

**TITLE XIV  
CODE OF CIVIL PROCEDURE**

CHAPTER 1            GENERAL PROVISIONS

Section 14-1-1        Minors as Parties to Actions

Every person over fourteen (14) years of age and under the age of majority, when subject to no disability other than being a minor, may sue or be sued. When plaintiff, he shall sue by a next friend selected by him before suit is commenced. The next friend is liable for the cost chargeable to the plaintiff. When the minor is sued, he shall appear by guardian nominated by him and appointed by the court before further proceedings are had in the case, but judgment shall be against the minor defendant only. In either case, if plaintiff or defendant neglects or refuses to nominate a next friend or guardian, the court shall appoint a next friend or guardian, who shall file his consent in writing with the court.

Section 14-1-2        Comparative Negligence

(1) Contributory negligence shall not bar a recovery in an action by any person or his legal representative to recover damages for negligence resulting in death or in injury to person or property, if the contributory negligence was not as great as the negligence of the person against whom recovery is sought. Any damages allowed shall be diminished in proportion to the amount of negligence attributed to the person recovering.

(2) The court may, and when requested by any party shall:

- a) If a jury trial, direct the jury to find separate special verdicts;
- b) If a trial before the court without jury, make special findings of fact, determining the amount of damages and the percentage of negligence attributable to each party. The court shall then reduce the amount of such damages in proportion to the amount of negligence attributed to the person recovering; and
- c) Inform the jury of the consequences of its determination of the percentage of negligence.

Section 14-1-3        Right to Contribution Among Joint Tortfeasors.

(1) Except as otherwise provided in Sections 14-1-3 through 14-1-6, where two (2) or more persons become jointly or severally liable in tort for the same injury to person or property or for the same wrongful death, there is a right of contribution among them even though judgment has not been recovered against all or any of them.

(2) The right of contribution exists only in favor of a tortfeasor who has paid more than his pro rata share of the common liability, and his total recovery is limited to the amount paid by him in excess of his pro rata share. No tortfeasor is compelled to make contribution beyond his own pro rata share of the entire liability.

(3) There is no right of contribution in favor of any tortfeasor who has intentionally, willfully or wantonly caused or contributed to the injury or wrongful death.

(4) A tortfeasor who enters into a settlement with a claimant is not entitled to recover contribution from another tortfeasor whose liability for the injury or wrongful death is not extinguished by the settlement nor in respect to any amount paid in a settlement which is in excess of what was reasonable.

(5) A liability insurer, who by payment has discharged in full or in part the liability of an insured tortfeasor and has discharged in full its obligation as insurer, is subrogated to the insured tortfeasor's right of contribution to the extent of the amount it has paid in excess of the insured tortfeasor's pro rata share of the common liability. This provision does not limit or impair any right of the subrogation arising from any other relationship.

(6) Sections 14-1-3 through 14-1-6 do not impair any right of indemnity under existing law. Where one (1) tortfeasor is entitled to indemnity from another, the right of the indemnity obligee is for indemnity and not contribution, and the indemnity obligor is not entitled to contribution from the obligee for any portion of his indemnity obligation.

(7) Sections 14-1-3 through 14-1-6 do not apply to breaches of trust or of other fiduciary obligation.

(8) Sections 14-1-3 through 14-1-6 do not affect the common law liability of the several joint tortfeasors to have judgments recovered and payment made from them individually by the injured person for the whole injury. The recovery of a judgment by the injured person against one (1) joint tortfeasor does not discharge the other joint tortfeasors from liability to the injured party.

#### Section 14-1-4      Pro Rata Shares

In determining the pro rata shares of tortfeasors in the entire liability:

(1) The relative degrees of fault of the joint tortfeasors shall be considered in determining their pro rata shares solely for the purpose of determining their rights of contribution among themselves, each remaining severally liable to the injured person for the whole injury as at common law.

(2) If equity requires, the collective liability of some as a group shall constitute a single share.

(3) A final verdict in favor of an alleged joint tortfeasor as against the injured party shall be a conclusive determination that such successful party is not liable to make contribution to any other tortfeasor.

Section 14-1-5      Enforcement

(1) Whether or not judgment has been entered in an action against two (2) or more tortfeasors for the same injury or wrongful death, contribution may be enforced by separate action.

(2) Where a judgment has been entered in an action against two (2) or more tortfeasors for the same injury or wrongful death, contribution may be enforced on that action by judgment in favor of one against other judgment defendants by motion upon notice to all parties to the action.

(3) If there is a judgment for the injury or wrongful death against the tortfeasor seeking contribution, any separate action by him to enforce contribution shall be commenced within one (1) year after the judgment has become final by lapse of time for appeal or the decision on appeal has become final.

(4) If there is no judgment for the injury or wrongful death against the tortfeasor seeking contribution, his right of contribution is barred unless he has either:

a) Discharged by payment the common liability within the statute of limitations period applicable to claimant's right of action against him and has commenced his action for contribution within one (1) year after payment; or

b) Agreed while action is pending against him to discharge the common liability and has within one (1) year after the agreement paid the liability and commenced his action for contribution.

(5) The recovery of a judgment for an injury or wrongful death against one (1) tortfeasor does not of itself discharge the other tortfeasors from liability for the injury or wrongful death unless the judgment is satisfied. The satisfaction of the judgment does not impair any right of contribution.

(6) The judgment determining the liability of the several defendants to the claimant for an injury or wrongful death is binding as among defendants in determining their right to contribution.

Section 14-1-6            Release or Covenant not to Sue

(1)     When a release or a covenant not to sue or not to enforce judgment is given in good faith to one (1) of two (2) or more persons liable in tort for the same injury or the same wrongful death:

    a)     It does not discharge any of the other tortfeasors from liability for the injury or wrongful death unless its terms so provide, but it reduces the claim against the others to the extent of any amount stipulated by the release or the covenant, or in the amount of the consideration paid for it, whichever is the greater; and

    b)     It discharges the tortfeasor to whom it is given from all liability for contribution to any other tortfeasor.

Section 14-1-7            Pleading of Damages

The ad damnum clause or prayer for damages incorporated in a pleading which sets forth a claim for relief based upon personal injury or wrongful death shall not state any dollar amount as alleged damages or demand a sum as judgment, other than an allegation that the damages are of an amount necessary to establish jurisdiction of the court. Nothing herein shall be construed to prevent any party from arguing to the court or jury the amount of his claim of money. In all cases, the court shall inform the jury of the consequences of its verdict.

Section 14-1-8            Civil Liability for Dishonored Check

(1)     Any person who issues a check which is not paid because the check has been dishonored has fifteen (15) days following the date of a written demand, mailed or delivered to the drawer of the check at the address shown on the check or his last known address, to pay to the holder of the check the amount of the check and a collection fee not to exceed \$15.00.

(2)     Any person who fails to make restitution as set forth in subsection (1) of this section and who fails to pay the amount of the check and a collection fee not to exceed \$15.00, within thirty (30) days following the date of a written demand mailed to the drawer by certified mail, return receipt requested, to the address shown on the check or his last known address, is liable to the holder of the check for twice the amount of the check, but in no case less than \$50.00, and for interest and costs of collection including reasonable attorney fees. In an action brought under this subsection, the prevailing party may recover court costs and reasonable attorney fees.

(3)     Nothing in this section shall prevent the criminal prosecution of the person who issues the check. However, any payment made by the defendant to a victim pursuant to an order for restitution entered in a criminal case shall be set off against any judgment in favor of the victim in a civil action brought under this section arising out of the same facts or event.

## CHAPTER 2                    IMPLEMENTING THE 1978 INDIAN CHILD WELFARE ACT

### Section 14-2-1                    Service of Notice on Designated Tribal Agents

(1)     The Shoshone Business Council designates the Chairman, (307) 332-3532, P. O. Box 217, Fort Washakie, Wyoming 82514, as the designated tribal agent for service of notice under section 1-2(a) of the Indian Child Welfare Act of 1978.

(2)     The Arapaho Business Council designates the Chairman, (307) 332-5006, P. O. Box 396, Fort Washakie, Wyoming 82514, as the designated Arapaho Tribal Agent for service of notice under Section 102 (a) of the Indian Child Welfare Act of 1978.

### Section 14-2-2                    Proceedings in State Courts

(1)     Transfer of jurisdiction under Section 101 (b):

    a)     A decision by either tribe to petition the state court to transfer a case under the Indian Child Welfare Act to the Wind River Tribal Courts shall include a request for an acceptance of transfer of jurisdiction by the tribal court; or

    b)     A petition for custody shall be filed in the tribal court when the decision is made to grant the transfer.

(2)     Intervention Under Section 101 (C). A decision by either tribe to intervene shall result in filing a petition in state court.

### Section 14-2-3                    Tribal Placement Preferences

(1)     Permit the minor to remain with his parent's guardian or custodian subject to such limitations and conditions as the court may prescribe.

(2)     Place the minor with a relative within the external boundaries of the reservation subject to such limitations and conditions as the court may prescribe.

(3)     Place the minor with a relative outside the external boundaries of the reservation subject to such limitations and conditions as the court may prescribe.

(4)     Place the minor with a member of his tribe within the external boundaries of the reservation subject to such limitations and conditions as the court may prescribe.

(5)     Place the minor with a member of his tribe outside the external boundaries of the reservation subject to such limitations and conditions as the court may prescribe.

(6) Place the minor with an Indian of any other tribe within the external boundaries of the reservation subject to such limitations and conditions as the court may prescribe.

(7) Place the minor with an Indian of any other tribe outside the external boundaries of the reservation subject to such limitations and conditions as the court may prescribe.

(8) A record of each placement of an Indian child under the Children's Code shall be maintained by the court. Such record shall document the efforts made to comply with the order of preference specified in sections (1) through (7) above.

(9) Except as permitted in sections (1) through (7) above, no Indian child shall be placed with a non-Indian, unless in an approved foster home, group home, shelter, agency, etc., not to exceed one (1) year.

### CHAPTER 3                    GUARDIANSHIP

#### Section 14-3-1                Jurisdiction

(1) The Shoshone and Arapaho Tribal Court and Children's Court shall have authority to appoint guardians for the person and/or estates, or for the purpose of actual or contemplated litigation (guardian ad litem) of either minors or persons incompetent by reason of physical or mental sickness or deficiency, advanced age, or chronic use of alcohol and/or drugs.

(2) The Shoshone and Arapaho Tribal Court shall have authority to appoint guardians when the person for whom the guardianship is sought is a member of either tribe or the child of a member of either tribe, whether or not he lives on the reservation.

#### Section 14-3-2                Probating Estate

The court, in the process of administering an estate for which there is a valid will containing a designation of a guardian for minor children if orphaned by the deceased's death, shall appoint such person without a hearing, unless he is unwilling to serve, or if such person is objected by any child over twelve (12) years of age, or if the court deems a hearing to be in the best interests of the minor(s).

#### Section 14-3-3                Petition

(1) A guardianship proceeding shall be initiated by the filing of a petition by a relative or other person on behalf of the minor or incompetent, or by a minor himself if over fourteen(14) years of age. (Form XIV-1)

- (2) The petition shall:
  - a) Set forth the name of the petitioner;
  - b) His relationship to the minor or incompetent;
  - c) List all known relatives of the minor or incompetent and their addresses, relationships, and ages, if known;
  - d) List all property of the minor or incompetent, real or personal;
  - e) List in detail the present conditions and circumstances which warrant the appointment of a guardian; and
  - f) Pray that Letters of Guardianship be issued to himself or some other suitable person to act as guardian of the minor or incompetent.

Section 14-3-4      Types of Guardianship

(1) A general guardian or guardian of the person of a minor or incompetent shall have the right to take or provide for the custody of the person of the minor or incompetent and shall be required to care for the health, safety and welfare of such person and provide for their education and medical care as needed, and shall also have authority to invest, manage and dispose of the property of the minor or incompetent in a prudent and reasonable manner and expend such portions of the estate, income and then principle, as he shall deem reasonably necessary for the support, care, and in the best interests of the minor or incompetent.

(2) A limited guardian shall be limited to either the person or the property as determined and ordered by the court or any part thereof.

(3) A guardian ad litem shall have power and authority to represent a minor or incompetent's best interests in actual or contemplated litigation upon being appointed by the court, with or without a petition, and to settle or compromise suits, claims, or disputes on behalf of the minor or incompetent.

Section 14-3-5      Notice; Hearings

(1) The clerk of court shall cause notice of the hearing to be given by personal service or mail to all known interested persons not less than five (5) days before a scheduled hearing.

(2) Minor. At a hearing to appoint a guardian for a minor, the court shall:

- a) Determine the need to have a guardian appointed;
  - b) Consider the preference of a minor, especially over age ten (10);
  - c) Determine the suitability and willingness of the person to act as guardian;
- and
- d) Make an order appointing a guardian, setting forth the scope of his authority, whether or not security is required and if so how much, and the duration of such appointment.

(3) Incompetent. At a hearing to appoint a guardian for an incompetent, the court shall:

- a) Determine the need to have a guardian appointed based upon at least two (2) doctors' reports, written or oral, under oath, to the effect that the incompetent is not presently able to handle his property or affairs, the anticipated duration of incapacity, and that the best interests of the incompetent will be served by having a guardian appointed;
- b) Determine the person most suitable and willing to serve as guardian; and
- c) Make an order appointing a guardian, setting forth the scope of his authority, whether or not security is required and if so how much, and the duration of the appointment.

Section 14-3-6            Who May Serve as Guardian

(1) Any adult person twenty-one (21) years of age or older and subject to the jurisdiction of the Wind River Tribal Court may serve as a guardian.

(2) Preference shall be given to the relatives of the minor or incompetent in order of their closeness of relationship and to a person with whom the minor or incompetent is living at the time of the hearing.

(3) The preference of a minor over age ten (10) shall be considered; however, the court shall determine the best interest in selecting a guardian.

Section 14-3-7            Security

(1) The court may require a guardian to provide security in the form of a bond or otherwise to assure the faithful performance of duties.



(2) Any surety of any such security will be deemed to have consented to the jurisdiction of the Shoshone and Arapaho Tribal Court for the purposes of action against such security.

