

**TITLE VII
CODE OF TRIBAL OFFENSES**

CHAPTER 1 GENERAL PROVISIONS

Section 7-1-1 Gender References

Any reference in this Code to the pronoun “he,” “him,” or “his” shall be interpreted to include “she,” “her,” or “hers,” as the case may be, so that it effectively includes both the male and female genders.

Section 7-1-2 Civil Recovery for Criminal Act; Conviction as Evidence in Civil Suit

(1) Nothing in this code prevents a party whose property or person is injured by a criminal act from recovering full damages in a civil action.

(2) No record of conviction, unless it was obtained by confession in open court, shall be used as evidence in an action brought to recover damages.

Section 7-1-3 Definition of Misdemeanor and Sentencing

A “misdemeanor” shall mean those crimes for which the maximum punishment is one (1) year or a fine of not more than \$5,000.00 or both.

(1) Each of the sentences described in all of the offenses prohibited by this Law and Order Code are maximum sentences to be inflicted only in extreme cases.

(2) Each judge has the duty to look at all factors, such as past record, willfulness of the action by defendant, age, ability to make restitution if damage is sustained by his act, etc., when sentencing and may, when appropriate, delay it and order a pre-sentence report by the probation officer for a sentencing hearing at a later time.

(3) Any sentence may be suspended on conditions which relate(s) directly to the case for a period not to exceed one (1) year and, upon the defendant meeting the requirements of the conditions, the sentence is fulfilled thereby. (Form VII-1)

(4) In cases of probation, any juvenile may be allowed it more than one time, and a limited number of adults in exceptional circumstances may be allowed probation more than once.

(5) In addition to or in lieu of any of the foregoing sentences provided for in each offense, a judge may sentence any defendant to community service work for a specified length of

time, but not to exceed one (1) year, or for treatment for alcohol and/or drug abuse or for mental evaluation and treatment.

Section 7-1-4 Concurrent Jurisdiction

Jurisdiction of the Shoshone and Arapaho Tribes shall be concurrent and not exclusive over any offense of which the federal courts may also have jurisdiction.

CHAPTER 2 INCHOATE OFFENSES

Section 7-2-1 Attempt

(1) A person is guilty of an attempt to commit an offense if, acting with the purpose to commit a specific offense, he engages in conduct constituting a substantial step towards the commission of the offense.

(2) Conduct does not constitute a substantial step toward the commission of the offense unless it corroborates the actor's intent.

(3) No defense to attempt shall arise:

a) Because the offense attempted was actually committed; or

b) Due to the factual or legal impossibility of consummating the intended offense if the offense could have been committed had the circumstances been as the actor believed them to be.

(4) A person convicted of the offense of attempt shall be punished not more than the maximum sentence provided in the offense attempted.

Section 7-2-2 Criminal Conspiracy

A person is guilty of conspiracy when he, intending that conduct constituting a crime be performed, agrees with one or more persons to engage in or cause the performance of such conduct and any one of them commits an overt act in pursuance of the conspiracy.

Section 7-2-3 Solicitation

(1) A person is guilty of solicitation when he, intending that another person commit an offense, entices, advises, incites, orders, or otherwise encourages such other person to commit the offense intended.

(2) A person convicted of the offense of solicitation shall be punished not more than the maximum sentence provided in the offense solicited.

CHAPTER 3 OFFENSES AGAINST PERSONS

Section 7-3-1 Simple Assault

(1) No person shall attempt or threaten bodily harm to another person through the use of unlawful force or violence.

(2) Any person found guilty of violating this Section, may, upon conviction, be sentenced:

- a) On a first offense to a fine of \$50.00;
- b) On a second offense to a fine of \$100.00; and
- c) On a third or subsequent offense to a fine of \$300.00.

Section 7-3-2 Battery

Any person who shall willfully strike another person or otherwise inflict bodily injury, or who shall by offering violence cause another to harm himself, shall be deemed guilty of a misdemeanor and upon conviction thereof may be sentenced to one hundred eighty (180) days payable and in appropriate cases ordered to make restitution for the benefit of the injured party.

(1) No person shall unlawfully touch another in a rude, insolent, or angry manner or intentionally, knowingly, or recklessly cause bodily injury to another.

