 2. Filing of Foreign Judgment. Enforcement

a. Any party seeking to have a Foreign Judgment recognized and enforced in the Tribal Court, may do so by:

(1) Filing a certified copy of the Foreign Judgment with the Tribal Court; and

(2) Filing a certification that the Foreign Judgment is final, has not been modified, altered, amended, set aside or vacated, and that the enforcement of the Foreign Judgment has not been stayed or suspended. The certification shall set forth the full name and last-known address of the Judgment Debtor and the name and address of the Issuing Tribunal; and

(3) Filing with the Tribal Court proof that the filings required by subsections 1 and 2 above, have been sent via certified mail or personally served upon the party against whom the Foreign Judgment will be enforced; and

(4) Payment of a fee of \$25.00 to the Tribal Court Clerk.

b. The Tribal Court shall not act upon any Foreign Judgment until the expiration of 20 days from the filing of the items required by subsections (a)(1)-(4) above. A party may file an objection to the recognition and enforcement of a Foreign Judgment within 20 days from the filing of the items required by subsections (a)(1)-(4).

23 M.P.T.L. ch. 1 § 3

§ 3. Notification

Within five days after the filing of such judgment and certification, the Judgment Creditor or Judgment Creditor's attorney shall present a summons to the Tribal Court Clerk for signature and shall notify the Judgment Debtor of the filing by registered or certified mail at the Judgment Debtor's last known address or by personal service pursuant to Tribal law. The Court shall not act on any Foreign Judgment for a period of 20 days from the filing thereof, and no action to enforce such judgment shall be taken until proof of service has been filed with the Court.

23 M.P.T.L. ch. 1 § 4

§ 4. Stay of Proceedings, Modifications, Hearings

a. If either party files an affidavit and supporting documents from the Issuing Tribunal that an appeal from the Foreign Judgment is pending in a foreign jurisdiction or that a stay of execution has been granted, the Court shall stay enforcement of the Foreign Judgment until the appeal is concluded or the stay of execution expires or is vacated.

b. If either party files an affidavit and supporting documents from the Issuing Tribunal that such Foreign Judgment has been modified or amended, the Court shall enforce such Foreign Judgment as so modified or amended.

c. The Tribal Court may accept the jurisdictional facts and other information documented in the certified copy of the Foreign Judgment as presumptively true.

A Foreign Judgment so recognized shall have the same effect and may be enforced or satisfied in the same manner as any like judgment of the Tribal Court provided that in modifying or altering such Foreign Judgment, the substantive law of the Issuing Tribunal shall be controlling.

23 M.P.T.L. ch. 1 § 5

§ 5. Enforceability

a. Upon motion to the Court, either party shall be entitled to a hearing on any disputed issue of fact or law concerning the enforceability of the Foreign Judgment in Tribal Court. A Foreign Judgment shall not be enforceable in Tribal Court if the Issuing Tribunal lacked jurisdiction. The party challenging the enforceability of the Foreign Judgment shall bear the burden of proof.

b. A Foreign Judgment shall become a judgment of the Tribal Court and shall be enforceable provided that such judgment is valid and enforceable and does not contravene the public policy of the Mashantucket Pequot Tribe.

CHAPTER 2. WAGE EXECUTIONS

23 M.P.T.L. ch. 2 § 1

§ 1. Application

If a Judgment Debtor fails to comply with an installment payment order or satisfy a Tribal Court judgment, the Judgment Creditor may apply to the Tribal Court for a wage execution. The application shall contain the Judgment Creditor's or the Judgment Creditor's attorney's statement:

a. Setting forth the particulars of the installment payment order, if any; and

b. The Judgment Debtor's failure to comply with such installment payment order

and Judgment Debtor's failure to otherwise satisfy the Tribal Court Judgment.

23 M.P.T.L. ch. 2 § 2

§ 2. Installment Payment Order

Prior to issuing a wage execution the Court may in its discretion enter an installment payment order which order shall include direction as to the circumstances under which a wage execution shall be issued.