Section 14-3-8      Oath; Letters

(1) The guardian appointed by the court shall be required to take an oath, the form of which to be prescribed by the court, to the effect that he will faithfully perform his duties as guardian. (Form XIV-2)

(2) Upon taking the oath and filing with the court such security, if any, as may have been required, the guardian shall be issued by the clerk, under the seal of the court, Letters of Guardianship evidencing his appointment.

Section 14-3-9      Inventory and Appraisalment

(1) Within forty-five (45) days of appointment a general guardian or guardian of the property or estate of a minor or incompetent, the guardian shall prepare and submit to the court an inventory and appraisalment of the property or estate. (Form XIV-3)

(2) The appraisalment shall be made by three (3) disinterested persons who shall certify under oath to their appraisalment and may receive reasonable compensation for their services. (Form XIV-4)

(3) No appraisalment shall be required of items of obvious, readily ascertainable value or where the value of assets is reasonably believed by the guardian to be less than \$1,000.00.

Section 14-3-10      Annual Accounting

(1) The guardian of every estate over \$1,000.00 shall submit an annual accounting of the estate or property to the court for approval prior to the end of the year. (Form XIV-5)

(2) The accounting shall be supported by vouchers, receipts, statements, cancelled checks, etc., and indicate all additions and withdrawals.

Section 14-3-11      Compensation

(1) No guardian shall receive any compensation for acting as such without prior approval of the court.

(2) If approved, compensation shall be ordered for services related to the guardian's duties specified by time and place.

(3) The right to receive compensation as guardian shall be deemed waived for any year in which such is not requested and received.

Section 14-3-12      Duties of Guardian

A guardian of any kind:

- (1) Shall stand in a fiduciary relationship to the minor or incompetent.
- (2) Shall exercise a high degree of care in managing the estate of the ward.
- (3) Shall derive no personal benefit from carrying out his duties.
- (4) Shall be civilly liable to said ward for any losses to the estate attributed to the breach of his duties.

Section 14-3-13      Liability of Guardian

Action to enforce the liability of a guardian may be brought by the ward or subsequently appointed guardian on behalf of the ward within two (2) years after the appointment of a new guardian or the removal of incompetence or the arriving at the age of majority.

Section 14-3-14      Discharge of Guardian

- (1) Every guardian appointed shall serve until discharged by the court. (Form XIV-6)
- (2) A guardian of a minor not otherwise incompetent, or the minor himself, may petition the court on or after the date the minor reaches the age of majority to have the guardian discharged and the estate turned over to the minor.
- (3) A person, other than a minor, who has had a guardian appointed for reasons of incompetency, or the guardian or a relative may petition for a determination of restoration to capacity and for discharge of the guardian:
  - a) The court shall hold a hearing with notice to interested persons and receive evidence, medical and otherwise, bearing on the ward's competency; and
  - b) If it be found that the ward is of sound mind and capable of caring for himself and his property, his restoration to capacity shall be adjudged and his guardianship terminated and guardian discharged.

Section 14-3-15      Records

The clerk shall keep a separate, permanent file for each guardianship proceeding and shall file all papers relevant thereto. Any guardian duly appointed may be entitled to receive, without charge, three (3) certified copies of the Letters of Guardianship.

Section 14-3-16      Trust Property

(1) The court is hereby authorized to appoint a guardian of the trust estate of minors or incompetents for the purpose of conveying or consenting to the conveyance of an interest in trust property owned by such minor or incompetent if it appears the price is adequate and that such sale is to the best interests of said minor or incompetent. The court may enter an order authorizing such action.

Section 14-3-17      Temporary Guardianship or Custody

Guardianship or custody may be ordered on a temporary basis in the best interests of a minor or incompetent pending the final determination of a petition or otherwise.

CHAPTER 4      OATHS

Section 14-4-1      Form

A person may be sworn by any form he deems binding on his conscience.

Section 14-4-2      Officers Authorized to Administer Oaths

The following officers are authorized to administer oaths:

- (1) Any judge duly appointed by the Shoshone and Arapaho Tribes.
- (2) The court administrator.
- (3) Notaries public.
- (4) The chairman of the Joint Business Council.

Section 14-4-3      Affirmation in Lieu of Oath

(1) Persons conscientiously opposed to swearing or to taking any oath may affirm, and are subject to the penalties of perjury as in the case of swearing an oath.

(2) Whenever any person is required to take an oath in any court, or before any person authorized by law to administer oaths, it is lawful for the court or person administering the same to administer it in the following manner: The person taking the oath or swearing shall, with his right hand uplifted, swear or take the oath, concluding with the words, "So help me, God."

## CHAPTER 5            LIMITATIONS OF ACTIONS

### Section 14-5-1        Rural Property

An action for the recovery of the title or possession of lands, tenements or hereditaments can only be brought within ten (10) years after the cause of action accrues.

### Section 14-5-2        Actions Other than Real Property

Actions other than real property can only be brought as provided in Title I, Sec. 8-1 (1).

### Section 14-5-3        When Cause Accrues

A cause of action for the taking of personal property is not deemed to have accrued until the wrongdoer is discovered.

## CHAPTER 6            ABATEMENT AND SURVIVAL

### Section 14-6-1        Abatement of Actions by Death

No action or proceeding in any court abates by the death of either or both of the parties thereto except as herein provided: an action for libel, slander, malicious prosecution, assault, assault and battery, nuisance, or against a justice of the peace for misconduct in office shall abate by the death of either party.

### Section 14-6-2        Causes of Action that Survive

In addition to the causes of action which survive at common law, causes of action for mesne profits, injuries to the person, an injury to real or personal estate, or any deceit or fraud also survive. An action may be brought notwithstanding the death of the person entitled or liable to the same, but in actions for personal injury damages, if the person entitled thereto dies, recovery is limited to damages for wrongful death.

CHAPTER 7                      ATTACHMENT AND GARNISHMENT

Section 14-7-1                      Grounds for Attachment

(1) At or after commencement of a civil action for the recovery of money, the plaintiff may have an attachment against the property of the defendant if the defendant:

- a) Is a foreign corporation or a nonresident of the reservation, or is about to become a nonresident;
- b) Has absconded with intent to defraud his creditors;
- c) Has left the county of his residence to avoid the service of a summons;
- d) So conceals himself that a summons cannot be served upon him;
- e) Is about to remove his property out of the jurisdiction of the court with intent to defraud his creditors;
- f) Is about to convert his property into money for the purpose of placing it beyond the reach of his creditors;
- g) Has property or rights in action which he conceals;
- h) Has assigned, removed, disposed or, or is about to dispose of his property with the intent to defraud his creditors; or
- i) Has fraudulently or criminally contracted the debt or incurred the obligation for which suit is about to be or has been brought.

(2) Attachment may also be had when the cause of action sued on arises on a contract express or implied for the direct payment of money not exceeding \$1,500.00 and the contract is not secured by a mortgage or lien upon real or personal property or pledge of personal property.

Section 14-7-2                      Affidavit for Order of Attachment

(1) An order of attachment shall be made by the clerk of the court in which the action is brought in any case mentioned in Sec. 14-7-1 when there is filed in his office an affidavit of the plaintiff, his agent or attorney showing (Form XIV-7):

- a) The nature of the plaintiff's claim;
- b) That it is just;

- c) The amount which the affiant believes the plaintiff ought to recover; and
- d) That the affiant has good reason to believe that one (1) or more of the grounds, stating which ones for attachment enumerated in Sec. 14-7-1 exist.

Section 14-7-3            Attachment Procedure

The procedures to be used in attachment and exemption shall be the same as used in Rule 35, Rules of Civil Procedure.

Section 14-7-4            Garnishment Summons and Proceedings

When an execution from the court is placed in the hands of a proper officer for service, and sufficient property of the judgment debtor is not found to satisfy the execution, the officer holding the execution, upon demand of the judgment creditor, shall summon in writing as garnishee the person named to him by the judgment creditor to appear before the court from which the execution issued on a certain day and hour specified in the summons, to answer such interrogatories as may be asked him touching his liability as garnishee. Proceedings thereon shall be taken to final judgment and execution as upon actions instituted by attachment in the court from which the execution issued. (Form XIV-8)

Section 14-7-5            Surrender of Property by Garnishee; Attachment Against Partnership or Firm

Any person attached as garnishee having in his possession or under his control any property belonging to the judgment debtor may turn the property over to the officer having the execution, taking a receipt, and by so doing shall be released from further liability. In cases of attachment against a member of a partnership or firm, the garnishment in aid of attachment may be served upon any other member of the partnership or firm in the same manner and with the same effect as in the case of garnishment upon execution. In case of a garnishment against a partnership or firm upon an execution or attachment against a member thereof, the partnership or firm may pay into court for the use of the garnishment creditor the amount of the interest in the partnership or firm of the member against whom execution or attachment issued, but not exceeding the amount due the garnishment creditor. If the partnership or firm fails to pay into court as provided, the garnishment creditor has the right by proceedings in equity to cause an accounting and winding up of the partnership or firm and a distribution of the proceeds. In the equity proceeding, the garnishment creditor has the rights and remedies that would have been available to the garnishment debtor in relation to the affairs of the partnership or firm. (Form XIV-9)

Section 14-7-6            Garnishment of Partnership or Firm

If the execution is against a member of a partnership or firm, and there is not sufficient property found belonging to the judgment debtor to satisfy the execution, upon demand of the judgment creditor the officer holding the execution shall garnishee the partnership or firm by serving notice in writing on any or all of the other members of the partnership or firm, as provided in Section 14-7-4, and from the time of the garnishment the partnership or firm shall be held responsible to the judgment creditor for the full amount of the interest held and had in the partnership or firm by the judgment debtor at the time of the notice of garnishment. The proceedings shall be taken to final judgment and execution as set forth in Section 14-7-4.

Section 14-7-7            Salaries of Public Officials and Employees Subject to Garnishment

The salary or wages due any tribal, Bureau of Indian Affairs, Indian Health Service, state, county, city, town or school district officer or employee are liable and subject to garnishment in civil actions the same as the salary or wages of any private individual now are, or may hereafter be, under the laws of the tribes. This provision applies whether the officer or employee is elected or appointed to the office or position which he holds.

CHAPTER 8                    CHANGE OF NAME

Section 14-8-1            Verified Petition to be Presented; Information to be Shown in Petition; Order of Court Making Change; Record to be Made

Every person desiring to change his name may petition the tribal court. The petition shall be verified by affidavit setting forth the petitioner's full name, the name desired, a concise statement of the reason for the desired change, the place of his birth, his place of residence and the length of time he has been an actual bona fide resident of the county in which the petition is filed. If the court is satisfied that the desired change is proper and not detrimental to the interests of any other person, it shall order the change to be made, and record the proceedings in the records of the court. (Form XIV-10)

Section 14-8-2            Residence Requirement

A person petitioning for a change of name shall have been a bona fide resident of the reservation for at least two (2) years immediately preceding filing the petition.

Section 14-8-3            Notice to be Given by Publication

Public notice of the petition for a change of name shall be given in the same manner as service by publication upon nonresidents in civil actions. (Form XIV-11)

Section 14-8-4            Change of Name in Adoption Proceedings

In all cases of the adoption of children in the manner provided by law, the court before which such adoption proceeding is held may change the name of any child so adopted and make an order to that effect, which shall be recorded in the records of the proceeding of adoption. Each child who has heretofore been adopted according to law, may have his name changed to that of the parents who have adopted him, upon the parents, who have adopted such child, on behalf of such child, filing a petition therefor.

CHAPTER 9            LIBEL AND SLANDER

Section 14-9-1            Radio and Television Stations; Liability of Owner, Agent, etc. Generally

The owner, licensee or operator of a visual or sound broadcasting station or network of stations and the agents or employees of the owner, licensee or operator are not liable for damages for any defamatory statement published or uttered in a visual or sound broadcast by one other than the owner, licensee, or operator, or agent or employee thereof, unless the complaining party proves that the owner, licensee, operator, agent or employee failed to exercise due care to prevent the publication or utterance of such statement in the broadcast.

Section 14-9-2            Same; Liability for Statements Made by Political Candidates

An owner, licensee or operator or the agents or employees of any owner, licensee or operator of a visual or sound broadcasting station is not liable for any damages for any defamatory statement uttered over the facilities of the station by any candidate for public office.

Section 14-9-3            Limitation as to Damages

In an action for damages for any defamatory statement published or uttered in or as a part of a visual or sound broadcast, the complaining party shall be allowed only the actual damages he has alleged and proved.

Section 14-9-4            Publication of Proceedings, etc. of Governing Bodies Deemed Privileged; Exception

The publication of a fair and impartial report of the proceedings before tribal legislative bodies, or before tribal executive bodies, boards or officers, or the whole or a fair synopsis of any document presented, filed or issued in any proceeding before a legislative or executive body, board or officer, is privileged unless it is proved that the publication was made maliciously.



Section 14-9-5            Publication of Criminal and Civil Proceedings Before Courts, etc. Deemed Privileged; Exceptions

The publication of a fair and impartial report of any indictment, the issuing of any warrant, the arrest of any person accused of crime, or the filing of any pleading or other document in any criminal or civil cause in any court, or of the contents thereof, is privileged unless it is proved that the same was published maliciously or that the defendant has refused or neglected to publish in the same manner in which the publication complained of appeared a reasonable written explanation or contradiction thereof by the plaintiff, or that the publisher has refused upon plaintiff's request to publish the subsequent determination of the suit or action.

CHAPTER 10            WRONGFUL DEATH

Section 14-10-1

Whenever the death of a person is caused by wrongful act, neglect or default such as would have entitled the party injured to maintain an action to recover damages if death had not ensued, the person who would have been liable if death had not ensued is liable in an action for damages, even though the death was caused under circumstances as amount in law to murder in the first or second degree or manslaughter. If the person liable dies, the action may be brought against the executor or administrator of his estate. If he left no estate within the reservation, the court may appoint an administrator upon application.

