

## **TITLE IX - CRIMINAL CODE**

### **CHAPTER 50 - CRIMINAL OFFENSES**

#### **Sec. 50.1      Abduction**

Any Indian who shall willfully take away or detain another person against his will or takes, detains, or entices a child under eighteen (18) from custody of its parents or other lawful custodian, when he lacks lawful permission to do so, shall be guilty of an offense of abduction and, upon conviction thereof, shall be sentenced to confinement for a period of not more than six (6) months or to pay a fine of not more than \$500.00 or both, with costs.

Formerly Sec.13.1, Santa Clara Law and Order Code 1985.

#### **Sec. 50.2      Abuse of Office**

Any Indian acting or purporting to act for the Pueblo in an official capacity, taking advantage of such official or purported capacity, who knowing that his conduct is illegal, shall subject another to arrest, detention, search, seizure, mistreatment, dispossession, assessment, lien or other infringement of person or property rights or shall deny or impede another in the exercise of enjoyment of any right, privilege, power or immunity, shall be guilty of an offense, and upon conviction thereof, shall be sentenced to confinement for a period of not more than three (3) months or to pay a fine of not more than \$300.00 or both, with costs.

Formerly Sec.13.2, Santa Clara Law and Order Code 1985.

#### **Sec. 50.3      Adulteration of Food or Drink**

Any Indian who shall knowingly manufacture, sell or keep or offer for sale any food or drink, in the making of which any harmful or foreign substance is used, shall be guilty of an offense and, upon conviction thereof, shall be sentenced to confinement for a period of not more than three (3) months or to pay a fine of not more than \$300.00 or both, with costs.

Formerly Sec.13.3, Santa Clara Law and Order Code 1985.

#### **Sec. 50.4      Assault**

Any Indian who shall attempt to threaten bodily harm to another person through use of unlawful force or violence or verbal threats shall be guilty of assault and, upon conviction thereof, shall be sentenced to confinement for not more than three (3) months or to pay a fine of not more than \$300.00 or both, with costs. In the discretion of the Court, such offender may be required to furnish a satisfactory bond to keep the peace.

Formerly Sec.13.4, Santa Clara Law and Order Code 1985.

Sec. 50.6      Assault and Battery

Any Indian who shall willfully strike another Indian or otherwise intentionally inflict bodily injury on another Indian or who shall cause another to harm himself shall be guilty of assault and battery and, upon conviction thereof, shall be sentenced to confinement for a period of not more than six (6) months or to pay a fine of not more than \$500.00 or both, with costs. In the discretion of the Court, such offenders may be required to pay any hospital and doctor bills for treatment of injuries as a result of the assault and battery and support the victim's family during the victim's incapacity to work and to furnish a satisfactory bond to keep the peace.

Formerly Sec.13.6, Santa Clara Law and Order Code 1985.

Sec. 50.7      Bigamy

Any Indian who being married, to another intentionally marries any other human shall be guilty of an offense of bigamy; provided, that no Indian shall be guilty thereof who believes that the prior spouse is dead or whose original spouse shall have, been absent for seven (7) successive years, without being known to be living or, if the original marriage has been presumed to be dissolved, pronounced void or annulled by the decree of a Court of competent jurisdiction. Upon conviction thereof, such Indian shall be sentenced to confinement for a period of not more than ninety (90) days or to pay a fine of not more than \$180.00 or both, with costs.

Formerly Sec.13.7, Santa Clara Law and Order Code 1985.

Sec. 50.8      Breaking and Entering

Any Indian who breaks into or attempts to break into any dwelling, boat or building or any nature or other property without permission of the owner or custodian by use of any force whatever with intent to commit any crime shall be deemed guilty of an offense and, upon conviction thereof, shall be sentenced to confinement for a period of not more than six (6) months or to pay a fine of not more than \$500.00 or both, with costs, any may he required to make proper restitution by order of the Court.

Formerly Sec.13.8, Santa Clara Law and Order Code 1985.

Sec. 50.9      Bribery

Any Indian who shall give or offer to give any money, property, services or other gain or advantage to another human with corrupt intent to influence another in the discharge of his public duties or conduct and any Indian who shall accept, solicit or attempt to solicit any bribe as above defined, shall be guilty of an offense and, upon conviction thereof, shall be sentenced to confinement for a period of not more than six (6) months or to pay a fine of not more than \$500.00 or both, with costs, and shall forfeit any public office held in the Pueblo.

Formerly Sec.13.9, Santa Clara Law and Order Code 1985.

## Sec. 50.10 Causing or Aiding Suicide

Any Indian who shall purposely aid another to commit suicide shall be guilty of an offense and, upon conviction thereof, shall be sentenced to confinement for a period of not more than six (6) months or to pay a fine of not more than \$500.00 or both, with costs.

Formerly Sec.13.10, Santa Clara Law and Order Code 1985.

## Sec. 50.11 Child Abuse and Child Abandonment

1. "Child abuse" consists of a person knowingly, intentionally, or negligently, and without justifiable cause, causing or permitting the infliction of physical, emotional or mental injury on a child, or the sexual abuse or sexual exploitation of a child.