(2) Any person found guilty of violating this Section may, upon conviction, be ordered to make restitution and sentenced in accordance with the provisions of the Code of Criminal Procedure, Title VI, "Sentencing," Chapter 6, Section 6-6-1, *et seq.*

Section 7-3-3 Aggravated Assault and Battery

(1) No person shall intentionally, knowingly, or recklessly under circumstances manifesting extreme indifference to the value of human life, cause or threaten or attempt to cause:

- a) Bodily injury to another with a deadly weapon;
- b) Bodily injury to a woman whom he knows to be pregnant; or

- c) Serious bodily injury to another.
- (2) Any person found guilty of violating this Section may, upon conviction, be:
- a) Ordered to make restitution;
 - b) If the court deems appropriate, ordered to seek and complete treatment and/or counseling for a period not to exceed ninety (90) days, after which a report must be submitted to the court evidencing successful completion of the treatment so ordered; and
 - c) Sentenced:
 - i) on a first offense to not less than thirty (30) days nor more than one (1) year imprisonment and a fine of not less than \$300.00 nor more than \$5,000.00;
 - ii) on a second offense to not less than forty-five (45) days nor more than one (1) year imprisonment and a fine of not less than \$500.00 nor more than \$5,000.00; and
 - iii) on a third or subsequent offense to not less than six (6) months nor more than one (1) year imprisonment and a fine of not less than \$1,000.00 nor more than \$5,000.00.

Section 7-3-4 Abduction

(1) Any person who shall willfully take away or detain another person against his will or without the consent of the parent or other person having lawful care or charge of him shall be deemed guilty of a misdemeanor and upon conviction thereof may be sentenced to one hundred eighty (180) days payable.

(2) Any person found guilty of violating this Section may, upon conviction, be sentenced in accordance with the provisions of the Code of Criminal Procedure, Title VI, "Sentencing," Chapter 6, Section 6-6-1, *et seq.*

Section 7-3-5 Reckless Endangering

- (1) No person shall:
- a) Recklessly engage in conduct which places another person in danger of death or serious bodily injury; or

b) Knowingly point or display a firearm or other weapon at or in the direction of another, whether or not the person believes the firearm is loaded.

(2) Any person found guilty of violating this Section may, upon conviction, be sentenced:

a) On a first offense to five (5) days of confinement and a \$50.00 fine;

b) On a second offense to ten (10) days of confinement and a \$100.00 fine;
and

c) On a third or subsequent offense to thirty (30) days of confinement and \$300.00 fine.

Section 7-3-6 Stalking

(1) No person with intent to harass another person shall engage in a course of conduct over any period of time reasonably likely to cause a reasonable person to suffer substantial emotional distress and which does, in fact, seriously alarm the person toward whom the harassment is directed including, but not limited to, any combination of the following acts:

a) Communicating, anonymously or otherwise, or causing a communication with another person by verbal, electronic, mechanical, telegraphic, telephonic, or written means in a manner that harasses;

b) Following a person, other than within the residence of the defendant;

c) Placing a person under surveillance by remaining present outside that person's school, place of employment, vehicle, other place occupied by the person, or residence other than the residence of the defendant; or

d) Otherwise engaging in a course of conduct evidencing a continuity of purpose that harasses another person.

(2) Except as provided under subsection (3) of this Section, any person found guilty of violating this Section may, upon conviction, be sentenced in accordance with the provisions of the Code of Criminal Procedure, Title VI, "Sentencing," Chapter 6, Section 6-6-1, *et seq.*

(3) A person convicted of stalking under subsection (1) of this Section shall be sentenced to not less than six (6) months nor more than one (1) year imprisonment, a fine of not less than \$750.00 nor more than \$5,000.00, or both if:

- a) The act(s) leading to the conviction occurred within five (5) years of a prior conviction of stalking under this Section or under a substantially similar law of another jurisdiction;
- b) The defendant caused serious bodily harm to the victim or another person in conjunction with committing the offense of stalking;
- c) The defendant committed the offense of stalking in violation of any condition of probation, parole, or bail; or
- d) The defendant committed the offense of stalking in violation of a temporary or permanent order of protection or restraining order under this Law and Order Code or pursuant to a substantially similar law of another jurisdiction.