Section 14-10-2            Action to be Brought by Personal Representative; Recovery Exempt from Debts; Measure and Element of Damages; Limitation of Action

- (1) Every such action shall be brought by and in the name of the personal representative of the deceased person. (Form XIV-12)
- (2) If the deceased left a husband, wife, child, father or mother, no debt of the deceased may be satisfied out of the proceeds of any judgment obtained in any action brought under the provisions of this section.
- (3) The court or jury, as the case may be, in every such action may award such damages, pecuniary and exemplary, as shall be deemed fair and just. Every person for whose benefit such action is brought may prove his respective damages, and the court or jury may award such person that amount of damages to which it considers such person entitled, including damages for loss of probable future companionship, society and comfort.
- (4) Every action shall be commenced within two (2) years after the death of the deceased person.

CHAPTER 11            REPLEVIN

Section 14-11-1        Action for Possession of Specific Personal Property

The possession of specific personal property may be recovered in an action in tribal court as provided by law, subject to jurisdictional limits of tribal court.

Section 14-11-2        Order for Delivery to be Issued upon Filing of Affidavit; Information to be Shown in Affidavit

An order for the delivery of property to the plaintiff shall be issued by the court in which the action is brought following a hearing and when there is filed an affidavit of the plaintiff, his agent or attorney, showing (Form XIV-13):

- (1)     A description of the property claimed.
- (2)     That the plaintiff is the owner of the property, or has special interest therein, and if the ownership or interest is special or partial, the fact shall be stated.
- (3)     That the property is wrongfully detained by the defendant.
- (4)     That it was not taken upon any process issued against the plaintiff, or if taken under such process, that the property was exempt from execution expressly or upon demand or selection by the plaintiff and is not held for a tax, or if held for a tax, that it is not held for any tax legally assessed or levied against the plaintiff. (Form XIV-14)

CHAPTER 12            LIQUOR REGULATION

That the introduction, possession, transportation, and sale of intoxicating beverages shall be lawful within the Indian country under the jurisdiction of the tribes, provided:

Section 14-12-1        Conformity with the Laws of Wyoming and this Code

Such introduction, possession, transportation, and sale are in conformity both with the laws of the State of Wyoming and with this code.

Section 14-12-2        Corporate and Tribal Entity

The Joint Business Council may form a corporation or a subordinate tribal entity, or a tribal enterprise to operate off-sale or packaged sale of intoxicating beverages, under such license or licenses as may be required by law.

Section 14-12-3      Tribal License Required

No person shall engage in the sale of intoxicating beverages within the Indian country under the jurisdiction of the tribes unless duly licensed by the tribes and, in the case of non-Indians, by the tribes and the State of Wyoming, except that this code shall not apply to any license under the laws of the State of Wyoming on the effective date of this code until the expiration of the annual terms of any such license, provided that the tribes, in the discretion of the Joint Business Council, may require individual Indians to obtain licenses from the state.

Section 14-12-4      Application for Tribal Liquor License: Requirements

No tribal license shall issue under this code except upon a sworn application filed with the Joint Business Council containing a full and complete showing of the following (Form XIV-15):

- (1) If the applicant is a non-Indian, satisfactory proof that the applicant is or will be duly licensed by the State of Wyoming.
- (2) If the applicant is an Indian and the Joint Business Council determines that a State license should be obtained, satisfactory proof that the applicant is or will be duly licensed by the State of Wyoming, or that such license has been withheld or denied for reasons in excess of the powers vested in the state licensing authorities, or for arbitrary or capricious reason
- (3) Satisfactory proof that the applicant is of good character and reputation among the people of the Wind River Reservation, with particular reference to the Indian people, and that he is financially responsible.
- (4) The description of the premises in which the intoxicating beverages are to be sold, proof that the applicant is the owner of such premises, or lessee of such premises, for at least the term of the license, and a complete detailed, itemized inventory of all intoxicating beverages on and in the premises where the intoxicating beverages are to be sold.
- (5) Agreement by the applicant to accept and abide by the conditions of the tribal license.
- (6) Payment of a fee not less than \$300.00 or more than \$1,500.00 per annum.
- (7) Satisfactory proof that the applicant is not an officer or member of the Joint Business Council, is not an employee of either of the tribes, and has never been convicted of a felony.

Section 14-12-5      Conditions of the Tribal License.

Any tribal license issued under this code shall be subject to the following conditions (Form XIV-16):

(1) The license shall be for a term of one (1) year, and shall expire as of even date with any license issued under the laws of Wyoming.

(2) The licensee shall at all times maintain an orderly, clean and neat establishment, both inside and outside the licensed premises.

(3) The licensed premises shall be subject to patrol by the Wind River Reservation police force for the purpose of enforcing tribal law, and by state and county law officers for the purpose of enforcing the state law against non-Indians, and the licensee shall cooperate with such police and law officers.

(4) The licensed premises shall be open to inspection by any member of the Shoshone and Arapaho Joint Business Council, or the duly authorized representative of the council, at all times during the regular business hours.

(5) No intoxicating beverages shall be sold, served, disposed of, delivered or given to any person, or consumed on the licensed premises, except between the hours of 8:00 a.m. and 2:00 a.m. Monday through Friday, 8:00 a.m. Saturday to 2:00 a.m. Sunday, and 1:00 p.m. to 10:00 p.m. on Sunday.

(6) The premises covered by the tribal liquor license be closed on tribal election days, or when a referendum is held of the people of either or both the Shoshone or the Arapaho Tribe and including special days of observance as designated by the Business Councils.

(7) All acts and transactions under authority of the tribal liquor license shall be in conformity with the laws of the State of Wyoming, and shall be in accordance with this code and any tribal license issued pursuant to this code.

(8) No person under the age of twenty-one (21) shall be admitted into the licensed establishment.

(9) There shall be no discrimination in the operations under the tribal license by reason of race, color or creed.

Section 14-12-6      Cancellation and Suspension

Any license issued hereunder may be suspended or cancelled by the Joint Business Council for the breach of any of the provisions of this code or of the conditions of the tribal license upon hearing before the Joint Business Council after ten (10) days' notice to the licensee.

Section 14-12-7      Prior Tribal Laws Repealed

Ordinance No. 398, adopted November 3, 1953, by the Joint Business Council, is hereby repealed.

Section 14-12-8      Effective Date

This code shall be effective upon publication in the Federal Register.

CHAPTER 13            DISCLOSURE OF INFORMATION

Section 14-13-1      Dual Functions of the Business Councils

The Shoshone Business Council and the Arapaho Business Council, separately and jointly as the duly elected governing bodies of the tribes, act with respect to the governmental functions of the tribes, and also act as managers of the property and assets of the tribes.

Section 14-13-2      Policy Concerning Governmental Affairs

It is hereby declared to be the policy of the tribes that all information concerning the governmental affairs of the tribes be open to the adult members of the tribes on the conditions specified in 14-13-5 of this code.

Section 14-13-3      Policy Concerning Property Affairs

It is hereby declared to be the policy of the tribes to disclose final decisions relating to the management of the property and assets of the tribes, but to hold as confidential matters arising in conferences, negotiations, and consultations preliminary to such final decisions, and matters made available to the tribes on a confidential or privileged basis.

Section 14-13-4      Policy Concerning Protection of Individual Rights

It is hereby declared to be the policy of the tribes to protect the rights of individuals in their privacy, and in the safeguards afforded to individuals by the Constitution of the United States and the Indian Civil Rights Act.

Section 14-13-5      Records and Information Subject to Disclosure

To carry out the foregoing policies of the tribes, it is hereby ordained as follows:

(1)    Public Records. Except as herein exempted from public disclosure, or as may be otherwise provided by special action of the respective Business Councils, matters of official

record shall be made available to adult members of the tribes properly and directly concerned in the particular matter of inquiry, except information held confidential for good cause found. Records shall be withheld if the public interest requires such action to preserve confidentiality or privilege, or if the records relate solely to the internal management of tribal affairs.

(2) Exemptions from Public Disclosure. Without intending any limitation thereby, the following matters shall not be subject to public disclosure:

- a) Contracts and contractual data relating to or affecting the property or assets, or business of the tribes, unless the adult members requesting such papers furnish satisfactory proof that they are properly and directly concerned and no breach of confidence is involved;
- b) Geological and geophysical information and data, including maps, reports, samples, or correspondence concerning mineral exploration and development, including oil and gas wells and operations;
- c) Personnel files, personnel papers, and internal personnel rules and practices;
- d) Any document or matter that would constitute an unwarranted invasion of personal privacy or a denial of individual rights protected by the Constitution of the United States or the Indian Civil Rights Act, including without limitation, information and records relating to individuals receiving welfare, commodities and credit, and enrollment, except that the enrollment rolls are public;
- e) Investigatory documents or files compiled for law enforcement purposes, except to the extent that such files are available by law to a person;
- f) Any papers relating to matters in litigation or in threatened litigation affecting the tribes;
- g) Interoffice memoranda, notes, or other communications; and
- h) Information of a privileged or confidential character or held by the tribes on a privileged or confidential basis.

Section 14-13-6      Manner of Obtaining Information

- (1) Any person requesting records in pursuance of this code, must:
  - a) File the request in writing with the Chairman of either Business Council; (Form XIV-17)

- b) Furnish satisfactory proof that the applicant is an adult member of the tribe;
- c) Show that the records are available for public disclosure under this code;
- d) Provide a reasonable description of the records so that an employee may locate the requested material;
- e) Pay for the cost of the record search at the rate of \$4.00 per hour, with a minimum charge of \$.50; and
- f) If copies of materials are requested, pay for such copies at the rate of \$.15 per page.

(2) No tribal employee shall deliver an entire file for examination, but only the explicit papers or records requested, and then only upon express authorization from the Joint Business Council.

## CHAPTER 14            DOG REGULATION

It shall be unlawful for any person to have or maintain any dog within the boundaries of the Wind River Reservation, unless said dog has been duly vaccinated, and in all respects meets the requirements of this code. This code shall be divided into four component parts:

Sec. 14-14-1	Vaccination
Sec. 14-14-2	Disposition of Unvaccinated Dogs
Sec. 14-14-3	Quarantine of Animals
Sec. 14-14-4	Duty to Enforce Code

### Section 14-14-1            Vaccination

(1) All dogs shall be required to be vaccinated against rabies with a modified live virus inactivated chick embryo serum and shall be required to be vaccinated every two (2) years.

(2) Any animal covered by this code shall wear a collar on which is prominently displayed its rabies vaccination tag. The vaccination tag shall show the certificate number and the year of vaccination.

### Section 14-14-2            Disposition of Unvaccinated Dogs

(1) The Joint Business Council shall maintain a shelter for the impounding of all facilities for the destruction, in a humane manner, or all unwanted and unclaimed dogs.

(2) All unvaccinated dogs found on the Wind River Reservation shall be impounded and held in the shelter provided for a period of not less than seven (7) days nor more than ten (10) days before they are destroyed.

(3) Claiming of Pet

a) Any impounded unvaccinated dog may be claimed by its owner at any time during the animals detention period;

b) Any individual claiming an impounded dog must have such animal vaccinated as required by this code; and

c) Any claimant will be required to pay a fee to the tribes for board of the animal which shall be based on \$.50 per day that the animal has been retained.

Section 14-14-3      Quarantine of Animals

(1) Any animal reported to have been bitten any person shall be quarantined by its owner for a period of not less than fourteen (14) days.

(2) The owner of any quarantined animal shall be required to insure that said animal is either tied up or penned during the quarantine period and shall not release said animal until so notified by competent authority. If the owner refuses or fails to tie up or pen a quarantined animal, the animal shall be impounded.

(3) The owner of any quarantined animal may select to have the animal held by tribal authorities in the animal shelter during the quarantine period. If the owner so selects, he will be required to pay for the boarding of said animal at the rate of \$.50 per day.

(4) Any unwanted, homeless or stray animal reported to have bitten any person shall be impounded, and disposition of said animal shall be rendered according to this code.

Section 14-14-4      Duty to Enforce

It shall be the duty of the tribal police and tribal game wardens to impound any animal governed by this code that comes to their attention. The tribal police shall have the additional duty of maintaining the animal shelter and destroying unwanted animals in accordance with this code.



(1) Self-Help Remedies Eliminated

a) All self-help remedies for the recovery of real or personal property secured to insure payment of obligations are hereby declared unavailable except as otherwise specifically provided herein; and

b) This section shall not be construed to prevent the voluntary surrender of secured property to a creditor by a debtor, provided, however, that such voluntary surrender occurs at the time of such surrender. All contractual provisions of such executed in advance of the need therefor shall be of no effect.

(2) One Action to Foreclose Security Interest

a) There can be but one action in the tribal court to recover any debt or enforce or foreclose any right secured by a mortgage or other security interest on real or personal property situated or located on the reservation, which action must be in accordance with the procedures outlined herein; and

b) Notwithstanding the provisions next above, if the debt for which the encumbrance is held is not all due, but is payable in installments, whether such debt is evidenced by one or more principal notes or otherwise, such encumbrance may be foreclosed, at the election of the holder thereof, for the installment or installments due or other charges which are to be paid by the mortgagor, and the court may by its judgment direct the sale of the encumbered property or of the equity of the defendants therein, or so much thereof as may necessary to satisfy the amount due, and such encumbrance shall otherwise remain in full force and effect and the holder thereof shall have the right to foreclose on the balance or any part thereof.

(3) Action to Foreclose Interest in Personal Property

a) An action to foreclose a security interest in personal property shall be commenced by filing a complaint in the tribal court; (Form XIV-18)

b) The tribal court shall determine the issues presented and may, by its judgment, direct the sale of the encumbered property, or so much thereof as is necessary, and direct the of the proceeds of the sale to the payment of the costs of court, the expenses of such sale, and to the amount due the plaintiff. If it appears from the return on the sale that the proceeds thereof are insufficient and that an amount still remains due,

the court can direct entry of a judgment for such balance against the defendant or defendants;

c) If it is reasonably made to appear after the complaint is filed that the collateral is in imminent danger of being concealed, removed from the reservation, or otherwise disposed of in a manner inconsistent with the security interest, the court may order the person having possession or control over such property to appear and show cause why such property should not be taken into the custody of the court or other security provided to prevent the improper disposal of the collateral; and

d) Sale of property under the court's judgment shall be conducted in the manner provided for execution sales under Rule 35 of the Rules of Civil Procedure.