23 M.P.T.L. ch. 2 § 3

§ 3. Amount Subject to Levy

a. Except as provided in subsection b hereof, the maximum part of the aggregate disposable income, as defined in 6 M.P.T.L., Chapter 8, Section 1(d), of a Judgment Debtor for any workweek which may be subject under this law to levy or other withholding for payment of judgments may not exceed:

(1) Where such Judgment Debtor is supporting a dependent child pursuant to Title VI, Chapter 8 (other than a child with respect to whose support such order is used), 50% of the Judgment Debtor's disposable income for that week;
and

(2) Where such Judgment Debtor is not supporting such dependent child described in subsection a(1) hereof, 60% of the Judgment Debtor's disposable income for that week.

b. The maximum portion of the aggregate disposable income of a Judgment Debtor for any work week which is subject to garnishment for any one judgment shall not exceed:

(1) 25% percent of the Judgment Debtor's disposable income for that week; or

(2) The amount by which the Judgment Debtor's disposable income for that week exceeds 30 times the Federal minimum hourly wage prescribed by Section 206(a)(1) of Title 29 of the U.S. Code in effect at the time the income is payable, whichever is less.

c. The restrictions of subsection (b) above do not apply in the case of:

(1) Any order for the support of any person issued by a Foreign Tribunal or in accordance with an administrative procedure, which is established by law, which affords substantial due process, and which is subject to judicial review.

(2) Any order of any tribunal or court of the United States having jurisdiction over cases under Chapter 13 of Title 11 of the United States Code.

(3) Any debt due for any tribal or federal tax.

23 M.P.T.L. ch. 2 § 4

§ 4. Issuance

Upon receipt of the application and subject to the provisions of this law, the Tribal Court shall issue a wage execution against the Judgment Debtor to enforce payment of the judgment.

23 M.P.T.L. ch. 2 § 5

§ 5. Contents

The wage execution shall include:

- a. the names and last-known addresses of the Judgment Creditor and Judgment Debtor;
- b. the name of the Issuing Tribunal and the date on which the money judgment was rendered, if not the Mashantucket Pequot Tribal Court, then as recognized by the Tribal Court;
- c. the original amount of the money judgment and the amount due thereon;
- d. any limitation on the execution ordered by the Tribal Court pursuant to a motion for modification thereof;
- e. the portion of the Judgment Debtor's income which is subject to levy thereunder, or the information necessary to determine such portion;
- f. any information which the Judgment Creditor provides to identify the Judgment Debtor's Employer; and
- g. the signature of the Tribal Court Judge.

The wage execution shall notify the Employer in the manner prescribed by this section for complying with the wage execution and shall be accompanied by a notice of Judgment Debtor's right and a claim form.

23 M.P.T.L. ch. 2 § 6

§ 6. Service

a. The Tribal Court shall deliver the wage execution to the Senior Financial Officer for all Mashantucket Pequot Gaming Enterprise employees or to the Chief Financial Officer of the Mashantucket Pequot Tribal Nation for all other employees and receipt thereof shall be deemed service upon the Employer as required herein. The Employer will be served with:

- (1) two copies of the wage execution;

(2) the required notice of Judgment Debtor's rights; and

(3) the claim forms.

b. On receipt thereof, the Employer shall forthwith deliver a copy thereof to the Judgment Debtor, or mail such copy postage prepaid to the Judgment Debtor at Judgment Debtor's last-known address. Upon service of the wage execution on the Employer, the wage execution shall automatically be stayed for a period of 20 days and shall thereafter immediately become a lien and continuing levy on such portion of the Judgment Debtor's income as is specified therein, provided if a claim is filed within 20 days of such service on the Employer, the stay shall continue until determination of the claim.

c. The Employer shall levy on all salary or wages which are due or become due to the Judgment Debtor to the extent specified in the wage execution, until the judgment is satisfied, or the wage execution is modified pursuant to the provision of Chapter 2, Section 9 hereof, or set aside.

d. Any income withholding order for child support pursuant to Title 6, Chapter 8 shall take priority over any wage execution issued in accordance herewith.

e. Any income withheld for the Internal Revenue Service shall take precedence over all other garnishments.