2. "Child abandonment" consists of the parent, guardian or custodian of a child intentionally leaving a child under circumstances whereby the child suffered neglect.

3. "Neglect" means leaving a child without adequate food, clothing, shelter, medical care, education or supervision necessary for the child's health and well-being.

4. First Offense: Any Indian who commits child abuse or child abandonment that does not result in the child's death or great bodily harm is, for a first offense, guilty of a crime, and upon conviction thereof may be imprisoned for a period of not more than six (6) months, or fined not more than \$600, or both imprisoned and fined.

5. Second or Subsequent Offense: Any Indian who commits child abuse or child abandonment that does not result in the child's death or great bodily harm is, for a second or subsequent offense, guilty of a crime, and upon conviction thereof may be imprisoned for a period of not more than nine (9) months, or fined not more than \$900, or both imprisoned and fined. 6. Death or great bodily harm: Any Indian who commits child abuse or child abandonment that results in the child's death or great bodily harm is guilty of a crime, and upon conviction thereof may be imprisoned for a period of not more than three hundred sixty-four (364) days or fined not more than \$1000, or both imprisoned and fined.

Formerly Sec.13.11, Santa Clara Law and Order Code 1985; amended by Res. No. 2013-69, adopted Dec, 18, 2013, approved by Sec'y April 24, 2014.

## Sec. 50.13 Contribution to the Delinquency of a Minor

Any Indian who shall willfully, by an action or omission, willfully encourage or contribute to the delinquency of any child (under eighteen (18) years of age) as specified in the Children's Code, shall be guilty of an offense and, upon conviction thereof, shall be sentenced to confinement for a period of not more than three (3) months or to pay a fine of not more than \$300.00 or both, with costs.

Formerly Sec.13.13, Santa Clara Law and Order Code 1985.

#### Sec. 50.14     Curfew

Except when attending ceremonial or religious affairs or fiestas, any minor who shall be or any Indian who shall permit his minor children or any minor children under his care to be, without good cause on the streets, highways or other public places on the Reservation between the hours of 10:00 P.M. to 6:00 A.M. for those under the age of fourteen (14) years and between the hours of 10:00 P.M. and 6:00 A.M. for those ages fourteen (14) to seventeen (17), inclusive, on any night preceding a school day or between the hours of 10:00 P.M. to 6:00 A.M. for those under the age of fourteen (14) years and between the hours of 10:00 P.M. to 6:00 A.M. for those ages fourteen (14) to seventeen (17), inclusive, on any other night, shall be guilty of an offense and, upon conviction thereof, any adult shall be sentenced to imprisonment for a period of not to exceed fifteen (15) days or to pay a fine not to exceed \$50.00 or both, with costs. Any minor who shall be detained for violation of this Section shall be referred to the Children's Court.

Formerly Sec.13.14, Santa Clara Law and Order Code 1985.

#### Sec. 50.15     Destruction of Evidence

Any Indian who shall willfully and knowingly destroy or withhold any evidence that could be used in the trial of a case with intent to prevent same from being used, shall be guilty of an offense and, upon conviction thereof, shall be sentenced to confinement for a period of not to exceed sixty (60) days or to pay a fine of not to exceed \$200.00 or both, with costs.

Formerly Sec.13.15, Santa Clara Law and Order Code 1985.

#### Sec. 50.16     Disobedience to Lawful Order of Court

Any Indian who shall willfully disobey any order, subpoena, warrant or command duly intentionally obstructs vehicular or pedestrian traffic without lawful authority shall be guilty of an offense and, upon conviction thereof, shall be sentenced to confinement for not more than thirty (30) days or to pay a fine of not more than \$100.00 or both, with costs.

Formerly Sec.13.17, Santa Clara Law and Order Code 1985.

#### Sec. 50.17     Disorderly Conduct

Any Indian who uses abusive language and thereby intentionally creates a risk of assault or intentionally disrupts any lawful assembly or meeting of Indians without lawful authority or intentionally obstructs vehicular or pedestrian traffic without lawful authority shall be guilty of an offense and, upon conviction thereof, shall be sentenced to confinement for not more than thirty (30) days or to pay a fine of not more than \$100.00 or both, with costs.

Formerly Sec. 13.17, Santa Clara Law and Order Code 1985.

#### Sec. 50.18     Disposing of Property of an Estate

Any Indian who, without proper authority, takes, keeps, sells, trades or otherwise disposes of any property of any estate before the determination of the heirs of the property,

through proper procedures, shall be guilty of an offense and, upon conviction thereof, shall be sentenced to confinement for a period of not more than three (3) months or to pay a fine of not more than \$300.00 or both, with costs, and shall be required to return the property taken and make restitution as may be ordered by the Court.

Formerly Sec.13.18, Santa Clara Law and Order Code 1985.

#### Sec. 50.19     Disposing of Trust or Restricted Property

Any Indian who sells, trades, transfers or in any way disposes of any trust or restricted property, including livestock and increase therefrom, in violation of the Federal Government regulations and without proper permit, shall be deemed guilty of an offense and, upon conviction thereof, shall be sentenced to imprisonment for a period of not to exceed six (6) months or to a fine not to exceed \$360.00 or both, with costs. Where an indebtedness exists by the offender to the Pueblo or the United States under a loan agreement, the Court may order such property, upon its recovery, sold and the proceeds applied on the indebtedness.