(4) Action to Foreclose Mortgage

a) An action to foreclose a mortgage or other security interest in real property shall commence by filing a complaint in the tribal court; (Form XIV-19)

b) A complaint to foreclose a security interest in real property shall name as parties all persons who claim an interest in said property as a result of a proper recordation of such interest in either the tribal or county records or both, as applicable. No interest of the Shoshone and Arapaho Tribes, whether recorded or not, may be affected in any action in which the tribe is not a party by its own affirmative action or consent. Interests in the secured property which are not recorded may be affected as if recorded and the owner thereof made a party; and

c) The tribal court shall determine the issues presented and may, by its judgment, direct the sale of the encumbered property or so much thereof as is necessary, and direct the application of the proceeds to the costs of court, the expenses of sale, and to the amount due the plaintiff. If it appears from the return on the sale that the proceeds thereof are insufficient and that an amount still remains due, the court can direct the entry of a judgment for such balance against the defendant or defendants as provided below.

(5) Sale of Property - Notice

a) Before the sale of real property subject to a decree of foreclosure and order of sale, notice thereof must be given as follows: By posting written notice of the time and place of the sale, giving a specific legal and general description of the property, for twenty (20) days in at least four (4) public places of the reservation, including one copy posted at the Tribal Headquarters, one copy posted in the post office nearest the property to be sold, one copy posted on the property to be sold, and one copy posted at the Tribal Court Building; (Form XIV-20) and

b) If ever there is a sale of property conducted without at least good faith and substantial compliance with the notice requirements as set forth herein, said sale may be declared void and of no effect by the tribal court.

(6) Conduct of Sale

a) All sales of property under decrees of foreclosure and orders for sale must be made at auction, conducted at the Tribal Court Building, to the highest bidder between the hours of 9:00 a.m. and 5:00 p.m. on any business day;

b) Once sufficient property has been sold to satisfy the judgment plus the costs of court and of the sale, no more property shall be sold;

c) The person conducting the sale may not be a purchaser or be interested in any purchase at such sale;

d) If the property being sold consists of several known lots or parcels, they must be sold separately. The judgment debtor, if present at the sale, may direct the order in which the property shall be sold when such property consists of several known lots or parcels. If a third person claims an interest in part of the property to be sold, he may require that such part be sold separately; and

e) If a purchaser refuses to pay the amount bid by him for property sold to him at sale, the person conducting the sale may again sell the property to the highest bidder and if any loss be occasioned thereby, the person may recover the amount of such loss, plus costs, from the bidder so refusing, in the tribal court. When a purchaser refuses to pay, the person may, in his discretion, thereafter reject any subsequent bid of such person.

(7) Return on Sale (Form XIV-21)

a) The person conducting the sale shall make a return thereon to the tribal court reciting all of the details of the sale; and

b) A certified copy of such return, together with a certified copy of the court's order directing said sale, shall be filed by the purchaser in the appropriate county recorder's office.

(8) Title to Real Property

a) On the sale of real property, the purchaser is substituted to, and acquires all of the right, title, interest and claim of the judgment debtors thereto;

- b) The property so acquired is subject to redemption as provided herein;
- c) At the time payment for the sale is made, the officer conducting such must give to the purchaser a Certificate of Sale containing:
  - i) the name of the purchaser;
  - ii) the name of the judgment debtor;
  - iii) the particular legal description of property sold;
  - iv) the price bid for each particular lot or parcel (if applicable);
  - v) the total price paid; and
  - vi) that the sale is subject to redemption;
- d) The person conducting the sale shall provide the purchaser with sufficient certified copies of the Certificate of Sale that the purchaser may file one copy with the office of the Recorder in each county where the property is located. The purchaser shall be provided with one certified copy for his own records and one copy shall be filed with the person's return on the sale in the tribal court; (Form XIV-22)
- e) If the purchaser of real property sold pursuant to an order of sale, or his successor in interest, should be evicted therefrom in consequence of irregularities in the proceedings concerning the sale, or of the reversal or discharge of the judgment, he may recover the price paid plus interest at the rate of eight percent (8%) per annum from the judgment creditor; and
- f) If the purchaser of real property sold pursuant to an order of sale, or his successor in interest, fails to obtain possession of the property as a consequence of irregularities in the proceedings related to the sale, or because the property sold was not subject to execution and sale, the court having jurisdiction thereof must, after notice and on motion of such party in interest, revive the original judgment in the name of the petitioner, for the amount paid by such purchaser, with interest thereon at the rate of eight percent (8%) per annum and the judgment so revived has the same force and effect as would the original judgment as of the date of revival.

(9) Redemption

- a) All real property sold as provided herein is subject to redemption in the manner hereinafter provided by the judgment debtor or his successor in interest in the whole or any part of the property;

- b) The judgment debtor or redemptioner may redeem real property from the purchaser within six (6) months after the sale by paying the purchaser for the amount of his purchase together with interest thereon at the rate of eight percent (8%) per annum from the date of sale to the date of redemption, together with the amount of any assessments or additional costs which the purchaser may have paid thereon after the date of the purchase;
- c) Written notice of redemption must be given to the court and a duplicate filed with the officer of the county recorder in each county in which the property is situated; (Form XIV-23)
- d) If the debtor redeems, the effect of the sale is terminated and he is restored his estate;
- e) Upon redemption by the debtor, the person to whom the payment is made must execute and deliver to him sufficient copies of a Certificate of Redemption acknowledged and proved before an officer authorized to take acknowledgments of conveyances of real property. Copies of such certificates shall be filed at the appropriate county recorder's office;
- f) If no redemption is made within six (6) months, the purchaser or his assignee is entitled to a conveyance by means of a Deed at the expiration of such time. Such Deeds shall be recorded at the appropriate county recorder's office;
- g) Redemption payment must be made in U.S. currency or by certified or cashier's check and be made to the purchaser or for him to the officer who made the sale or his successor in office;
- h) A judgment debtor or successor in interest desiring to redeem property must present to the person from whom he seeks to redeem or the officer:
- i) a certified copy of the judgment and order of sale under which he claims a right to redeem; and
  - ii) his own affidavit that he is the person entitled to redeem and showing the amount due to effect the redemption;
- i) Until expiration of the time for the redemption, the court may restrain the commission of waste or changing the character of the property, but it shall not be waste for the person entitled to possession of the property to continue to use in the manner it has been previously used, or use it in the ordinary course of husbandry, or to make necessary repairs thereon, or to make a reasonable use of the wood and timber thereon for

the benefit of the property or the possessor in his reasonable enjoyment of the property;  
and

j) The purchaser from the time of sale until redemption is entitled to receive from the tenants in possession the rents of the property sold, or the value of the use and occupation thereof. However, when any rents or profits have been received by the purchaser, or his assigns from the property thus sold prior to redemption, the amount of such rents and profits shall be a credit on the redemption money to be paid. If the judgment debtor or person entitled to redeem, prior to the expiration of the time for redemption, demands of the purchaser or his assigns a written and verified statement of the amount of such rents and profits received, and/or assessments of costs paid by the purchaser, the period of redemption is extended until five (5) days after such sworn statement is received by the redemptioner. If such purchaser or his assign fails or refuses for a period of one (1) month to give such statement, the redemptioner may, within sixty (60) days of such demand, bring an action in the tribal court to compel an accounting and disclosure of such rents and profits, and until fifteen (15) days after the final determination of such action, the right of redemption is extended to such redemptioner.

(10) Surpluses and Deficiencies from Sales

a) If there remains surplus money remaining after the payment of the costs of court and of the sale and payment of the judgment creditor, such funds shall be distributed by the court to the judgment debtor or other person entitled thereto; and

b) A deficiency judgment may be entered by the court in a case involving the foreclosure and sale of real property whenever the amount due under the secured indebtedness plus costs of court and of the sale exceed the reasonable value of the property at the time of sale. The court is not bound by the price for the property received at the sale, but may take evidence to determine the actual reasonable value.

Section 14-15-2      Actions to Recover Possession of Real Property

(1) Self-Help Remedies Forbidden. Except in the case where a person in possession voluntarily surrenders such possession to another claiming a paramount right to such possession, all self-help remedies to recover possession of real property are forbidden except as otherwise provided herein.

(2) “Forcible Entry” Defined. A person commits a forcible entry whenever he either:

a) Breaks open or by any other type of unauthorized opening of the doors, windows, or other parts of a house or other residential dwelling or by fraud, intimidation or stealth, or by any kind of violence or circumstances of terror, enters upon or into any real property; or

b) After entering peaceably upon real property, turns out by force, threats, or menacing conduct the party in actual possession.

(3) “Forcible Detainer” Defined. A person commits a forcible detainer whenever he:

a) By force, or by menaces and threats of violence, unlawfully holds and keeps the possession of any real property, whether the same was acquired peaceably or otherwise; or

b) In the nighttime or in the absence of the occupants of any real property, unlawfully enters thereon, and, after demand made for the surrender thereof, refuses for the period of three (3) days to surrender the same to the former occupant. The occupant of real property within the meaning of this subsection is one who within five (5) days preceding such unlawful entry was in the peaceable and undisturbed possession of such property.

(4) “Unlawful Detainer” Defined. A person commits an unlawful detainer if, being a tenant of real property with a term of less than his life, he either:

a) Continues in possession, in person or by subtenant, of the property or any part thereof after the expiration of the term for which it is let to him. In all cases where real property is leased or rented for a specified term or period, or by express or implied contract, whether written or oral, the tenancy shall be terminated without notice at the expiration of such specified term or period;

b) Having leased or rented property for an indefinite time with monthly or other periodic rent reserved, he continues in possession thereof in person or by subtenant after the end of such month or period after having been served with notice requiring him to quit the premises at the end of such month or period, such notice having been served upon him fifteen (15) or more days prior to the end of such month or period, or in cases of tenancies at will, where he remains in possession of such premises after the expiration of a notice of not less than five (5) days;

c) When he continues in possession, either in person or by subtenant, after default in the payment of any rent and after a notice in writing requiring in the alternative the payment of the rent or the surrender of the detained premises shall have remained uncomplished for a period of three (3) days;

d) When he assigns or sublets the leased or rented property contrary to the covenants in the lease or contract, or commits or permits waste thereon, or when he sets up or carries on thereon any unlawful business, or when he suffers, permits or maintains on or about said premises any nuisance, and remains in possession after service upon him of a notice to surrender the premises within three (3) days; or

e) Continues in possession in person or by subtenant, after a neglect or failure to perform any material condition or covenant of the lease or rental agreement under which the property is held, other than those hereinbefore mentioned, and after notice in writing requiring in the alternative the performance of such conditions or covenants or the surrender of the property served upon him, and, if there is a subtenant in actual occupation of the premises, also upon such subtenant, shall remain uncomplished with for five (5) days after service thereof. Within the five (5) day period, any subtenant, or mortgagee of the term, or other person interested in the continuance of the term may perform such condition or covenant and thereby save the lease or agreement from forfeiture, unless such condition or covenant cannot then be performed or cannot be performed by anyone except the original tenant. If the broken covenant or condition is not capable of remedial performance after its breach, the required notice need not list such performance as an alternative.

(5) Notices - How Served. The notices required by the preceding section may be served either:

a) By delivering a copy to the tenant personally;

b) If he is absent from his place of residence or from his usual place of business, by leaving a copy with some person of suitable age and discretion at either place and sending a copy thereof through the mail addressed to the tenant at his place of residence or place of business;

c) If such place of residence or business cannot be ascertained or a person of suitable age or discretion cannot be found there, then by fixing a copy in a conspicuous place on the property and also delivering a copy to a person there residing, if such person can be found, and also sending a copy through the mail addressed to the tenant at the place where the leased property is situated; or

d) Service on a subtenant may be made in the same manner.

(6) Action to Regain Possession.

a) The tribal court shall have jurisdiction to hear and decide actions to recover possession of both trust and non-trust property as a result of an alleged forcible entry, forcible detainer or unlawful detainer in an accelerated manner as provided herein. Any other action to regain possession of the property may, at the discretion of the judge, but need not be handled in an accelerated manner as provided herein;

b) In any accelerated proceeding allowed herein, the court shall endorse on the summons the number of days within which the defendant has to answer, which shall



not be less than three (3) nor more than twenty (20) days from the date of service. The time for reply to a counterclaim, if any, shall be deemed likewise shortened;

c) At the close of the pleadings, the court may advance hearing the matter on its trial calendar;

d) The plaintiff's complaint, in addition to setting forth the facts and allegations on which he seeks to recover, may also set forth therein any circumstances of fraud, force or violence which may have accompanied the alleged forcible entry or forcible or unlawful detainer and claim damages therefor or compensation for the occupation of the premises, or both. When unlawful detainer is charged after default in the payment of rent, the complaint must state the amount of such rent;

e) At the trial of any proceeding for forcible entry or forcible detainer, the plaintiff shall only be required to show, in addition to the forcible entry or detainer complained of, that he was peaceably in the actual possession of the premises in question or was entitled to the possession the time of the forcible detainer;

f) In cases of tenancy of agricultural land where the tenant has held over and retained possession for more than sixty (60) days after the expiration of his term without any demand of possession or notice to quit by the landlord or his successor in estate, the tenant shall be deemed to have the permission of the landlord or his successor in estate to hold over for a full year under the same terms and conditions as the original tenancy, and such tenant shall not be guilty of an unlawful detainer for such period by reason of his holding over;

g) The remedies available herein shall be available to a tenant to regain possession from a subtenant in appropriate cases; and

h) No person other than the tenant of the premises and subtenant if there is one in actual occupation of the premises at the time the action is commenced need be made a party defendant. Any person entering into possession with the consent of the tenant after an action is commenced for forcible entry or forcible or unlawful detainer shall be bound by such action, whether made a party or not.