Section 7-3-7 Child Neglect

(1) No person who is responsible for the welfare, as parent, non-custodial parent, guardian, custodian, stepparent, foster parent, or other person having physical custody or control of a child under the age of eighteen (18), shall fail or refuse, without good cause, to provide adequate care or maintenance for the health and well-being of the child including:

- a) Adequate food, clothing, shelter, and support of the child;
- b) Adequate medical and surgical care;
- c) Adequate education including sending and securing the child's regular and full-day attendance at school until the child shall have reached eighteen (18) years of age;
- d) Adequate supervision including:
 - i) not leaving a child for an unreasonable period of time without being under the control of, or without having communication with, a responsible adult; or
 - ii) insuring the child abides by the curfew or any other provisions of this Code; and
- e) Adequate protection including:
 - i) driving a motor vehicle in which a child is present without being under the influence of alcohol or a controlled substance; or

ii) driving a motor vehicle in which every child under eighty (80) lbs. present is restrained in devices appropriate to the child's weight.

(2) Any person found guilty of violating this Section may, upon conviction, be sentenced:

a) On the first offense under this Section or a substantially similar law of another jurisdiction, to a fine of not less than \$100.00 nor more than \$500.00;

b) On the second offense under this Section or a substantially similar law of another jurisdiction, to imprisonment of not less than one (1) month, a fine of not less than \$300.00 nor more than \$500.00, or both; and

c) On a third or subsequent offense under this Section or a substantially similar law of another jurisdiction, to imprisonment of not less than three (3) months nor more than one (1) year, a fine of not less than \$500.00 nor more than \$5,000.00, or both.

Section 7-3-8 Child Abuse

(1) No person who is at least four (4) years older than a child shall intentionally or recklessly inflict upon, cause, or place a person under the age of eighteen (18) years in imminent danger or substantial risk of harm in the form of:

a) Death or physical injury including, but not limited to, disfigurement, impairment of any bodily organ, skin bruising, bleeding, burns, fracture of any bone, subdural hematoma, or substantial malnutrition;

b) Mental injury in the form of impairment of intellectual capacity, psychological capacity, or emotional stability including, but not limited to, an observable or substantial impairment of the victim's ability to function within a normal range of performance and behavior;

c) Sexual injury or harm including, but not limited to, injury to the genital organs of a child in attempt of carnal knowledge falling short of actual intercourse; or

d) The taking of immodest, immoral, or indecent liberties with a child including, but not limited to, fondling a child either by physical touching or through clothing, masturbating with a child, or encouraging a child to commit with him any immoral or indecent act.

(2) Imminent danger, as used in this Section, includes threatened harm by means of a statement, overt act, or condition which represents an immediate and substantial risk.

(3) Substantial risk, as used in this Section, means a strong possibility, as contrasted with a remote or insignificant possibility.

(4) A person found guilty of violating this Section may, upon conviction, be sentenced:

a) On the first offense under this Section or a substantially similar law of another jurisdiction, to imprisonment of not less than three (3) months nor more than one (1) year flat time and a fine of not less than \$750.00 nor more than \$5,000.00;

b) On the second offense under this Section or a substantially similar law of another jurisdiction, to imprisonment of not less than six (6) months nor more than one (1) year flat time and a fine of not less than \$1,500.00 nor more than \$5,000.00; and

c) On the third or subsequent offense under this Section or a substantially similar law of another jurisdiction, imprisonment of not less than one (1) year flat time and a fine of not less than \$5,000.00.

Section 7-3-9 Sexual Assault

(1) No person shall take, solicit, procure, or encourage another to take immodest, immoral, or indecent liberties with another without the other giving informed, voluntary, and explicit consent. Liberties shall include, but not be limited to, fondling, either by physical touch or through clothing, masturbating with, or engaging in sexual penetration or sexual intrusion.

(2) Any person found to have violated this Section may, upon conviction, be:

a) Ordered to make restitution;

b) Ordered, if the court deems appropriate, to seek and complete treatment and/or counseling for a period not to exceed ninety (90) days, after which a report must be submitted to the court evidencing successful completion of the treatment so ordered; and

c) Sentenced:

i) on the first offense under this Section or a substantially similar law of another jurisdiction, to imprisonment of not less than three (3) months nor more than one (1) year flat time and a fine of not less than \$750.00 nor more than \$5,000.00;

ii) on the second offense under this Section or a substantially similar law of another jurisdiction, to imprisonment of not less than six (6) months nor

more than one (1) year flat time and a fine of not less than \$1,500.00 nor more than \$5,000.00; and

iii) on the third or subsequent offense under this Section or a substantially similar law of another jurisdiction, imprisonment of not less than one (1) year flat time and a fine of not less than \$5,000.00.