Formerly Sec.13.19, Santa Clara Law and Order Code 1985.

#### Sec. 50.20     Distribution of Alcohol, Marijuana, Drugs to Children

Any Indian who shall sell or barter to give any alcoholic beverage, marijuana, drugs or any controlled substance as determined by a toxicologist to be harmful to any, children under the age of eighteen (18) years including any edible foodstuffs containing materials harmful to a child shall be guilty of an offense and, upon conviction thereof, shall be sentenced to confinement for a period of not more than six (6) months or to pay a fine of not more than \$500.00, or both, with costs.

Formerly Sec.13.20, Santa Clara Law and Order Code 1985.

#### Sec. 50.21     Drawing or Uttering Instrument on Bank with No Sufficient Funds or Credits

Any Indian who shall for a present consideration make or utter or deliver any check, draft or order for payment of money upon depository, knowing at the time of such making, drawing, uttering, or delivery that the maker or drawer has no sufficient funds in or on credit with such bank or other depository for the payment of such check, draft or order in full upon its presentation shall be guilty of an offense and, upon conviction thereof, shall be sentenced to confinement for a period of not more than sixty (60) days and to pay a fine of not more than \$200.00 or both, with costs, and may be required by order of the Court to make proper restitution.

Formerly Sec.13.21, Santa Clara Law and Order Code 1985.

#### Sec. 50.22     Embezzlement

Any Indian who shall, having lawful custody of property not his own, appropriate the same to his own use with intent to deprive the owner thereof shall be guilty of an offense and, upon conviction thereof, shall be sentenced to confinement for a period of not more than six (6) months or to pay a fine of not more than \$500.00 or both, with costs, and to make such restitution as may be required by order of the Court.

Formerly Sec.13.22, Santa Clara Law and Order Code 1985.

#### Sec. 50.23     Escape

Any Indian who, being in the lawful custody of a Law Enforcement Officer, shall unlawfully remove himself from official detention to escape or attempt to escape or who shall permit or assist another person to escape from lawful custody or who shall fail to return to official detention following leave granted for a specific purpose or a limited time (excluding probation, parole or release on bail) shall be guilty of an offense and, upon conviction thereof, shall be sentenced to confinement for a period of not more than six (6) months or to pay a fine of not more than \$500.00 or both, with costs.

Formerly Sec.13.23, Santa Clara Law and Order Code 1985.

#### Sec. 50.24     Extortion

Any Indian who shall willfully, by making false charges against another Indian or by any other means whatsoever, extort or attempt to extort any money, goods, property or anything else of value shall be guilty of an offense and, upon conviction thereof, shall be sentenced to confinement for a period of not more than three (3) months or to pay a fine of not more than \$300.00 or both, with costs, and may be required to make proper restitution.

Formerly Sec.13.24, Santa Clara Law and Order Code 1985.

#### Sec. 50.25     Failure to Send Children to School

Any Indian who shall, without good cause, neglect or refuse to send his children or any children under his care to school who, from the age of eight (8) to under fifteen (15), and from fifteen (15) to under eighteen (18) years of age not lawfully engaged in some useful occupation or attending part-time school, unless otherwise excused, shall be guilty of an offense and, upon conviction thereof, shall be sentenced to confinement for a period of not more than thirty (30) days or to pay a fine of not more than \$100.00 or both, with costs, and ordered to send their children to school,

Formerly Sec.13.25, Santa Clara Law and Order Code 1985.

#### Sec. 50.26     False Alarm

Any Indian who knowingly causes a false alarm of fire or other emergency to be transmitted to any organization, official or volunteer having responsibility for dealing with

emergencies involving danger to life and property, shall be guilty of an offense and, upon conviction thereof, shall be sentenced to confinement for a period of not more than fifteen (15) days or to pay a fine of not more than \$50.00 or both, with costs.

Formerly Sec.13.26, Santa Clara Law and Order Code 1985.

Sec. 50.27     False Arrest

Any Indian who shall willfully and knowingly make or cause to be made, the unlawful arrest, detention or imprisonment of another Indian shall be guilty of an offense and, upon conviction thereof, shall be sentenced to confinement for a period of not more than six (6) months or to pay a fine of not more than \$500.00 or both, with costs.

Formerly Sec.13.27, Santa Clara Law and Order Code 1985.

Sec. 50.28     Fire; Failure to Control or Report

Any Indian who knows that a fire is endangering life or property and fails to give a prompt fire alarm or fails to take reasonable measures to put out or control the fire without danger to himself if he knows that he is under an official, contractual or other legal duty to prevent or to combat the fire, or if any fire was started in any manner, including throwing of any lighted material, lawfully or unlawfully by any Indian or with his assent on any property, private or public, whether or not in his custody or control, that endangers life or property shall be deemed guilty of an offense and, upon conviction thereof, shall be sentenced to confinement for a period of not more than three (3) months or to pay a fine of not more than \$250.00 or both, with costs, and may be liable for damages in an amount determined by the Court, and parents of minor children who violate this Section may be held liable.