(7) Judgment

a) If at trial, whether with or without a jury, the finding is in favor of the plaintiff and against the defendant, judgment shall be entered for the restitution of the premises to the plaintiff;

b) In a proceeding for unlawful detainer for neglect or failure to perform any condition or covenant under a lease or agreement under which property is held, or after

default the payment of rent, the judgment shall declare the forfeiture of such lease or agreement;

c) At trial, the finder of fact, whether the jury or the judge without a jury, shall also assess damages caused to the plaintiff by the forcible entry or forcible or unlawful detainer, including damage for waste by the defendant during the tenancy, if proved, and shall also find the amount of rent due is such is in issue; and

d) When the action is for unlawful detainer after defaulting in the payment of rent and the lease or agreement under which the rent is payable has not by its terms expired, execution upon the judgment shall not issue until five (5) days after the entry of the judgment, within which time the tenant or any subtenant, or other party interested in the continuance of the term may pay into the court for the landlord the amount of the judgment and costs and thereupon that portion of the judgment shall be satisfied and the tenant's estate shall be restored. However, if such payment is not made within five (5) days, the judgment may be enforced in its full amount and for the possession of the premises. In all other cases, the judgment may be enforced immediately.

(8) Time for Appeal

a) The time in which an appeal, if any, shall be taken from an action for forcible entry or forcible or unlawful detainer shall be ten (10) days and the appellate court may, but need not, allow expedited handling of such appeal; and

b) Appeals in other actions to recover possession of real property shall be handled in the usual manner.

CHAPTER 16                      INVOLUNTARY COMMITMENT OF THE SERIOUSLY MENTALLY ILL

This is a code to provide for the involuntary commitment and treatment of persons who are seriously mentally ill.

Section 14-16-1                      Definitions

- (1) "Applicant" means the person filing the petition to have someone committed.
- (2) "Appropriate facility" is a treatment facility approved for payment by Indian Health Service.
- (3) "Court" means Shoshone and Arapaho Tribal Court of the Wind River Reservation.

(4) “Emergency situation” means a situation in which another person is in imminent danger of death or serious bodily harm from the activity of a person who appears to be seriously mentally ill, or the seriously mentally ill person himself is in imminent danger of seriously harming himself.

(5) “Emergency psychiatric admission” against the patient’s will is intended for situations in which a patient, because of mental illness, poses an immediate physical threat to the life and limb of others or when in the judgment of a professional person the patient is in immediate danger of harming himself. In this respect, prevention of significant injury to property may be considered.

(6) “Immediate family” includes mother, father, brothers, sisters, or grandparents. An aunt, uncle or cousin would be considered as immediate family if the individual was raised in part or whole by and with them.

(7) “Legal representative” means anyone who is permitted to practice in tribal court on the Wind River Reservation.

(8) “Mental disorder” means any organic, mental or emotional impairment which has substantial adverse effects on an individual’s cognitive or volitional functions.

(9) “Mental health facility” means a public hospital or licensed private hospital which is equipped and staffed to provide treatment for persons with mental disorders or a community mental health center or any mental health clinic or treatment center. A correctional institution or facility or jail is a mental health facility in the meaning of this definition for emergency purposes.

(10) “Next of kin” shall include but need not be limited to the spouse, parents, adult children, and adult brothers and sisters of a person.

(11) “Patient” means a person committed by the court for treatment for any period of time.

(12) “Peace officer” means any tribal policeman or BIA police officer.

(13) “Professional person” means a medical doctor or a person trained in the field of mental health and certified by the state.

(14) “Reasonable medical certainty” means reasonable certainty as judged by the standards of a professional person.

(15) “Respondent” means a person alleged in a petition filed pursuant to this code to be seriously mentally ill.

(16) “Responsible person” means any person willing and able to assume responsibility for a seriously mentally ill person including next of kin, legal guardian, or any other person appointed by the court. Only one person at a time may be the responsible person.

(17) “Seriously mentally ill” means suffering from a mental disorder which has resulted in self-inflicted injury or injury to others or the imminent threat thereof or which has deprived the person afflicted of the ability to protect his life or health. No person may be involuntarily committed to a mental health facility or detained for evaluation and treatment because he is an epileptic, mentally deficient, mentally retarded, senile, or suffering from a mental disorder unless the condition causes him or her to be seriously mentally ill within the meaning of the definition.

#### Section 14-16-2      Court Records

A record shall be made of all hearings for commitment. Such record shall be made by a stenographer or by tape recording. The tape recording, petition, mental health evaluation, notice of hearing, and court order of disposition shall be maintained by the court in a numbered file. The records of these hearings shall be maintained in a locked file and shall not be open to the public. These records shall be separate from other court records and shall be opened only under court order for good cause shown.

#### Section 14-16-3      Procedural Rights

In addition to any other rights which may be guaranteed by the Constitution of the United State and the laws of the tribes, any person who is involuntarily detained or against whom a petition is filed pursuant to this statute will be notified by the court and tribal police of the following rights to due process:

- (1) The right to reasonable advance notice of a hearing as defined in sections.
- (2) The right to be present at the hearing and to offer any relevant evidence and witnesses concerning his alleged mental illness.
- (3) The right to question witnesses during the hearing.
- (4) The right to be represented by a responsible person and/or a legal representative.
- (5) The right to remain silent.
- (6) The right to have the evidence presented against him meet the rules of evidence applicable to civil matters generally.
- (7) The right to view and copy all documents on file with the court concerning him.

- (8) The right to be examined by another professional person of his choice.
- (9) The right to appeal the order of the court and to be so notified of this right.
- (10) The right to refuse medication within twenty-four (24) hours preceding the hearing unless a professional person determines that the patient will harm himself, others, or property.

Section 14-16-4      Waiver of Rights

(1) A person may waive his rights, but if the person is not capable of making any intentional and knowing decision, these rights may be waived by his counsel and responsible person acting together if a record is made of the reasons for the waiver. The right to a legal representative may not be waived. The right to treatment provided for in this part may not be waived.

(2) The presence of respondent at the hearing may be waived by the responsible person and legal representative in consultation with the professional person that the presence of the respondent at this hearing would seriously, adversely affect his mental condition and no alternative location would prevent such adverse effects on his mental condition.

Section 14-16-5      Filing of Petition

(1) Any person acting on good faith upon either actual knowledge or reliable information shall not be subject to civil or criminal liability for bringing an application under this code to the court. Any person who, without probable cause or with malicious intent shall make application for commitment alleging that another person is mentally ill, shall be guilty of a misdemeanor punishable by imprisonment not to exceed one hundred eighty (180) days or a fine not to exceed \$500.00 or both.

(2) When any person is alleged to be seriously mentally ill or in an emergency situation as defined in the foregoing part such that immediate treatment is necessary for the protection of himself or others from physical harm, any person eighteen (18) years of age or older may petition the Wind River Tribal Court stating the factual basis for concluding that such person is seriously mentally ill and in need of immediate treatment. The petition shall be on a form designated by the court and verified by affidavit.

- (3) The petition to the court shall include the following information (Form XIV-24):
  - a) Name and address of applicant;
  - b) Name, age, address of respondent;

- c) Name and address of nearest relative;
- d) A statement by the person filing the petition that he believes, on the basis of personal observation, that the person is, as a result of mental illness, a danger to himself or others;
- e) The specific nature of the danger;
- f) A summary of the observations upon which the statement of danger is based; and
- g) A statement of facts which called the person to be committed to the applicant's attention.

(4) A petition for commitment shall be accompanied by the evaluation of a professional person unless after reasonable effort this cannot be accomplished, in which case those circumstances shall be documented for the court and attached to the petition. (Form XIV-25)

Section 14-16-6      Detention to be in Least Restrictive Environment.

(1) A person detained pursuant to this code shall be detained in the least restrictive environment to protect life and physical safety of person detained or members of the public; in this respect, prevention of significant injury to property may be considered.

(2) A person may be detained in a jail only if no mental health facility is available or if the available mental health facilities are inadequate to protect the person detained and the public. As soon as a mental health facility becomes available or the situation has changed sufficiently that an available mental health facility is adequate for the protection of the person detained, then the detained person shall be transferred from the jail to the mental health facility.

(3) A person detained prior to involuntary commitment may apply to court for immediate relief with respect to the need for detention or the adequacy of the facility being utilized to detain.

Section 14-16-7      Emergency Detention

(1) If, on the basis of the petition and accompanying documents, the court determines that an emergency situation exists as defined in Section (1), the court may order the respondent to be detained for a period not to exceed seventy-two (72) hours pursuant to Section 7 of this code. (Form XIV-26)

(2) In an emergency situation as defined in Section (1), a physician may treat a patient against their will to prevent harm to the life and limb of the patient or others.

(3) If an emergency situation occurs during normal working hours, a petition will be filed with the court. If the court finds that an emergency situation exists, a court order committing the patient to IHS for evaluation and treatment until the emergency no longer exists as determined by the professional person, but not to exceed seventy-two (72) hours, will be issued.

(4) If an emergency situation arises outside of normal working hours, the patient may be admitted by the physician to an appropriate facility for evaluation and treatment. On the next working day, the court shall be provided with written documentation of the emergency situation. A petition for commitment must also be filed with the court on the next working day. If the court finds on the basis of the documentation provided that probable cause exists, a court order committing the patient to IHS for evaluation and treatment for a period not to exceed seventy-two (72) hours will be issued.

#### Section 14-16-8      Notice of Hearing

(1) If, on the basis of the petition and accompanying documents, the court finds that probable cause exists, a date will be set for a hearing no later than seven (7) days from the date of petition. Proper notice will be provided by the court. As much notice as possible not to exceed seven (7) days and not less than twenty-four (24) hours shall be given to the respondent.

(2) The notice of a hearing shall be given in writing by personal notice of the court to the allegedly mentally ill person not less than twenty-four (24) hours prior to the hearing date. The responsible person, counsel for the respondent, and professional person will be notified verbally by the court of the hearing date.

(3) If the respondent does not respond voluntarily to the notice of hearing, the judge may order the patient apprehended and detained pursuant to Section (7) of this code.

(4) If the respondent has not been evaluated by a professional person within ten (10) days of the date of the hearing, the court will provide notice to the respondent to voluntarily submit to evaluation.

(5) If the respondent does not voluntarily submit within twenty-four (24) hours to evaluation by a professional person, the court may order the allegedly mentally ill person apprehended and detained pursuant to Section (7) of this code.

Section 14-16-9      Hearing on Petition

(1) The respondent shall be present unless his presence has been waived as provided in Section (4) and he shall be represented by a legal representative and a responsible person. The hearing shall be limited to the determination of whether or not the respondent is seriously mentally ill within the meaning set forth in this part.

(2) The persons required to be at the hearing are:

- a) The patient, unless his condition absolutely prohibits this as testified to by a professional person and agreed to by the appointed responsible person or legal representative for the seriously mentally ill person;
- b) A responsible person acting for the allegedly mentally ill person;
- c) The tribal judge;
- d) Tribal prosecutor;
- e) A professional person; and
- f) A legal representative of the patient.

(3) The standard of proof in any hearing held pursuant to this section is proof by clear and convincing evidence with respect to the physical facts or evidence as to all other matters, except that mental disorders shall be evidenced to a reasonable medical certainty. Imminent threat of self-inflicted injury or injury to others shall be evidenced by overt acts sufficiently recent in time to be relevant as to the respondent's present condition.

(4) The professional person appointed by the court shall be present for the hearing and subject to cross-examination. The written report of the professional person that indicates the professional person's diagnosis may be attached to the petition, but any matter otherwise inadmissible, such as hearsay matter, is not admissible merely because it is contained in the report. The court may order the hearing closed to the public for protection of the respondent.

(5) The professional person may testify as to whether the respondent is seriously mentally ill, but this is insufficient unless it is accompanied by evidence that:

- a) The respondent is suffering from a mental disorder as diagnosed by a professional person using a recognized diagnostic nomenclature; and



b) The mental disorder has resulted in self-inflicted injury or injury to others or the imminent threat thereof or has deprived the person afflicted of the ability to protect his life or health.

Section 14-16-10      Post-Hearing Disposition

(1) If upon hearing it is determined that the patient is not seriously mentally ill within the meaning of this code, he shall be discharged and the petition dismissed. (Form XIV-27)

(2) If it is determined that the patient is seriously mentally ill at the conclusion of the hearing, the court shall:

a) Commit the patient to IHS for treatment for a period of not more than three (3) months; (Form XIV-28) and

b) Order the patient to be placed in custody of his relatives or guardian, or some other appropriate place. (Form XIV-29)

(3) No treatment pursuant to this section may affect the patient's custody for longer than three (3) months.

(4) In determining which of the above alternatives to order, the court shall choose the least restrictive alternative necessary to protect the patient and the public.

(5) If it shall be shown to the satisfaction of the court that any person found to be seriously mentally ill and a fit subject to custody and treatment cannot at once be admitted to an appropriate facility, and cannot with safety be allowed to go at liberty, the court shall require that the patient be suitably provided for otherwise until such admission can be arranged or until the occasion therefor no longer exists.

Section 14-16-11      Petition for Extension of the Commitment Period

(1) Not less than two (2) weeks prior to the end of the three-month detention period, the professional person in charge of the patient may petition the court for extension of the detention period. The petition shall be accompanied by a written report and evaluation of the patient's mental and physical condition as evaluated at the place of treatment. The report shall also describe the course of treatment that has been undertaken for the patient and the future course of treatment anticipated by the professional person. (Form XIV-30)

(2) Upon filing of the petition, the court shall provide written notice to the patient, his next of kin if reasonably available, and the patient's legal representative. The court shall set a time and date for the hearing within ten (10) days from the receipt of the petition to extend and notify the same people including the professional person.

(3) The hearing shall be held by the tribal court at the tribal court.

(4) If upon rehearing the court finds the patient not seriously mentally ill, according to the meaning of this code, he shall be discharged and the petition dismissed. If the court finds that the patient continues to suffer from serious mental illness, the court may order continued detention and treatment not to exceed six (6) months.

(5) Further extensions may be obtained under the same procedures described in (6) of this section, except that the patient's custody may not be affected for more than one (1) year without a renewal of the commitment under the procedures set forth in sections 6, 8, and 9 of this code and including a statement of the findings.