23 M.P.T.L. ch. 2 § 7

§ 7. Expiration of Wage Execution

A wage execution shall be served within one year from its issuance and returned to the Tribal Court within 30 days from the satisfaction of the judgment.

23 M.P.T.L. ch. 2 § 8

§ 8. Employer Responsibilities

Any Employer served with a wage execution shall, upon expiration of the automatic 20 day stay of execution and subject to any further stay pursuant to a claim, pay over to the Judgment Creditor or the Judgment Creditor's attorney such portion of the Judgment Debtor's nonexempt income as the wage execution prescribes until the judgment is satisfied or the wage execution modified or set aside. The payments to the Judgment Creditor or the Judgment Creditor's attorney in compliance with the wage execution shall bar any action against the Employer for such payments. Any amount so recovered by the Judgment Creditor shall be applied toward payment of the judgment.

23 M.P.T.L. ch. 2 § 9

§ 9. Modification

Either party may apply at any time to the Issuing Tribunal for a modification of the wage execution. After notice and hearing or pursuant to a stipulation, the Tribal Court may make such modification of the wage execution as is reasonable.

23 M.P.T.L. ch. 2 § 10

§ 10. Assignment of Income

Any assignment by the Judgment Debtor of the Judgment Debtor's income shall be void except payments due for support in child support cases including payments pursuant to an income withholding order for child support in accordance with Title 6 of the Tribal Laws. Assignment of Incentive payments is prohibited except if it is both for payment due as described in this section and is in writing signed by the tribal member and approved by the General Counsel or the Chief Operating Officer for the Mashantucket Pequot Tribe.

23 M.P.T.L. ch. 2 § 11

§ 11. Other Attachment

In the event that a Judgment Creditor has obtained a judgment for monetary damages in the Tribal Court including recognition of a Foreign Judgment and such judgment remains unsatisfied for 30 days after awarded or filed, the Tribal Court may, upon motion filed by the Judgment Creditor to attach the assets, or any part thereof, of the Judgment Debtor, notice of which has been given to the Judgment Debtor as provided herein, issue an order for the attachment of personal property of the Judgment Debtor or the garnishment of any debts owed to such Judgment Debtor as shall be reasonably necessary to satisfy said judgment. Furthermore, in the event that a judgment has been entered which is on appeal, the Tribal Court may, in its discretion, issue an order of attachment or garnishment while said appeal is pending if the Court deems such order is reasonably necessary to preserve the ability of the Judgment Creditor to obtain satisfaction of said judgment, or the Court, in its discretion, has determined that such appeal has been taken solely for the purposes of delay or in order to frustrate the collections of any eventual judgment. The motion for attachment must state the day, time, and place of hearing, and the Judgment Creditor shall mail a copy of such motion to the Judgment Debtor, by registered or certified mail, at the Judgment Debtor's last known address or by personal service pursuant to Tribal law.

**CHAPTER 3. SUBPOENAS DIRECTED TO THE MASHANTUCKET PEQUOT TRIBAL NATION,
ITS ENTITIES FOR APPEARANCE OR PRODUCTION OF DOCUMENTS**

23 M.P.T.L. ch. 3 § 1

§ 1. Issuance

The Tribal Court may issue a subpoena requiring the appearance of a witness or production of a specified document(s) or other thing pursuant to a letter of request issued by a Foreign Tribunal.

23 M.P.T.L. ch. 3 § 2

§ 2. Requirements

Any active member of any Bar may file with the Tribal Court a letter of request and finding from any Foreign Tribunal that the particular testimony or the production of the document(s) or other thing is necessary in the interest of justice, and in other than a criminal action or proceeding, that it is not possible to obtain the production of the document or other thing in any other manner, issued by a Judge or Clerk of said Foreign Tribunal requesting the issuance of a subpoena directed to the Mashantucket Pequot Tribe, its entities, and/ or its employees. Notice of the intention to request the issuance of such subpoena from the Mashantucket Pequot Tribal Court shall be given by the requesting party to the subject of the request prior to the filing for the issuance of such subpoena, and a copy of said notice shall be filed with the letter of request. Within five days after the filing of such letter, the Tribal Court shall cause a subpoena to be issued in accordance with Rule 45 of the Mashantucket Pequot Tribal Laws.