Formerly Sec.13.28, Santa Clara Law and Order Code 1985.

Sec. 50.29     Flags; Desecration Thereof

Any Indian who in any manner for exhibition or display shall place or cause to be placed any mark, word or design upon or shall publicly mutilate, deface or defile an official flag, color or design of the United States or the Pueblo of Santa Clara shall be guilty of an offense and, upon conviction thereof, shall be sentenced to confinement for a period of not more than five (5) days or to pay a fine of not more than \$50.00 or both, with costs.

Formerly Sec.13.30, Santa Clara Law and Order Code 1985.

Sec. 50.30     Flight to Avoid Prosecution

Any Indian who willfully and knowingly shall flee from the Pueblo of Santa Clara or the jurisdiction of the Tribal Court to avoid prosecution or to avoid giving testimony in a case pending before the Tribal Court shall be deemed guilty of an offense and, upon conviction

thereof, shall be sentenced to imprisonment for a period not to exceed thirty (30) days or to pay a fine not to exceed \$60.00 or both, with costs.

Formerly Sec.13.30, Santa Clara Law and Order Code 1985.

#### Sec. 50.31     Forgery and Counterfeiting

Any Indian who shall, with intent to defraud, falsely sign, utter, execute, alter or counterfeit any written instrument, check or currency shall be guilty of forgery and, upon conviction thereof, shall be sentenced to confinement at labor for a period of six (6) months or to pay a fine of not more than \$500.00 or both, with costs, and may be required to make restitution.

Formerly Sec.13.31, Santa Clara Law and Order Code 1985.

#### Sec. 50.32     Fraud

Any Indian who shall by willful misrepresentation or deceit or by falsely interpreting or by the use of false weights of measures, obtain any money or other property shall be guilty of fraud and, upon conviction thereof, shall be sentenced to confinement for a period of not more than three (3) months or to pay a fine of not more than \$300.00 or both, with costs, and may be required by order of the Court to make proper restitution.

Formerly Sec.13.32, Santa Clara Law and Order Code 1985.

#### Sec. 50.33     Gambling

Any Indian who operates or participates in any game of chance or lottery to win money or other valuable consideration or operates a place or device where a risk is taken on a chance of winning money or other valuable property shall be guilty of an offense and, upon conviction thereof, shall be sentenced to confinement for a period of not more than fifteen (15) days or to pay a fine of not more than \$50.00 or both, with costs, and all gambling equipment, materials, and supplies may be confiscated. This Section shall not apply to those games of chance or lottery authorized by the Council, or traditional games of chance operated by Tribal members in their own right.

Formerly Sec.13.33, Santa Clara Law and Order Code 1985.

#### Sec. 50.34     Indecent Exposure

Any Indian who publicly exposes their sexual organ under circumstances in which this conduct is likely to cause affront or fear shall be guilty of an offense and, upon conviction thereof, shall be sentenced to confinement for a period of not more than thirty (30) days or to pay a fine of not more than \$100.00 or both, with costs, and may be compelled to undergo a medical examination and necessary treatment.

Formerly Sec.13.34, Santa Clara Law and Order Code 1985.



Sec. 50.35     Libel and Slander

Any Indian who shall with intent to harm the reputation of another willfully write a falsehood about another, knowing the same to be untrue shall be guilty of the offense of libel, and any Indian who shall, with intent to harm the reputation of another Indian, willfully speak a falsehood about another, knowing the same to be untrue, shall be guilty of an offense of slander and, upon conviction thereof, shall be sentenced to confinement for a period of not more than ninety (90) days or to pay a fine of not more than \$300.00 and may be required to make public retraction of the written or spoken falsehood.

Formerly Sec.13.35, Santa Clara Law and Order Code 1985.

Sec. 50.36     Liquor Violations

Any Indian who shall possess, to sell, trade, transport or manufacture any beer, ale, wine, whiskey or any materials whatsoever which produce alcoholic intoxication without a license issued by the Governor shall be deemed guilty of an offense and, upon conviction thereof, shall be sentenced to confinement for a period not to exceed sixty (60) days, or a fine of not more than \$120.00 or both, and all such materials, including vehicles used to transport same, may be confiscated by order of the Court.

Formerly Sec.13.36, Santa Clara Law and Order Code 1985.

Sec. 50.37     Malicious Mischief

Any Indian who shall maliciously disturb, deface, injure or destroy any tangible or personal property, including domestic animals or vandalize any property, not belonging to that person shall be guilty of an offense and, upon conviction thereof, shall be sentenced to confinement for a period of not more than three (3) months or to pay a fine of not more than \$300.00 or both, with costs, and may be required by order of the Court to make proper restitution. When any injury to persons or property is caused by the actions of an Indian under eighteen (18) years of age, the parents or guardians or custodians of such an individual will be held accountable for any damages resulting from these acts.

Formerly Sec.13.37, Santa Clara Law and Order Code 1985.