(6) The court report must describe alternatives for treatment available, alternatives investigated, and why investigated alternatives were not deemed suitable. Continuation of hospitalization or any other alternative must be accompanied by a comprehensive individualized plan of treatment.

#### Section 14-16-12      Appeal Procedure

Review of any order of short-term treatment or long-term commitment may be had by appeal to the Wind River Appellate Court. The patient shall not be released pending appeal unless ordered by the court.

#### Section 14-16-13      Civil and Legal Rights of Person Committed

Unless specifically stated by the court, a person involuntarily committed does not forfeit any legal right or suffer any legal disability by reason of being committed except insofar as it may be necessary to detain the person for treatment, evaluation, or care.

#### Section 14-16-14      Guardianship or Conservatorship

(1) Whenever a person is committed to IHS for mental health treatment for a period of three (3) months or longer, the court may make an order stating specifically any legal rights which are denied the respondent. As part of its order, the court may appoint a person to act as conservator of the respondent's property. Any conservatorship created pursuant to this section terminates upon the conclusion of the involuntary commitment if not sooner terminated by the court. A conservatorship or guardianship extending beyond the period of involuntary commitment may not be created except under the procedures set forth in the Law and Order Code for the appointment of conservators and guardians generally.

(2) All civil and legal rights which may be lost upon commitment are automatically restored to the person upon termination of the commitment. This subsection, however, does not

affect a guardianship or conservatorship created independent of the involuntary commitment procedure.

## CHAPTER 17            BUSINESS LICENSE CODE

### Section 14-17-1        Purpose

This code has the following purposes:

(1) To make it possible for the Shoshone and Arapaho Tribes to monitor and regulate business development on the Wind River Reservation so that scarce commercial land is used to further tribal goals as much as possible, so that other reservation resources are not abused and over-exploited, and so that the health, safety, and welfare of reservation residents are not threatened.

(2) To ensure that people who benefit from regular use of reservation land and other reservation resources contribute to tribal efforts to protect and rationally develop those resources.

This code should be liberally interpreted to achieve the purposes stated here.

### Section 14-17-2        Business License Required

Every person who carries on business activity within the Wind River Reservation must obtain a Wind River tribal license for the business that will be carried on. This does not apply to businesses wholly owned by the Shoshone and Arapaho Tribes, or to Indians trading and selling traditional arts and craft items. (Form XIV-31)

### Section 14-17-3        Definitions

(1) For the purposes of this code, “business” means any activity whose goal is financial gain, benefit, or advantage to the person(s) who engage in the activity. It includes provision of services.

(2) “Person” means any individual, partnership, corporation, trust, estate, or group of individuals acting in association, except Indians trading and selling traditional arts and craft items.

(3) For the purposes of this code, a person shall be regarded as carrying on business activity within the Wind River Reservation if the business or any part of it is conducted on or from a location within the reservation boundaries, whether the activity is seasonal, temporary, or continuous. The code is not intended to apply to persons who neither have a place of business

located on the reservation nor occupy reservation land or use reservation resources in carrying on their business activity under a valid lease with the tribes, or other permit or license.

Section 14-17-4      More than One Business

Any person who carries on more than one kind of integrated business on the reservation must obtain a separate business license for each kind of business.

Section 14-17-5      Licenses Good One (1) Year

Tribal business licenses shall be good for one (1) year. Each license shall expire on January 31 of each year unless it is renewed by that date. A person who begins business activity during the licensing year must obtain a license before beginning and must pay the full license fee for that year.

Section 14-17-6      Application for License

(1) Every person who wants to get a tribal business license must submit a written application to the Joint Business Council. The applicant must submit with his application a fee of \$5.00. If the application is granted, this \$5.00 application fee will be credited toward the annual business license fee. (Form XIV-32)

- (2) Every application for a business license shall contain the following information:
- a) Name of the applicant;
  - b) Names and residence addresses of all partners or officers of the business;
  - c) Principal place of applicant's business;
  - d) Address or other description of all reservation locations where business will be conducted;
  - e) Name and address of an agent of the business who lives or works on the reservation and who will accept service of legal process for the applicant;
  - f) Nature of the business to be carried on; and
  - g) Any other information required by the Joint Tribal Council.

Section 14-17-7      Action on Application

(1) Within thirty (30) days after an application for a tribal business license is submitted, the Joint Business Council shall consider the application and take action on it. The Joint Business Council may grant the application, grant it subject to certain conditions, deny it, or ask the applicant to provide more information regarding his plans. The application may be denied if it appears that the business proposed would pose a danger to the health or welfare of reservation residents, that the activities planned would be inconsistent with tribal comprehensive plans or tribal laws, or that the applicant has previously been found guilty of violating tribal licensing, tax, or land use.

(2) An applicant may appeal the Joint Business Council decision to the tribal court.

Section 14-17-8      License Fees

(1) Every person who is granted an annual tribal business license must pay a license fee no later than five (5) days after the license is granted. A penalty of \$10.00 will be imposed for late payment of a fee.

(2) The business license fee schedule is as follows:

- a) For operation of general mercantile business, including retail sales of groceries and dry goods: \$50.00;
- b) For the operation of a Christmas tree farm: \$25.00;
- c) For the operation of a financial institution (bank, savings and loan, credit union), motel, hotel, rental cabins, rooming house, resort: \$50.00;
- d) For the operation of a gasoline service station, automobile and machine repair service: \$25.00;
- e) For the operation of a public utility: \$50.00;
- f) For the operation of a professional services, except those licensed by other entities: \$25.00;
- g) For the operation of a restaurant: \$25.00;
- h) For the operation of a timber harvest and sales: \$25.00; and
- i) For the operation of other: \$25.00.

Section 14-17-9      License Must be Displayed

Every business licensed by the Shoshone and Arapaho Tribes must display the license prominently at its principal place of business on the Wind River Reservation. If the business has no structure or suitable location on the reservation where the license can be displayed, it must display the license at its place of business closest to the reservation.

Section 14-17-10      Revoking a License

(1) Violation of any provision of this code, failure to meet the conditions of a license granted by the tribes, or failure to pay any tribal taxes imposed on a business may be grounds for revoking a Wind River tribal business license.

(2) Whenever the Joint Business Council has probable cause to believe that there are grounds for revoking a business license, the Council shall deliver to the agent of the licensed business an order which requires the license holder to appear before the council. At the hearing before the council, the license holder shall be given a fair chance to show why his license should not be revoked. If the license holder fails to appear, the license may be revoked.

(3) If the Joint Business Council revokes a business license, the license holder may appeal this decision to the tribal court.

Section 14-17-11      Operating Unlicensed Business

If any person who does not have a valid tribal license carries on a business within the Wind River Reservation, the tribal council may take the following remedial actions:

(1) The council may bring a civil suit in the Wind River Tribal Court. If the court finds that defendant has carried on a business without the required license, the court may either

- a) Impose a civil fine not to exceed \$350.00;
- b) Order defendant to stop further unlicensed business activity; or
- c) Take both of these actions.

A fine imposed pursuant to this section shall become a lien upon any property of defendant which is located within the jurisdiction of the tribal court.

(2) The tribal council may bring suit, as provided in the Rules of Civil Procedure of the Wind River Tribal Court, against property which is being or has been used on the reservation in violation of this code. The court shall order the forfeiture of any property which it finds to have been used this way.

(3) If the tribal court finds that a person has violated this code more than once, the tribal council may start proceedings to exclude the person from the Wind River Reservation.

(4) When necessary to enforce a tribal court judgment, the tribes may bring suit in any other court to reach property of the defendant which is located outside the Wind River Reservation.

Section 14-17-12      Use of Revenues

Money collected pursuant to this code shall be deposited in the tribal general fund and used to cover administrative costs of the tribes licensing and tax programs.

CHAPTER 18              ABANDONED VEHICLES

Section 14-18-1      Presumption, Notice, Impoundment

(1) A vehicle is presumed to be abandoned if it is left unattended on any highway within the reservation for more than twenty four (24) hours after a notice of intent to impound has been placed on it by a police officer or is left on any public or private property without express consent of the property owner or person in lawful possession or control of the property for more than five (5) days.

(2) Notice of Intent to Impound (Form XIV-33)

a) A notice of intent to impound an abandoned vehicle shall be placed in a prominent position on a vehicle when a police officer reasonably believes it is abandoned;

b) The notice shall remain on the vehicle at least twenty four (24) hours prior to removal; and

c) After twenty four (24) hours, any officer may have the abandoned vehicle removed to a place of impoundment and safe storage.

(3) Removal and storage is at the expense of the owner.

(4) The police department shall then notify the vehicle owner, the lien holder and place of impoundment that the vehicle has been impounded and that the owner or lien holder has thirty (30) days to redeem the vehicle. The thirty (30) days shall begin four (4) days after notice is mailed.

(5) Any person showing proof of ownership or right of possession may redeem the vehicle within thirty (30) days by paying the costs of towing, storage and other costs of impoundment, if any.

Section 14-18-2      When Not Redeemed

(1) After thirty (30) days, if no one shows proof of ownership or possession, the vehicle may be sold by the police chief.

(2) The sale is by public auction and notice of the sale, giving a full description of the vehicle with engine or serial marks or numbers, if any, and the amount of money claimed to be due thereon and the time and place of sale.

(3) After the sale, the proceeds are to pay all expenses incident to the sale and storage of the vehicle. Any residue shall be paid in the general fund of the Shoshone and Arapaho Tribes to be used as they designate.

(4) The police chief shall give the purchaser a certificate of sale upon which the purchaser may obtain a new title to the vehicle.

CHAPTER 19      CHILD CUSTODY JURISDICTION ACT

Section 14-19-1      Title

This act may be cited as the Uniform Child Custody Jurisdiction Act.

Section 14-19-2      Purpose

(1) The general purposes of this act are:

a) To avoid jurisdictional competition and conflict with courts of other tribes or states in matters of child custody which have in the past resulted in the shifting of children from jurisdiction to jurisdiction with harmful effects on their well-being;

b) To promote cooperation with the courts of other tribes and states to the end that a custody decree is rendered by that tribe or state which can best decide the case in the interest of the child;

c) To assure that litigation concerning the custody of a child take place ordinarily on the reservation or in the state with which the child and his family have the closest connection and where significant evidence concerning his care, protection, training and personal relationships is most readily available, and that the Shoshone and



Arapaho Tribal Court decline the exercise of jurisdiction when the child and his family have a closer connection with another tribe or state;

d) To discourage continuing controversies over child custody in the interest of greater stability of home environment and of secure family relationships for the child;

e) To deter abductions and other unilateral removals of children undertaken to obtain custody awards;

f) To avoid re-litigation of custody decisions of other tribes or states in the Shoshone and Arapaho Tribal Court insofar as feasible;

g) To facilitate the enforcement of custody decrees of other tribes or states;

h) To promote and expand the exchange of information and other forms of mutual assistance between the Shoshone and Arapaho Tribal Court and those of other tribes or states concerned with the same child; and

i) To make uniform the law of those tribes and states which enact it.

(2) The provisions of this act shall be construed to promote the general purposes stated in this section.

Section 14-19-3      Definitions

(1) As used in this act:

a) “Contestant” means a person who claims a right to custody or visitation rights with respect to a child;

b) “Custody determination” means a court order and instructions providing for the custody of child including visitation rights, but does not include a decision relating to child support or any other monetary obligation of any person;

c) “Custody proceeding” includes proceedings in which a custody determination is one of several issues, such as an action for divorce or separation, and includes child neglect and dependency proceedings except as governed by the Indian Child Welfare Act;

d) “Decree” or “custody decree” means a custody determination contained in a judicial decree made in a custody proceeding, and includes an initial decree and a modification decree;

- e) “Home jurisdiction” means the reservation or state in which the child immediately preceding the time involved has lived with his parents, a parent or a person acting as parent, for at least six (6) consecutive months, and in the case of a child less than six (6) months old the jurisdiction in which the child has lived since birth with any of the persons mentioned. Periods of temporary absence of any of the named persons are counted as part of the six (6) month or other period;
- f) “Initial decree” means the first custody decree concerning a particular child;
- g) “Modification decree” means a custody decree which modifies or replaces a prior decree, whether made by the court which rendered the prior decree or by another court;
- h) “Physical custody” means actual possession and control of a child;
- i) “Person acting as parent” means a person other than a parent who has physical custody of a child and who has either been awarded custody by a court or claims a right to custody;
- j) “State” means any state, territory or possession of the United States, the commonwealth of Puerto Rico or the District of Columbia;
- k) “Tribe” means any federally recognized Indian tribe; and
- l) “This reservation” means the Wind River Indian Reservation.

Section 14-19-4      Jurisdiction to Make Child Custody Determination

(1) A court of the Shoshone and Arapaho Tribes competent to decide child custody matters has jurisdiction to make a child custody determination by initial decree or modification decree if:

- a) This reservation is the home of the child at the time of commencement of the proceeding, or was the child’s home within six (6) months before commencement of the proceeding and the child is absent from the reservation because of his removal or retention by a person claiming his custody or for other reasons, and a parent or person acting as parent continues to live on this reservation;
- b) It is in the best interest of the child that a court of the Shoshone and Arapaho Tribes assume jurisdiction because the child and his parents, or the child and or at least one (1) contestant, have a significant connection with the tribes including tribal membership status and there is available on this reservation substantial evidence

concerning the child's present or future care, protection, training and personal relationships;

c) The child is physically present on this reservation and has been abandoned or if it is necessary in an emergency to protect the child because he has been subjected to or threatened with mistreatment or abuse or is otherwise neglected or dependent; or

d) It appears that no other tribe or state would have jurisdiction under prerequisites substantially in accordance with paragraphs (a), (b) or (c) of this subsection, or another tribe or state has declined to exercise jurisdiction on the grounds that this reservation is the more appropriate forum to determine the custody of the child and it is in the best interest of the child that the Shoshone and Arapaho Tribal Court assume jurisdiction.