23 M.P.T.L. ch. 3 § 3

§ 3. Service

The subpoena shall be served by the Tribal Police within the Mashantucket Pequot Tribal lands by delivering a copy thereof to the witness or Records Keeper with a copy to the Office of Legal Counsel for the Mashantucket Pequot Tribe. Proof of service when necessary shall be made by filing with the Clerk of the Tribal Court a true and attested copy of the subpoena endorsed with a statement of the date, manner of service, and the name of the persons served, certified by the person who made the service.

23 M.P.T.L. ch. 3 § 4

§ 4. Objection

The Office of Legal Counsel or any interested party thereto may within 14 days after service of the subpoena or request for a subpoena or before the time specified for appearance or compliance if such time is less than 14 days after service, notify by regular or certified mail the party or attorney designated in the subpoena written objection to the issuance of such subpoena.

Upon timely motion, the Court shall quash or modify the subpoena if it

- (1) lacks jurisdiction;
- (2) fails to allow reasonable time for compliance;
- (3) requires a person who is not a named party to travel to a place more than 30 miles of the Mashantucket Pequot Reservation;
- (4) is overly broad, vague or frivolous;
- (5) requires disclosure of privileged or other protected matter and no exception or waiver applies;
- (6) subjects the Mashantucket Pequot Tribe, its entities and employee to undue burden; or
- (7) requires disclosure of a trade secret or other confidential research, development or commercial information.

23 M.P.T.L. ch. 3 § 5

§ 5. Service upon Governmental Authority

When a subpoena for the production of books, papers, documents or tangible things is served upon the Mashantucket Pequot Tribe, its entities and employees, it shall be deemed a sufficient response to the subpoena if the employee of the entity charged with the responsibility of being custodian of the original records promptly provides the attorney for the party causing service of the subpoena copies of all documents requested by the subpoena pursuant to this law. All responses to the subpoena shall contain a certificate which shall be signed before a Notary Public by the employee of the entity charged with the responsibility of being custodian of the records and shall include a legend substantially to the following effect:

"The copies of records for which this certification is made are true and complete reproductions of the original records which are in the possession of the Mashantucket Pequot Tribal Nation and if it is the case the original records were made in the regular course of business, and it was the regular course of Mashantucket Pequot Tribal Nation to make such records at or near the time of the matter recorded. This certification is given pursuant to the Mashantucket Pequot Tribal Laws by the custodian of the records in lieu of his or her personal appearance."

Documents or records of the Mashantucket Pequot Tribal Nation that are susceptible to photostatic reproduction may be proved as to foundation, identify, and authenticity without any preliminary testimony, by use of legible and durable copies, certified in the manner prescribed above by the employee of the Mashantucket Pequot Tribal Nation charged with the responsibility of being custodian of the originals thereof. The copies may be used in any trial hearing, deposition, or any other judicial or administrative action or proceeding, whether civil or criminal, in lieu of the original documents or

records which, however, the entity shall hold available for inspection and comparison by the foreign court, tribunal, or hearing officers and by the parties and their attorneys of record.

In the event any of the entities are unable to provide the documents requested in the subpoena due to the timeliness of the service of the subpoena or for other legal reasons, then the employee charged with the responsibility of being custodian of the records for the entity shall set forth in the certificate required hereunder the specific reasons for the noncompliance, the time of service of the subpoena, and if appropriate the time anticipated in complying with the subpoena.

23 M.P.T.L. ch. 3 § 6

§ 6. Deposition

Pursuant to the above requirements of this law, the Tribal Court Clerk may issue a subpoena for the appearance of the employee charged with the responsibility of being custodian of the original records to appear at a place within the borders of the Mashantucket Pequot Reservation for a deposition.

23 M.P.T.L. ch. 3 § 7

§ 7. Testimony

If the deposition of any employee charged with the responsibility of being custodian of the original records is inadmissible at trial through no fault of either party, the Tribal Court Clerk shall issue a subpoena for the appearance of the custodian of the original records to appear at trial provided such appearance of said custodian is within 30 miles of the Mashantucket Pequot Reservation.