Sec. 50.38     Marijuana and Controlled Substances

Any Indian who shall plant, grow, cultivate, keep for sale, sell, barter, give, have possession of or use marijuana or other narcotic drugs or any controlled substance, determined by the Court to be harmful to the physical and mental health of the user, shall be guilty of an offense and, upon conviction thereof, shall be sentenced to confinement for a period of not more than six (6) months or to pay a fine of not more than \$500.00 or both, with costs.

Formerly Sec.13.38, Santa Clara Law and Order Code 1985.

Sec. 50.39     Obstructing Justice

Any Indian who, with the purpose of hindering the apprehension, prosecution, conviction or punishment of another for a crime shall harbor or conceal another person, provide a weapon, transportation or other means of escape, warns the other of impending discovery, or volunteer false information to a Law Enforcement Officer, shall be guilty of an offense and, upon conviction thereof, shall be sentenced to confinement for a period of not more than three (3) months or to pay a fine of not more than \$300.00 or both, with costs.

Formerly Sec.13.39, Santa Clara Law and Order Code 1985.

Sec. 50.40     Perjury

Any Indian who shall willfully and deliberately in any administrative or judicial proceeding in any Agency or Court of the Pueblo falsely swear or interpret or shall make a sworn statement or affidavit knowing the same to be untrue or shall induce to procure another person to do so shall be guilty of an offense and, upon conviction thereof, shall be sentenced to confinement for a period of not more than three (3) months or to pay a fine of not more than \$300.00 or both, with costs.

Formerly Sec.13.40, Santa Clara Law and Order Code 1985.

Sec. 50.41     Public Drunkenness; Drug Incapacitation; Enhanced Sentence

1. Any Indian who shall appear in any public place, including any Tribal or public meeting or gathering under the influence of alcohol or any other drug or narcotic, to the degree that he may endanger himself or another human or property or annoy any persons in his vicinity shall be guilty of an offense and upon conviction thereof, shall be sentenced to confinement for a period of not more than thirty (30) days or to pay a fine of not more than \$100.00 or both, with costs. The Court may, in its judgment, order the person upon conviction to participate in any available alcoholic or drug abuse program in lieu of the foregoing penalties which may be imposed upon failure of the person to follow the orders of the Court.

2. Any Indian who is convicted on at least two separate prior occasions in a tribal, federal, or state court for public drunkenness, drug incapacitation, or public intoxication by alcohol or drugs, shall be sentenced to confinement for a period of not more than 365 days or to pay a fine of not more than \$1,000, or both, with costs.

Formerly Sec.13.41, Santa Clara Law and Order Code 1985; Amended, Res. No. 2016-114 Sept. 12, 2016, approved by Sec'y, Mar. 30, 2017.

Sec. 50.41A    Possession of Alcoholic Beverage by a Person Under 21 Years of Age

Any Indian being under the age of 21 years, who shall possess or consume any beer, wine, ale, whiskey or other alcoholic beverage, or misrepresent his age for the purpose of purchasing or otherwise obtaining an alcoholic beverage, or appear in any public or private place while under the influence of an intoxicating beverage in any degree shall be guilty of an offence; and upon conviction thereof, shall be sentenced to confinement for a period of not more than thirty (30) days or to pay a fine of not more than \$100.00 or both, with costs. The Court may in

its judgment, orders the person upon conviction to participate in any available alcoholic or drug abuse program in lieu of the foregoing penalties, which may be re-imposed upon failure of the person to follow the orders of the Court.

Enacted by Res. No. 01-20, April 24, 2001.

#### Sec. 50.42     Practice of Sniffing.

Any Indian who engages in the practice of sniffing or inhaling gas, glue or other substance, determined by the Court to be harmful to the physical and mental health of the user shall be guilty of an offense and, upon conviction thereof, shall be sentenced to confinement for a period of not more than three (3) months or to pay a fine of not more than \$500.00 or both, with costs. Any Indian under the age of eighteen (18) years who is charged with violating this Section shall be referred to the Children's Court, and any Indian age eighteen (18) years or older may be ordered to a drug rehabilitation center or program.

Formerly Sec.13.42, Santa Clara Law and Order Code 1985.

#### Sec. 50.43     Prostitution

Any Indian who shall engage or solicit to engage in sexual activity as a business or who Shall knowingly keep, maintain, rent or lease any house, boat, room, tent, motor vehicle or any kind of other place for the purpose of so engaging, and any person who shall procure any person to engage in such activities or live off the earnings of any person engaged in such activities, shall be guilty of an offense and, upon conviction thereof, shall be sentenced for a period of not more than six (6) months or to pay a fine of not more than \$300.00 or both, with costs.

Formerly Sec. 13.43, Santa Clara Law and Order Code 1985.

#### Sec. 50.44     Rape – Sexual Assault

1. Any Indian who engages in a sexual act with another person, who is not his spouse, or compels the other person to participate in such act by force or by threatening or place the other person in fear that any person will imminently to subjected to death, serious bodily injury or kidnaping or has substantially impaired the ability of the other person to appraise or control conduct by administering or employing a drug or intoxicant or by other means, without the knowledge or against the will of such other person or the other person is, in fact, less than twelve (12) years old, shall be guilty of an offense and, upon conviction thereof, shall be sentenced to confinement for a period not to exceed six (6) months or to pay a fine of not more than \$500.00 or both, with costs.