Section 7-3-10 Other Acts Prohibited Against Children

(1) No person shall:

- a) Cause, encourage, aid, or contribute to a minor's violation of any law;
- b) Cause, encourage, aid, contribute or permit a child to enter or remain or be employed in a house of prostitution;
- c) Commit any indecent or obscene act in the presence of a minor;
- d) Sell, give or otherwise furnish a child alcohol or any drug prohibited by tribal law without a physician's prescription; or
- e) Cause, encourage, aid, or contribute to the endangering of a child's health, welfare or morals, including using, employing or permitting a minor to:
 - i) work in any business enterprise which is injurious or dangerous to the health, welfare, morals, life or physical safety of a minor;
 - ii) work in any place for any medicant purposes;
 - iii) be exhibited or display any deformity of a minor, except to physicians; or
 - iv) engage in any obscene or indecent exhibition or practice.

(2) "Obscene," as used in this Section, means that which the average person, applying contemporary community standards, would find to appeal to the prurient interest in a patently offensive way or which conduct tends to corrupt the public morals by its lewdness or indecency.

(3) Any person found guilty of violating this Section may, upon conviction, be fined not less than \$750.00 nor more than \$5,000.00, imprisoned not less than six (6) months nor more than one (1) year, or both.

(1) No person shall willfully and knowingly commit any act of physical or mental abuse which results in injury upon his spouse or any handicapped person or anyone over sixty (60) years of age.

(2) Probable cause to arrest a person for violating this Section shall be based on an officer's observations and statements made by the parties and witness(es) involved, provided the officer, using reasonable judgment, believes an act of abuse did occur and that the person to be arrested committed the abuse.

(3) As used in this Section:

a) "Abuse" means an act or omission which results:

i) in unreasonable restraint or personal liberty of a spouse, handicapped person, or elderly person;

ii) in harm or threatened harm to the health or welfare of a handicapped or elderly person including, but not limited to, intentionally inflicting physical or mental injury, sexual abuse, or withholding of necessary food, clothing, or medical care to meet the physical and mental health needs of such person(s) by one having the care, custody, or responsibility of that person; or

iii) in physical injury or pain or mental anguish, sexual abuse, unreasonable confinement, malnutrition or exploitation to a handicapped or elderly person by another.

b) "Elderly person" means any person sixty (60) years of age or older;

c) "Handicapped person" means any person who is incapacitated due to a physical or mental disability; and

d) "Spouse" means a person with whom the victim is currently living or who has lived with the victim in the past, regardless of whether they are/were married, or a person with whom the victim has a child in common regardless of whether they have been married or have lived together at any time.

(4) Any person found guilty of violating this Section may, upon conviction, be:

a) Ordered to make restitution;

b) Sentenced:

i) on a first offense to not less than thirty (30) days nor more than one (1) year imprisonment and a fine of not less than \$300.00 nor more than \$5,000.00;

ii) on a second offense to not less than forty-five (45) days nor more than one (1) year imprisonment and a fine of not less than \$500.00 nor more than \$5,000.00; and

iii) on a third or subsequent offense to not less than six (6) months nor more than one (1) year imprisonment and a fine of not less than \$1,000.00 nor more than \$5,000.00; and

c) If the court deems appropriate, ordered to seek and complete treatment and/or counseling for a period not to exceed ninety (90) days, after which a report must be submitted to the court evidencing successful completion of the treatment so ordered.

Section 7-3-12 Violation of Protection or Restraining Order

(1) No person shall willfully violate an order of protection or restraining order issued pursuant to this Law and Order Code of the Shoshone and Arapaho Tribes of the Wind River Indian Reservation, Wyoming, or a valid foreign protection or restraining order as defined in subsection (2) of this Section.

(2) A foreign protection or restraining order shall be deemed valid if the issuing court had jurisdiction over the parties and matter under the law of the tribe, state, or territory. There shall be a presumption in favor of validity where an order, on its face, appears in compliance with the requirements.

(3) Any person found guilty of violating this Section may, upon conviction, be sentenced:

a) On a first offense to five (5) days of confinement and a \$50.00 fine;

b) On a second offense to ten (10) days of confinement and a \$100.00 fine;
and

c) On a third or subsequent offense to thirty (30) days of confinement and \$300.00 fine.