(2) Except under paragraphs (1) (c) and (d) of this section, physical presence on this reservation of the child or of the child and one (1) of the contestants is not alone sufficient to confer jurisdiction on a court of this reservation to make a child custody determination.

(3) Physical presence of the child, while desirable, is not a prerequisite for jurisdiction to determine his custody.

Section 14-19-5      Notice Before Decree

Before making a decree under this act, reasonable notice and opportunity to be heard shall be given to the contestants, any parent whose parental rights have not been previously terminated and any person who has physical custody of the child.

Section 14-19-6      Notice of Exercise of Jurisdiction over Person Outside this Reservation; Time; Service; Exception

(1) Notice required for the exercise of jurisdiction over a person outside this reservation shall be given in a manner reasonably calculated to give actual notice, and may be:

a) By personal delivery outside this reservation in the manner prescribed for service of process within this reservation;

b) In the manner prescribed by the law of the place in which the service is made for service of process in that place in an action in any of its courts of general jurisdiction;

c) By any form of mail addressed to the person to be served and requesting a receipt; or

d) As directed by the court including publication if other means of notification are ineffective.

(2) Notice under this section shall be served, mailed, delivered or last published at least twenty (20) days before any hearing on this reservation.

(3) Proof of service outside this reservation may be made by affidavit of the individual who made the service, or in the manner prescribed by the law of this reservation, the order pursuant to which the service is made or the law of the place in which the service is made. If service is made by mail, proof may be a receipt signed by the addressee or other evidence of delivery to the addressee.

(4) Notice is not required if a person submits to the jurisdiction of the court.

Section 14-19-7      Exercise of Jurisdiction by Shoshone and Arapaho Tribal Court: Proceedings on Other Reservations or in States

(1) A court of this reservation shall not exercise its jurisdiction under this act if, at the time of filing the petition, a proceeding concerning the custody of the same child was pending in a court of another tribe or state exercising jurisdiction substantially in conformity with this act, unless the proceeding is stayed by the court of the other tribe or state because this reservation is a more appropriate forum or for other reasons.

(2) Before hearing the petition in a custody proceeding, the court shall examine the pleadings and other information supplied by the parties under section 14-19-10 and shall consult the child custody registry established under section 14-19-17 concerning the pendency of proceedings with respect to the child on other reservations or in states. If the court has reason to believe that proceedings may be pending in another tribe or state, the court shall direct an inquiry to the tribe or state court administrator or other appropriate official of the other tribe or state.

(3) If the court is informed during the course of the proceeding that a proceeding concerning the custody of the child was pending in another tribe or state before this court assumed jurisdiction, the court shall stay the proceeding and communicate with the court in which the other proceeding is pending to the end that the issue may be litigated in the more appropriate forum and that information be exchanged in accordance with section 14-19-22 through section 14-19-23. If a court of this reservation has made a custody decree before being informed of a pending proceeding in a court of another tribe or state, it shall immediately inform that court of this fact. If the court is informed that a proceeding was commenced on another reservation or state after this court assumed jurisdiction, it shall likewise inform the other court to the end that the issues may be litigated in the most appropriate forum.

Section 14-19-8      Court May Decline to Exercise Jurisdiction

(1) A court which has jurisdiction under this act to make an initial decree or a modification decree may decline to exercise its jurisdiction any time before making a decree if it finds that it is an inconvenient forum to make a custody determination under the circumstances of the case and that a court of another tribe or state is a more appropriate forum.

(2) A finding of inconvenient forum may be made upon a court's own motion or upon motion of a party or a guardian ad litem or other representative of the child.

(3) In order to determine whether it is an inconvenient forum, the court shall consider whether it is in the interest of the child that another tribe or state assume jurisdiction, and for this purpose may take into account the following factors, among others:

- a) Whether another tribe or state is or recently was the child's home jurisdiction;
- b) Whether another tribe or state has a closer connection with the child and his family or with the child and one (1) or more of the contestants;
- c) Whether substantial evidence concerning the child's present or future care, protection, training and personal relationships is more readily available on another reservation or state;
- d) Whether the parties have agreed on another forum which is no less appropriate; and
- e) Whether the exercise of jurisdiction by a court of this state would contravene any of the purposes stated in section 14-19-2.

(4) Before determining whether to decline or retain jurisdiction the court may communicate with a court of another tribe or state and exchange information pertinent to the assumption of jurisdiction by either court with a view to assuring that jurisdiction will be exercised by the most appropriate court and that a forum will be available to the parties.

(5) If the court finds that it is an inconvenient forum and that a court of another tribe or state is a more appropriate forum, it may dismiss the proceedings, or it may stay the proceedings upon the condition that a custody proceeding be promptly commenced in another named reservation or state or upon any other conditions which may be just and proper, including the condition that a moving party stipulate his consent and submission to the jurisdiction of the other forum.

(6) The court may decline to exercise its jurisdiction under this act if a custody determination is incidental to an action for divorce or other proceeding, while retaining jurisdiction over the divorce or other proceeding.

(7) Whenever it appears to the court that it is clearly an inappropriate forum, it may require the party who commenced the proceeding to pay, in addition to the costs of the proceedings on this reservation, necessary travel and other expenses including attorneys' fees incurred by other parties or their witnesses. Payment is to be made to the clerk of the court for remittance to the proper party.

(8) Upon dismissal or stay of proceedings under this section, the court shall inform the court found to be the more appropriate forum of this fact, or if the court would have jurisdiction on the other reservation or state is not certainly known, shall transmit the information to the court administrator or other appropriate official for forwarding to the appropriate court.

(9) Any communication received from another tribe or state informing this reservation of a finding of inconvenient forum because a court of this reservation is the more appropriate forum shall be filed in the custody registry of the appropriate court. Upon assuming jurisdiction in the case, the court of this reservation shall inform the original court of this fact.

#### Section 14-19-9      Wrongful or Improper Removal of a Child from Another Tribe or State

(1) If the petitioner for an initial decree has wrongfully taken the child from another reservation or state or has engaged in similar reprehensible conduct, the court in its discretion may decline to exercise jurisdiction.

(2) Unless required in the interest of the child and subject to section 14-19-15, the court shall not exercise its jurisdiction to modify a custody decree of another tribe or state if the petitioner without consent of the person entitled to custody has improperly removed the child from the physical custody of the person entitled to custody or has improperly retained the child after a visit or other temporary relinquishment of physical custody. If the petitioner has violated any other provision of a custody decree of another tribe or state, the court in its discretion and subject to section 14-19-8 may decline to exercise jurisdiction.

(3) In appropriate cases, a court dismissing a petition under this section may charge the petitioner with necessary travel expenses and other expenses, including attorneys' fees, incurred by other parties or their witnesses.

#### Section 14-19-10      Custody Proceedings; Required Information

(1) Every party in a custody proceeding in his first pleading or in an affidavit attached to that pleading shall give information under oath as to the child's present address, the

places where the child has lived within the last five (5) years, and the names and present addresses of the persons with whom the child has lived during that period. In this pleading or affidavit, every party shall further declare under oath:

- a) Whether he has participated in any capacity in any other litigation concerning the custody of the same child in this or any other tribe or state;
- b) Whether he has information of any custody proceeding concerning the child pending in a court of this or any other reservation or state, and
- c) Whether he knows of any person not a party to the proceeding who has physical custody of the child or claims to have custody or visitation rights with respect to the child.

(2) If the declaration as to any of the above items is in the affirmative, the declarant shall give additional information under oath as required by the court. The court may examine the parties under oath as to details of the information furnished and as to other matters pertinent to the court's jurisdiction and the disposition of the case.

(3) Each party has a continuing duty to inform the court of any custody proceeding concerning the child in this or any other reservation or state of which he obtained information during this proceeding.

#### Section 14-19-11      Person having Custody to be Joined as a Party

Whenever the court learns that a person not a party to the custody proceeding has physical custody of the child or claims to have custody or visitation rights with respect to the child, it shall order that person to be joined as a party and to be duly notified of the pendency of the proceeding and of his joinder as a party. If the person joined as a party is outside this reservation, he shall be served with process or otherwise notified in accordance with section 14-19-6.

#### Section 14-19-12      Court May Order Party to Proceeding to Appear

(1) The court may order any party to the proceeding who is on this reservation to appear personally before the court. If that party has physical custody of the child, the court may order that he appear personally with the child.

(2) If a party to the proceeding whose presence is desired by the court is outside the reservation with or without the child, the court may order that the notice given under section 14-19-6 include a statement directing that party to appear personally with or without the child and declaring that failure to appear may result in a decision adverse to that party.

(3) If a party to the proceeding who is outside the reservation is directed to appear under subsection (2) of this section or desires to appear personally before the court with or without the child, the court may require another party to pay to the clerk of the court travel and other necessary expenses of the party so appearing and of the child.

Section 14-19-13      Custody Decree Binding on All Parties

A custody decree rendered by a court of this reservation which had jurisdiction under section 14-19-7 binds all parties who have been served on this reservation or notified in accordance with section 14-19-6 or who have submitted to the jurisdiction of the court and who have been given an opportunity to be heard. As to these parties, the custody decree is conclusive as to all issues of law and fact decided and as to the custody determination made until that determination is modified pursuant to law.

Section 14-19-14      Recognition and Enforcement of Initial or Modification Decree made by Court of another Tribe or State

The courts of this reservation shall recognize and enforce an initial or modification decree of another tribe or state which had assumed jurisdiction under statutory provisions substantially in accordance with this act, or which was made under factual circumstances meeting the jurisdictional standards of the act, so long as this decree has not been modified in accordance with jurisdictional standards substantially similar to those of this act.

Section 14-19-15      Modifying Custody Decree Made by Court of Another Tribe or State

(1) If a court of another tribe or state has made a custody decree, a court of this reservation shall not modify that decree unless it appears that the court which rendered the decree does not have jurisdiction under jurisdictional prerequisites substantially in accordance with this act or has declined to assume jurisdiction to modify the decree, and the court of this reservation has jurisdiction.

(2) If a court of this reservation is authorized under subsection (1) of this section and section 14-19-4 to modify a custody decree of another tribe or state, it shall give due consideration to the transcript of the record and other documents of all previous proceedings submitted to it in accordance with section 14-19-23.

Section 14-19-16      Effect of Custody Decree Made by Court of Another Tribe or State

(1) A certified copy of a custody decree of another tribe or state may be filed in the office of the clerk of the Shoshone and Arapaho Tribal Court. The clerk shall treat the decree in the same manner as a custody decree of the Shoshone and Arapaho Tribal Court.



(2) A custody decree so filed has the same effect and shall be enforced in like manner as a custody decree rendered by a court of this reservation.

(3) A person violating a custody decree of another tribe or state making it necessary to enforce the decree on this reservation may be required to pay necessary travel and other expenses including attorneys' fees incurred by the party entitled to the custody of his witnesses.

Section 14-19-17      Clerk of Tribal Court to Maintain Registry; Contents

(1) The clerk of the Shoshone and Arapaho Tribal Court shall main a registry in which he shall enter: (Form XIV-34)

- a) Certified copies of custody decrees of other tribes or states received for filing;
- b) Communications as to the pendency of custody proceedings in other reservations or states;
- c) Communications concerning a finding of inconvenient forum by a court of another tribe or state; and
- c) Other communications or documents concerning custody proceedings on another reservation or state which may affect the jurisdiction of a court of this reservation or the disposition to be made by it in a custody proceeding.

Section 14-19-18      Forwarding Copy of Decree

At the request of the court of another tribe or state or at the request of any person who is affected by or has a legitimate interest in a custody decree, the clerk of the Shoshone and Arapaho Tribal Court shall certify and forward a copy of the decree to that court or person.

Section 14-19-19      Testimony of Witnesses; Method of Obtaining

In addition to other procedural devices available to a party, any party to the proceeding or a guardian ad litem or other representative of the child may adduce testimony of witnesses including parties and the child by deposition or otherwise in another reservation or state. The court on its own motion may direct that the testimony of a person be taken in another reservation or state and may prescribe the manner in which and the terms upon which the testimony shall be taken.

Section 14-19-20      Requesting Court of Another Tribe or State to Adduce Evidence; Order Party to Appear

(1) A court of this reservation may request the appropriate court of another tribe or state to hold a hearing to adduce evidence under other procedures of that tribe or state or to have social studies made with respect to the custody of a child involved in proceedings pending in the court of this reservation, and to forward to the court of this reservation certified copies of the transcript of the record of the hearing, the evidence otherwise adduced or any social studies prepared in compliance with the request. The cost of the services may be assessed against the parties or will otherwise be paid.

(2) A court of this reservation may request the appropriate court of another tribe or state to order a party to custody proceeding pending in the court of this reservation to appear in the proceedings, and if that party has physical custody of the child to appear with the child. The request may state that travel and other necessary expenses of the party and of the child whose appearance is desired will be assessed against another party or will otherwise be paid.

Section 14-19-21      Request from Courts of Another Tribe or State

(1) Upon request of the court of another tribe or state, the courts of this reservation which are competent to hear custody matters may order a person of this reservation to appear at a hearing to adduce evidence or to produce or give evidence under other procedures available on this reservation or may order social studies to be made for use in a custody proceeding on another reservation or state. A certified copy of the transcript of the record of the hearing or the evidence otherwise adduced and any social studies prepared shall be forwarded by the clerk of the court to the requesting court.

(2) A person within this reservation may voluntarily give his testimony or statement on this reservation for use in a custody proceeding outside this reservation.

(3) Upon request of the court of another tribe or state, a competent court of this reservation may order a person in this reservation to appear along or with the child in a custody proceeding in another reservation or state. The court may condition compliance with the request upon assurance by the other tribe or state that travel and other necessary expenses will be advanced or reimbursed.

Section 14-19-22      Preserving Records of Custody Proceedings

In any custody proceeding on this reservation, the court shall preserve the pleadings, orders and decrees, any record that has been made of its hearings, social studies and other pertinent documents until the child reaches twenty-one (21) years of age. Upon appropriate request of the court of another tribe or state, the court shall forward to the other court certified copies of any or all of such documents.