2. Any Indian who engages in a sexual act with another person who is not his spouse and knows that the other person is incapable of understanding the nature of the conduct or knows that the other person is physically incapable of resisting or of declining consent to the sexual act or knows that the other person is unaware that a sexual act is being committed or knows that the other person participates because of a mistaken belief that the actor is married to the other person or compels the other person to participate by any threat by placing the other person in fear shall be guilty of an offense and, upon conviction thereof, shall be sentenced to confinement for a

period of not to exceed six (6) months or to pay a fine of not more than \$500.00 or both, with costs.

3. As used in this Section, sexual act means conduct between human beings consisting of contact between the penis and the vulva, the penis and the anus, the mouth and the penis or the mouth and the vulva; provided that contact involving the penis occurs upon penetration, however slight, and sexual contact means a touching of the sexual or other intimate parts of a person to arouse or gratify the sexual desire of any person.

Formerly Sec.13.44, Santa Clara Law and Order Code 1985.

#### Sec. 50.45     Receiving Stolen Property

Any Indian who shall buy, receive or conceal or aid in receiving or concealing any property, knowing or having cause to know the same to be stolen, embezzled or obtained by fraud or false pretense, theft, burglary or robbery, shall be guilty of an offense and upon conviction thereof, shall be sentenced to confinement for a period of not more than six (6) months or to pay a fine of not more than \$500.00 or both, with costs, and may be ordered by the Court to make proper restitution.

Formerly Sec.13.45, Santa Clara Law and Order Code 1985.

#### Sec. 50.46     Recklessly Endangering Another Person

Any Indian who recklessly engages in conduct which places or may place another person in danger of death or bodily injury shall be guilty of an offense and, upon conviction thereof, shall be sentenced to confinement for a period of not more than three (3) months or to pay a fine of \$300.00 or both, with costs, and may be required to furnish a satisfactory peace bond for one (1) year.

Formerly Sec.13.46, Santa Clara Law and Order Code 1985.

#### Sec. 50.47     Refusing to Aid an Officer

Any Indian who shall neglect or refuse, when called upon by any Law Enforcement Official, to assist in the arrest of any Indian charged or convicted of an offense or in securing such offender when apprehended or in conveying such offender to the nearest place of confinement shall be guilty of an offense and, upon conviction thereof, shall be sentenced to confinement for a period of not more than thirty (30) days or to pay a fine of not more than \$100.00 or both, with costs, provided that no other responsibility shall attach to the person assisting the Law Enforcement Official at his request.

Formerly Sec.13.47, Santa Clara Law and Order Code 1985.

#### Sec. 50.48     Resisting Arrest

Any Indian who shall willfully and/or knowingly resist aid and abet or assist another Indian to resist arrest shall be guilty of an offense and, upon conviction thereof, shall be sentenced to confinement for a period of not more than sixty (60) days or to pay a fine of not

more than \$200.00 or both, with costs.

Formerly Sec.13.48, Santa Clara Law and Order Code 1985.

Sec. 50.49     Telephone Abuse

Any Indian who shall, with intent to annoy or alarm another, makes a telephone call without purpose of legitimate communication or insults, taunts or challenges another in a manner likely to provoke a violent response or makes repeated calls anonymously at extremely inconvenient hours or in offensively coarse and vulgar language or who refuses to surrender the use of a party line when the telephone is needed to report an emergency, shall be guilty of an offense and, upon conviction thereof, shall be sentenced to confinement for a period of not more than thirty (30) days or to pay a fine of not more than \$100.00 or both, with costs.

Formerly Sec.13.49, Santa Clara Law and Order Code 1985.

Sec. 50.50     Theft

Any Indian who, without permission of the owner, shall take, shoplift, possess or exercise unlawful control over movable property, not his own or under his control, with the purpose of depriving the owner thereof or who unlawfully transfers immovable property not his. own or any interest thereto shall be guilty of an offense and shall be sentenced to confinement for a period of not more than three (3) months or to pay a fine of not more than \$300.00 or both, with costs, if the value of such property is less than \$50.00 and shall be sentenced to confinement for a period of not more than six (6) months or to pay a fine of not more than \$500.00 if the value is \$50.00 or over. The Court may order proper restitution to be made in each case.

Formerly Sec.13.50, Santa Clara Law and Order Code 1985.

Sec. 50.51     Threat of Intimidation

Any Indian who aids and abets or who directly or indirectly utters or addresses any threat or unlawful harm to any person with the purpose to influence his decision, opinion, recommendation, vote or other exercise of discretion as a Pueblo employee or voter or to influence a Pueblo or public official to violate any public duty, shall be guilty of an offense and, upon conviction thereof, shall be sentenced to confinement for a period of not more than three (3) months or to pay a fine of not more than \$300.00 or both, with costs.

Formerly Sec.13.51, Santa Clara Law and Order Code 1985.