CHAPTER 4 OFFENSES AGAINST PUBLIC ORDER AND DECENCY

Section 7-4-1 Carrying a Concealed Weapon

(1) No person who shall wear or carry a dangerous weapon concealed on or about his person, unless the person is a peace officer or holds a valid permit to carry it.

(2) Any person found guilty of violating this Section may, upon conviction, be sentenced to fifty (50) days payable, and the weapon so carried shall be confiscated.

Section 7-4-2 Unlawful Discharge of a Weapon

(1) No person shall willfully discharge any species of firearm, air gun, or other weapon, or throw any missile, in any public place or in any place where there is any person or property to be endangered thereby, regardless of whether or not injury to any person or property ensues.

(2) Any person found guilty of violating this Section may, upon conviction, be sentenced to not less than sixty (60) days nor more than one (1) year imprisonment, a fine of not less than \$500.00 nor more than \$5,000.00, or both, and the weapon so discharged or thrown shall be confiscated.

Section 7-4-3 Inhaling Noxious Substances

(1) Any person who:

a) Shall knowingly and deliberately inhale the fumes of any gasoline, airplane glue or any other noxious substance for the purpose of producing intoxication; or

b) Who induces any person to inhale such fumes or noxious substances for such purpose

shall be guilty of a misdemeanor and upon conviction thereof may be sentenced to twenty (20) days payable or an \$80.00 fine or both.

(2) "Intoxication," as used in this Section, shall mean a condition of physical or mental impairment produced by noxious substances to such excess that one's physical or mental control is markedly diminished.

Section 7-4-4 Drug - Unlawful Possession

(1) No person shall knowingly or intentionally:

a) Possess, use, or be under the influence of a controlled substance unless the substance was obtained pursuant to a valid prescription and directly from an order of a licensed practitioner while acting in the course of his professional practice; or

b) Possess any drug paraphernalia including, but not limited to, pipes, bongs, clips, or other article used or likely to be used to directly assist in the injection, ingestion, or inhalation of a controlled substance.

(2) As used in this Section:

a) “Controlled substance” means, for purposes of definition only, a drug, substance, or immediate precursor in Schedule I, II, III, IV, or V of the Federal Control Substance Act, except Peyote in the Native American Church;

b) “Drug paraphernalia” means all equipment, products, and materials of any kind when used, advertised for use, intended for use, or designed for use for manufacturing, converting, preparing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of this Code;

c) “Marijuana” includes all parts of the plant, *cannabis sativa* L., whether growing or not; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture or preparation of such plant, its seeds or resin; but shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant or any other compound, manufacture, salt, derivative, mixture or preparation of such mature stalks, fiber, oil or cake except the resin extracted therefrom.

d) “Narcotic drug” means any drug which is produced directly or indirectly by extraction from substances of vegetable origin, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis; and

e) The weights designated shall include the weight of the controlled substance and the weight of any carrier element, cutting agent, diluting agent, or any other substance excluding packaging material.

(3) Any person who violates this Section or has in his possession a controlled substance in the amount set forth below may, upon conviction, be sentenced to not less than thirty (30) days nor more than one (1) year imprisonment, fined not less than \$325.00 nor more than \$5,000.00, or both:

a) For a controlled substance in plant form, no more than four (4) ounces;

- b) For a controlled substance in liquid form, no more than three-tenths (3/10) of a gram;
- c) For a controlled substance in powder or crystalline form, no more than three (3) grams;
- d) For a controlled substance in pill or capsule form, no more than three (3) grams;
- e) For a controlled substance in the form of cocaine-based “crack” cocaine, no more than five-tenths (5/10) of a gram; or
- f) For a controlled substance known as LSD (lysergic acid diethylamide), no more than three-tenths (3/10) of a gram.

(4) Any person who violates this Section and has in his possession a controlled substance in an amount greater than that set forth above may, upon conviction, be sentenced to imprisonment of not less than one hundred (100) days nor more than one (1) year flat time and a fine of not less than \$500.00 nor more than \$5,000.00.

Section 7-4-5 Drugs - Unlawful Sale or Delivery

(1) No person shall knowingly or intentionally sell, barter, give away, or deliver a controlled substance to another unless acting as a licensed practitioner in the course of his professional practice.