Section 14-19-23      Custody Proceedings; Record from Another Reservation or State

Whenever a custody decree has been rendered on another reservation or state concerning a child involved in a custody proceeding pending in a court of this reservation, the court of this reservation, upon taking jurisdiction of the case, shall request of the court of the other tribe or state a certified copy of the transcript of any court record and other documents mentioned in section 14-19-23.

Section 14-19-24      Policies of Act Applicable to International Area

The general policies of this act extend to the international area. The provisions of this act relating to the recognition and enforcement of custody decrees of other tribes or states apply to custody decrees and decrees involving legal institutions similar in nature to custody rendered by appropriate authorities of other nations if reasonable notice and opportunity to be heard was given to all affected persons.

Section 14-19-25      Priority of Custody Proceeding Raising Question or Jurisdiction

Upon request of a party to a custody proceeding which raise a question of existence or exercise of jurisdiction under this act, the case shall be given calendar priority and handled expeditiously.

Section 14-19-26      This Act not Inconsistent with Indian Child Welfare Act

Nothing contained in this act shall be interpreted or applied so as to conflict with the purpose, scope or language of the Indian Child Welfare Act.

CHAPTER 20              COMMUNICABLE DISEASES

Section 14-20-1      Purpose

This code has the following purposes:

(1) Upon application of any authorized medical officer of the United States, the Shoshone and Arapaho Tribal Court is authorized to issue an order requiring any person subject to the jurisdiction of the said court, who is thought to be suffering from a communicable disease, to undergo such examination or treatment as may be necessary to protect the community from contagion.

(2) Any person violating such an order shall be subject to the penalties provided under section 1-4-1, Contempt, of the Law and Order Code of the Shoshone and Arapaho Tribes.

CHAPTER 21

CONTROL OF TRESPASS AND UNAUTHORIZED USE OF TRIBAL  
AND MEMBER LANDS

Section 14-21-1

Definitions

As used in this Ordinance:

(1) “Court” means the Tribal Court of the Eastern Shoshone and Northern Arapaho Tribe of the Wind River Reservation, Wyoming.

(2) “Fee land” shall mean all land within the exterior boundaries of the Wind River Reservation not defined as “Member land” or “Tribal land.”

(3) “Immediate family” shall mean a person related to the Member as mother, father, spouse, son, daughter, brother, sister, grandparent, grandchild, or legal custodian or guardian, provided that such definition also shall apply to adoptive relations when applicable. “Immediate family” also shall include all persons permanently residing in the Member’s household, defined as a continuous period of six (6) months or more immediately prior to any action under this Ordinance.

(4) “Joint Business Council” means the Eastern Shoshone Business Council and the Northern Arapaho Business Council, the respective governing bodies of the Tribes, acting in joint session.

(5) “Member” means any person enrolled in either Tribe, or a member of the immediate family of an enrolled member.

(6) “Member land” means land titled to the United States of America in trust for a member or members of either Tribe.

(7) “Non-member” means any person not enrolled in either Tribe and not a member of the immediate family of an enrolled member.

(8) “Person” shall include members, non-members, individuals, partnerships, corporations and any other business or governmental entity or affiliation.

(9) “Reservation” means the Wind River Reservation, Wyoming.

(10) “Trespass” means an unauthorized entry upon tribal or member lands.

(11) “Tribal land” means land titled to the United States of America in trust for the Tribes, fee lands owned by either of them, or Tribal land assigned to a Tribal member.

(12) “Tribes” means the Eastern Shoshone and Northern Arapaho Tribes of the Wind River Reservation, Wyoming.

(13) “Unauthorized use” means any use of tribal or member land, performed or occurring in violation of this Ordinance, applicable federal or tribal law or regulations, or controlling permit, license, lease, or grant of right-of-way.

Section 14-21-2      Entry Upon and Use of Land

(1) Effective Date. Due to multiple trespasses upon and unauthorized uses of tribal and member lands, the Tribes hereby declare that enforcement of this Ordinance shall commence effective thirty (30) days from enactment of this Ordinance by both Tribes. The effective date of this Ordinance shall not be deemed, construed, or interpreted to mean that the Tribes have ever given their consent in the past to the unauthorized use of their lands by any persons. Notice of this ordinance shall be provided through compliance with the provisions of Section 14-21-6(2) hereof.

(2) Tribal Land.

a) Application. Non-members desiring to enter upon or use tribal land shall apply in writing to the Secretary of the Joint Business Council (hereinafter “Joint Secretary”) for a Use Permit. No non-member may enter upon or use tribal land without a valid permit, license, lease, or grant of right-of-way from the Tribes, provided that business invitees, for commercial or governmental purposes, or persons on Tribal business shall be deemed to have a valid permit. Upon receipt of a Use Permit application, the Joint Secretary shall schedule consideration of the application before the Joint Business Council according to the procedures for scheduling routine matters for Joint Business Council action. The Joint Business Council may grant, grant with conditions, or deny the application. The decision of the Joint Business Council shall be final.

If the application involves lands owned solely by one Tribe and the requested activity will not have an impact on surrounding joint tribal lands, the Joint Secretary shall forward the application to the Tribal Secretary for the affected Tribe. In such event, the Business Council of the individual Tribe shall be substituted for the Joint Business Council for purposes of application of this Ordinance.

b) Notification. After action by the Joint Business Council, the Joint Secretary shall notify the applicant that a Use Permit is granted, granted with conditions or denied. If a Use Permit is granted, the Joint Secretary will issue it in accordance with the terms and conditions specified by the Joint Business Council, subject to approval by the Secretary of the Interior or his authorized representative, when applicable. If a Use Permit is denied, the Secretary will notify the applicant of the right to appeal in writing to

the Joint Business Council within ten (10) days of receipt of the Secretary's notice. The Joint Business Council shall provide a hearing within ten (10) days of receiving a written appeal, and the Joint Business Council shall within five (5) days from the hearing date make a decision. The decision of the Joint Business Council shall be final.

c) Regulations. The Joint Business Council shall within sixty (60) days of enactment of this Ordinance promulgate rules and regulations governing the criteria for approval, disapproval, and revocation of Use Permits.

d) Revocation. The Joint Business Council may require the Joint Secretary to revoke a Use Permit if the permittee is adjudged by the court to have violated this Ordinance or any of the terms and conditions of his Use Permit. The permittee shall be notified by the Joint Secretary of the right to appeal in writing to the Joint Business Council within ten (10) days of receipt of the Joint Secretary's notice. The Joint Business Council shall provide a hearing, at which the permittee shall be allowed to present evidence and question witnesses, within ten (10) days of receiving a written appeal, and the Joint Business Council shall within five (5) days from the hearing date make a decision. The decision of the Joint Business Council shall be final.

(3) Member Land and Fee Land. Persons desiring to enter upon or use member or fee land in which the user has no ownership interest must obtain the prior written consent of the owner of the land. No non-member may enter upon or use member or fee land without a valid permit, license, lease, or grant of right-of-way from the owner of the land, provided that invitees, personal or commercial, and persons on tribal business shall be deemed to have a valid permit.

(4) Evidence of Permission. Persons entering upon or using tribal land, member land, or fee land are required to have upon their person evidence of permission to enter upon or use the land and to supply such evidence to authorized enforcement officers upon request; provided, that permission to go upon tribal land shall be presumed for those members possessing proof of their membership in the Tribes or relationship as a member of the immediate family of an enrolled member.

(5) Registration. Any non-member or member in possession of a document entitling him to use tribal or member land on the effective date hereof may register evidence of such entitlement with the Joint Secretary. Upon registration, the Joint Secretary shall issue to the registrant a Use Permit reflecting the location, terms, and conditions of such pre-existing entitlement. The Use Permit here authorized shall be deemed that evidence required under Section 14-21-2(4).

(6) Use of Roadways. Use of valid roadways or rights-of-way by persons shall not be prohibited hereunder if that use complies with the original purposes for which the right-of-way or roadway was granted. Permission to use valid roadways or rights-of-way does not constitute

permission to access lands adjacent to roadways or rights-of-way, except in compliance with Tribal law.

(7) Other Valid Use Documents. Nothing herein shall be construed to invalidate or impair valid permits, licenses, leases, or grants of rights-of-way, now in existence or acquired in the future, provided, that the terms and conditions of such permits, licenses, leases, or grants of rights-of-way are being complied with fully.

(8) Livestock. This Ordinance shall be inapplicable to violations of this Ordinance by members falling within the purview of Ordinance No. 52, entitled “For the Control of Stray or Trespassing Livestock.”

#### Section 14-21-3      Sanctions For Non-Compliance

(1) Civil Redress. The Tribes and/or owners of member land may seek civil redress and damages for trespasses upon or unauthorized uses of tribal or member.

(2) Damages and Penalties. Any person adjudged by the Court to have trespassed upon or engaged in unauthorized use of tribal or member land may have court costs, attorneys’ fees, and reasonable incidental and consequential damages assessed against him. In addition, any person who violates this Ordinance may be assessed a civil penalty up to \$100.00 for the first violation and up to \$500.00 for each subsequent violation, which amounts are payable to the Joint Business Council. The purpose of a civil penalty provision is to ensure compensation to the Tribes and/or member owners for damages resulting from a trespass or unauthorized use of their land. In setting these penalties, the Joint Business Council has considered:

- a) The cost and necessity of protecting tribal and member land and of preserving peace;
- b) The cost and necessity of replacing, protecting, and restoring natural, cultural, and religious resources;
- c) The cost and necessity of regulating land use and member and non-member activity on the Reservation;
- d) The cost and necessity of enforcement and record keeping; and
- e) The need to deter negligent and willful or wanton injury to the interests which this Ordinance seeks to protect, including, but not limited to, the Tribe’s and member’s privacy and proprietary interests, and interests in personality, realty, natural resources, cultural resources, and religious resources.

(3) Adjustment of Penalty Limits. The Joint Business Council may adjust the civil penalty limits annually, and shall publish such adjustments locally and cause the same to be made available to interested persons upon request.

(4) Consent. All non-members, whether Indian or non-Indian, shall be deemed to have consented to all provisions of Tribal laws, including the civil penalty allowed for herein, and the jurisdiction of the Court by their entry upon or use of tribal or member land.

(5) Punitive Damages. Nothing in this Ordinance shall preclude the Court from awarding punitive damages in any action filed for a violation of this Ordinance, if the Court determines that the person has acted wantonly, willfully, or maliciously. The Court, in assessing punitive damages, shall determine the amount in the same manner in which it would determine punitive damages in any other civil action.

(6) Other Sanctions. All sanctions described herein or otherwise provided for or allowed by law are cumulative and not exclusive of any other remedy to which the Tribes or a member may be lawfully entitled.

a) Contempt. All parties to actions brought under this Ordinance, whether members or non-members, shall be subject to the civil contempt power of the court and may be sanctioned by any means provided for in the applicable provisions of the Tribes' Law and Order Code; and

b) Exclusion. Nothing in this Ordinance shall be deemed to preclude the use of the remedy of exclusion of non-members from the reservation, and an action for exclusion may be initiated in conjunction with, in addition to, or in lieu of any other enforcement procedure provided for by this Ordinance.

#### Section 14-21-4 Citations/Complaints

(1) Court. The Court is hereby authorized to hear and adjudicate all causes of action arising under this Ordinance, whether originating by Citation to the Court or by Complaint.

(2) Enforcement. All Tribal Police Officers, Tribal Fish and Game Officers, and 131A Law Enforcement Officers (hereinafter "authorized officers") are hereby authorized to enforce the provisions of this Ordinance.

#### (3) Citations/Complaints

a) If an authorized officer reasonably believes that a person has violated this Ordinance, such officer shall issue a Citation to Court to answer for the alleged violation. A Citation to Court shall provide the time and place for a hearing concerning the alleged violation;



b) Cited persons shall be asked to sign the Citation to Court. In the event a cited person shall refuse to sign the Citation to Court, the officer shall make note of the request to sign, the time and location thereof, and the refusal to sign, whereupon effective notice shall be presumed;

c) Cited non-members shall be escorted from Tribal or Member land;

d) Any member who believes that a person has violated this Ordinance may swear out a civil complaint alleging the general facts constituting violation, and must cause the alleged violator to receive actual notice of such complaint against him and of the time and place of the hearing;

e) Any person who is named in a Citation to Court or Complaint shall have ample opportunity to appear in Court in his defense; and

f) The procedures for all court actions arising hereunder shall be governed by the applicable provisions of the Tribes' Law and Order Code.

#### Section 14-21-5      Federal Prosecution

The civil remedies provided for in this Ordinance are independent of and in addition to any federal prosecution under 18 U.S.C. 1165 or 18 U.S.C. 1163, which prosecution shall not be precluded hereby.

#### Section 14-21-6      General Provisions

(1) Severability. If any provision of this Ordinance, any regulations promulgated hereunder, or any application hereof is held invalid by a court of competent jurisdiction, the valid provisions of this Ordinance and the valid regulations shall continue in full force and effect, and, to this end, the provisions of this Ordinance are declared to be severable.

2) Notice. As a convenience to the public, this Ordinance shall be conspicuously posted in the Wind River Indian Agency, the Tribal Office building, and in such other public places on and adjacent to the Reservation as the Joint Business Council may direct, including, if permissible, the post offices in Lander, Riverton, Shoshoni, Thermopolis, and Dubois, Wyoming. A classified advertisement shall be published in the newspapers of general publication serving the towns mentioned above, describing the nature and purpose of the Ordinance, specifying that copies of the Ordinance are available on request at the Wind River Indian Agency and the Tribal Office, and identifying the places where the full text of the Ordinance is posted. Nothing stated in this Section and no action or failure to act under this section shall affect the validity of this Ordinance.

History:

Chapter 21, Control of Trespass and Unauthorized Use of Tribal and Member Lands, was passed by the Shoshone General Council on April 23, 1994, and by the Northern Arapaho Business Council on July 19, 1994. The Joint Business Council passed Resolution No. 7243 on July 22, 1994, to confirm that all actions necessary to passage of the law had been taken and to provide for its codification. Effective date: August 19, 1994.

Adopted 1987. Restated Nov. 1, 2004, by the Shoshone & Arapaho Tribal Court.