Sec. 50.52     Threat or Intimidation to Law Enforcement Official or Judge

Any Indian who shall use unjustified force or violence or threatens the use thereof on a Law Enforcement official or a Judge or the Tribal or Appellate Court for the purpose of interfering with or influencing the performance of an official duty, shall be guilty of an offense

and, upon conviction thereof, shall be sentenced to confinement for a period of six (6) months or to pay a fine of not more than \$500.00 or both, with costs.

Formerly Sec.13.52, Santa Clara Law and Order Code 1985.

#### Sec. 50.53     Unauthorized Use of Property, Including Vehicles

Any Indian who shall, without proper authority, use or injure any property not belonging to him or who shall operate or occupy another's automobile, motorcycle, minibike, motorboat, snowmobile or other motor-propelled vehicle without the consent of the owner shall be guilty of an offense and, upon conviction thereof, shall be sentenced to confinement at labor for a period of not more than three (3) months or to pay a fine of not more than \$300.00 or both, with costs.

Formerly Sec.13.53, Santa Clara Law and Order Code 1985.

#### Sec. 50.54     Unauthorized Use of Tribal Identification Card

Any enrolled member of the Pueblo of Santa Clara who willfully misuses or loans his or her Tribal identification card to another person not legally entitled to the benefits of membership, and any person not legally entitled thereto who willfully uses the identification card of a member of the Pueblo of Santa Clara shall be sentenced to confinement for a period of not more than six (6) months or to pay a fine of not more than \$500.00 or both.

Formerly Sec.13.54, Santa Clara Law and Order Code 1985.

#### Sec. 50.55     Unlawful Assembly, Riot or Conspiracy

1. Whenever three (3) or more Indians, having assembled for any purpose, shall disturb the public peace by using force or violence to any other person or to property or shall threaten or attempt to commit such disturbance or to do any unlawful act by the use of force or violence, accompanied with the power of immediate execution of such treat or attempt, the Indians involved shall be guilty of an offense and, upon conviction thereof, shall be sentenced to confinement for a period of not more than six (6) months or to pay a fine of not more than \$500.00 or both, with costs, and may be placed under such other as the Court may direct.

2. Whenever three (3) or more Indians shall assemble with intent to commit any unlawful act by force or to carry out any purpose in such manner as to disturb the public peace or being assembled shall attempt or threaten any act tending toward a breach of the peace or an injury to persons or property or any unlawful act, such an assembly shall be unlawful and every Indian participating therein by his presence, aid or instigation shall be guilty of an offense and, upon conviction thereof, subject to the penalties set forth in Sub-section (1).

Formerly Sec.13.55, Santa Clara Law and Order Code 1985.

#### Sec. 50.56     Venereal Disease

Any Indian infected with venereal disease who refuses treatment or any Indian who shall infect another person with a Venereal disease shall be deemed guilty of an offense, and upon

conviction thereof, shall be sentenced to confinement for a period not to exceed three (3) months, or a fine of not to exceed \$200.00, or both with costs, and may be compelled by the Court to undergo a physical examination and such treatment as is necessary to cure the person of the infection.

Formerly Sec.13.56, Santa Clara Law and Order Code 1985.

#### Sec. 50.57     Weapons, Carrying

Any Indian under the age of fourteen (14), unless accompanied by an adult, who carries a weapon in public, or any Indian who shall go about in a public place armed with a dangerous weapon concealed upon their person, unless having a permit signed by a Judge of the Tribal Court or a license issued by the Council shall be guilty of an offense and, upon conviction thereof, shall be sentenced to confinement for a period of not more than sixty (60) days or to pay a fine of not more than \$200.00 or both, with costs, and such weapon shall be confiscated and disposed of in such manner that the Court may order.

Formerly Sec.13.57, Santa Clara Law and Order Code 1985.

#### Sec. 50.58     Negligent Use & Discharging of Firearms & Cannons

Negligent use of a weapon consists of:

- A. Unlawfully discharging a firearm in the proximity of a building or into any building or vehicle so as to knowingly endanger a person or his property;
- B. Carrying a firearm while under the influence of an intoxicant or narcotic; or,
- C. Endangering the safety of another or his property by handling or using a firearm or other deadly weapon in a negligent manner.

Whoever violates this section and upon conviction shall be punished by a fine of not less than twenty-five dollars (\$25.00) nor more than three hundred dollars (\$300.00) or by imprisonment of not less than five (5) days nor more than ninety (90) days, or both, with costs, and such weapons may be confiscated upon the order of the Court.

Formerly Sec.13.58, Santa Clara Law and Order Code 1985.

#### Sec. 50.59     Aiding or Attempting

Any Indian who attempts, aids or abets any violation of this Criminal Code shall be guilty of an offense in the same degree as the principal perpetrator and, upon conviction thereof, subject to the same penalties.

Formerly Sec.13.59, Santa Clara Law and Order Code 1985.