(2) As used in this Section:

a) “Controlled substance” means, for purposes of definition only, a drug, substance, or immediate precursor in Schedule I, II, III, IV, or V of the Federal Control Substance Act, except Peyote in the Native American Church;

b) “Deliver” or “delivery” means the actual, constructive, or attempted transfer from one person to another of a controlled substance;

c) “Marijuana” includes all parts of the plant, cannabis sativa L., whether growing or not, the resin extracted from any part of such plant, and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or resin; but shall not include the mature stalks of such plant, fiber produced from such stalks, oil, or cake made from the seeds of such plant, or any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks, fiber, oil, or cake except the resin extracted therefrom; and

d) “Narcotic drug” means any drug which is produced directly or indirectly by extraction from substances of vegetable origin, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis.

(3) Any person found guilty of violating this Section shall, upon conviction, be sentenced to imprisonment of not less than one hundred (100) days nor more than one (1) year flat time and a fine of not less than \$500.00 nor more than \$5,000.00.

Section 7-4-6 Drugs - Unlawful Manufacture

(1) No person shall manufacture or possess with intent to manufacture a controlled substance.

(2) As used in this Section:

a) “Controlled substance” means, for purposes of definition only, a drug, substance, or immediate precursor in Schedule I, II, III, IV, or V of the Federal Control Substance Act, except Peyote in the Native American Church;

b) “Manufacture” means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin, independently by means of chemical synthesis, or by a combination of extractions and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation, compounding, packaging, or labeling of a controlled substance by a licensed practitioner as an incident to his administering or dispensing a controlled substance in the course of this professional practice;

c) “Marijuana” includes all parts of the plant, cannabis sativa L., whether growing or not, the resin extracted from any part of such plant, and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or resin; but shall not include the mature stalks of such plant, fiber produced from such stalks, oil, or cake made from the seeds of such plant, or any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks, fiber, oil, or cake except the resin extracted therefrom.

d) “Narcotic drug” means any drug which is produced directly or indirectly by extraction from substances of vegetable origin independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis.

(3) Any person who violates this Section shall, upon conviction, be sentenced to imprisonment of not less than one hundred (100) days nor more than one (1) year flat time and a fine of not less than \$500.00 nor more than \$5,000.00.

Section 7-4-7 Forfeiture

(1) The following are subject to forfeiture:

- a) All items confiscated pursuant to the provisions of any other Section of this Code;
- b) All controlled substances and drug paraphernalia as defined by this Code;
- c) All raw materials, products, equipment of any kind which are used or intended to be used in manufacturing, processing, delivering, importing, or exporting any controlled substances in violation of this Code;
- d) All vehicles or other conveyances knowingly used or intended to be used to transport or in any manner knowingly facilitate the transportation for the sale or receipt of controlled substances regarding which the owner has knowledge or given consent; and
- e) Any property or other thing of pecuniary value furnished in exchange for a controlled substance in violation of this Code including any proceeds, assets, or other property of any kind traceable to the exchange and any money, securities, or other negotiable instruments used to facilitate a violation of this Code.

(2) Property subject to forfeiture under this Section may be seized by any officer upon process issued by Tribal Court. Seizure without process may be made if incident to an arrest or a search under a search warrant or the Prosecutor has probable cause to believe that the property was used or is intended to be used in violation of this Code.

(3) In the event of seizure, property taken or detained shall not be subject to replevin, but is deemed to be in the custody of the Tribal Prosecutor subject to orders of the court. Upon seizure, the Tribal Prosecutor may place the property under seal or remove the property to a place designated by him.

(4) Upon seizure of any contraband or upon conviction in cases involving any property seized other than contraband, the Tribal Prosecutor may:

- a) Authorize any law enforcement officer to apply to the court for an order providing for destruction of controlled substances or drug paraphernalia if no longer necessary for evidentiary purposes;

b) Retain any tangible property other than controlled substances or drug paraphernalia for official use, in which case it shall become the property of the Tribes;

c) Sell any tangible property which is not a controlled substance or drug paraphernalia, the proceeds of which shall be used for payment of all proper expenses of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising and court costs; and

d) Transfer the net proceeds of all cash or other intangible property, along with the net proceeds from any sale of forfeited property, to a specially created fund managed by the Office of Joint Finance which fund shall be created for the sake of improving crime prevention, recovery from drug addiction, victim assistance, or law enforcement within the boundaries of the Wind River Reservation.