#### Sec. 50.60     Taking of Official Papers or Documents of the Pueblo of Santa Clara

Any Indian who shall hold any public office or may be an employee of the Pueblo of

Santa Clara who, shall upon termination of the term of office or employment for any reason, take or convert to their own use any official documents, files or other materials belonging to the Pueblo or received by the person as a result of their office or position with the Pueblo, shall be guilty of an offense and upon conviction thereof may be sentenced to confinement for a period not to exceed six (6) months or to a fine of \$500.00 or both, with costs and shall be required to return all documents, files or other material deemed by the Court to be the property of the Santa Clara Pueblo, and may be barred from holding any public office or employment in the Pueblo of Santa Clara as the Court may prescribe.

Formerly Sec.13.60, Santa Clara Law and Order Code 1985.

Sec. 50.61     Illicit Cohabitation  
                  *[Repealed]*

Enacted by Res. No. 87-43, December 11, 1989; REPEALED., Res. No. 06-05, February 28, 2006.

Sec. 50.62     Abuse, Neglect, or Exploitation of a Vulnerable Adult

1. “Vulnerable adult” means a person eighteen (18) years of age or older who is within the jurisdiction of the Santa Clara Pueblo Tribal Court and whose ability to perform the normal activities of daily living or to provide for his or her own care or protection is impaired due to a mental, emotional, physical, or developmental disability or dysfunction,; or brain damage,; or the infirmities of aging, or drug or alcohol abuse or addiction.

2. “Abuse” means the knowing, intentional, or negligent infliction of physical pain, injury, or mental anguish on a vulnerable adult by another person; the intentional deprivation by a caretaker or other person of services necessary to maintain the mental and physical health of a vulnerable adult; the unreasonable confinement of a vulnerable adult by another person; or sexual abuse of a vulnerable adult.

3. “Exploitation” means an unjust or improper use of a vulnerable adult’s person, money, or property for another person’s profit, benefit, or advantage, with or without the vulnerable adult’s consent.

4. “Neglect” means the failure of a caretaker or facility to provide for the basic needs of a vulnerable adult by not supplying food, clothing, shelter, supervision, and care for the physical and mental health of the vulnerable adult. For the purposes of the criminal code, neglect does not include self-neglect by a vulnerable adult.

5. Any Indian who abuses, neglects, or exploits a vulnerable adult is guilty of a crime and upon a first conviction may be imprisoned for a term of not more than six (6) months, or fined not more than \$1,000, or both imprisoned and fined. Upon a second conviction, he or she may be imprisoned no more than nine (9) months, fined not more than \$2,500, or both fined and imprisoned. Upon a third or subsequent conviction, he or she may be imprisoned no more than three hundred sixty-four days, fined no more than \$5,000, or both fined and imprisoned.

6. In addition to or in place of the foregoing penalties, the Tribal Court may refer any matter giving rise to a conviction under this Section for resolution pursuant to custom and



tradition or to the Tribal Council for resolution. The Tribal Court may request guidance from the Tribal Council regarding questions of custom and tradition. The Tribal Council's determination of custom and tradition and resolution of any matter so referred shall be final and binding on the parties.

Enacted by Res. No. 2014-57, adopted Aug. 8, 2014, approved by Sec'y Dec. 19, 2014.

#### Sec. 50.63 Drug Paraphernalia

1. Any Indian who possesses, sells, or offers to sell drug paraphernalia shall be guilty of an offense and upon conviction thereof shall be sentenced to confinement for a period of not more than thirty (30) days or to pay a fine of not more than \$1,000, or both, with costs. Any drug paraphernalia involved in a violation of this Section shall be seized and forfeited upon conviction of a person for such violation, and such paraphernalia may be destroyed by order of the Tribal Court.

2. "Drug paraphernalia" means any equipment, product, or material of any kind that is primarily intended or designed for use or actually used in manufacturing, compounding, converting, concealing, producing, processing, preparing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance. It includes items primarily intended or designed for use or actually used in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, hashish oil, PCP, methamphetamine, amphetamines, or opioids into the human body, such as—

- A. metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
- B. water pipes;
- C. carburetion tubes and devices;
- D. smoking and carburetion masks;
- E. roach clips, meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;
- F. miniature spoons with level capacities of one-tenth cubic centimeter or less;
- G. chamber pipes;
- H. carburetor pipes;
- I. electric pipes;
- J. air-driven pipes;
- K. chillums;
- L. bongs;
- M. ice pipes or chillers;
- N. cocaine freebase kits; or
- O. everyday or household items such as aluminum foil, spoons,

straws, paper or cardboard tubes, razor blades or cards, that have residue of a controlled substance on the object indicating actual use of the item as drug paraphernalia.

3. In determining whether an item constitutes drug paraphernalia the Tribal Court should consider, in addition to all other logically relevant factors, the following:

A. statements by the owner or possessor of the object concerning its use;

B. the proximity of the object in time and space to a controlled substance or to a violation of the Marijuana and Controlled Substance offense in Section 50.38 of the Tribal Code;

C. the existence of any residue of a controlled substance on the object;

D. instructions or descriptive materials accompanying the object concerning its use;

E. the manner in which the object is displayed for sale;

F. the existence of scope of legitimate uses of the item in the community; and

F. expert testimony concerning its use.

Enacted by Res. No. 2022-018, adopted April 7, 2022, approved by Sec'y June 22, 2022.