(5) Upon application to and approval by the Joint Business Council, monies from the assets forfeiture account of the Office of Joint Finance may be appropriated as directed by that Council for purposes of crime prevention, recovery from drug addiction, law enforcement, or victim assistance.

(6) The Office of Joint Finance, with the assistance and cooperation of the Office of Tribal Prosecutor, shall provide the Joint Business Council an annual audit of all seized assets detailing the collection, retention, and/or distribution of the assets forfeiture account and all other seized assets.

Section 7-4-8 Littering

(1) No person shall intentionally discard any trash, debris, garbage or other refuse anywhere within the exterior boundaries of the Wind River Indian Reservation, including roadways, waterways, campgrounds or any public place, except in proper receptacles or in a public waste disposal grounds designated and approved by the Shoshone and Arapaho Tribes.

(2) Any person found guilty of violating this Section may, upon conviction, be sentenced to a \$100.00 fine.

Section 7-4-9 Use of Obscene Language in a Public Place

(1) No person shall utter or speak any obscene or lascivious language in any public place, in the presence of females, or children under fifteen (15) years of age, or over any public telephone.

(2) "Obscene," as used in this Section, means that which the average person, applying contemporary community standards, would find to appeal to the prurient interest in a

patently offensive way or which conduct tends to corrupt the public morals by its lewdness or indecency.

(3) Any person found guilty of violating this Section may, upon conviction be sentenced to a \$40.00 fine.

Section 7-4-10 Prostitution

(1) No person shall:

- a) Sell or trade anything as compensation for any sexual favor; or
- b) Maintain a house of prostitution within the exterior boundaries of the reservation.

(2) Any person found guilty of violating by this Section may upon conviction be sentenced to fifty (50) days payable.

Section 7-4-11 Disorderly Conduct

(1) No person shall engage in fighting in a public place, disturb or annoy any public or religious assembly, or appear in a public or private place and engage in a disturbance.

(2) Any person found guilty of violating this Section may, upon conviction shall be sentenced to twenty (20) days payable.

Section 7-4-12 Disturbing the Peace

(1) No person shall commit any act which disturbs the public or private peace.

(2) Any person found guilty of violating this Section may upon conviction be sentenced to fifteen (15) days payable.

Section 7-4-13 Indecent Exposure

(1) No person shall willfully exposes the private parts of his person in any place, public or private, where there are present other persons who are offended or annoyed thereby.

(2) Any person found guilty of violating this Section may upon conviction be sentenced to twenty (20) days payable.

Section 7-4-14 Public Intoxication

(1) Any person who shall appear in a public place in an intoxicated condition shall be guilty of a misdemeanor and upon conviction thereof may be sentenced to ten (10) days payable.

(2) "Intoxicated" shall mean the physical or mental impairment produced by the use of drugs, noxious substances, or drinking to such excess that one's physical and/or mental control is markedly diminished.

Section 7-4-15 Open Container in Vehicle; Furnishing Alcohol to Persons Under Twenty-One (21)

(1) No person, while operating or occupying a motor vehicle, shall have within the passenger or driving area of that vehicle, any alcoholic liquor or malt beverage regarding which the seal has been broken.

(2) No person shall have in his possession or control any alcoholic liquor or malt beverage with the intent of furnishing the same to any person under the age of twenty-one (21) years.

(3) Any person found guilty of violating this Section may, upon conviction, be sentenced:

a) On a first offense to not less than thirty (30) days nor more than six (6) months imprisonment and a fine of not less than \$500.00 nor more than \$1,000.00;

b) On a second or any subsequent conviction to not less than six (6) months nor more than one (1) year imprisonment and a fine of not less than \$1,000.00 nor more than \$5,000.00.

Section 7-4-16 Sale of Intoxicating Liquor

(1) It shall be unlawful, except pursuant to a permit or license under applicable law, for any person to:

a) Engage in the business of purchasing intoxicating liquor for resale within the exterior boundaries of the Wind River Reservation;

b) Sell intoxicating liquor within the exterior boundaries of the Wind River Reservation.

(2) It shall be unlawful for any person to purchase intoxicating liquor within the exterior boundaries of the Wind River Reservation from any person or entity other than those selling intoxicating liquor pursuant to a permit or license under applicable law.

(3) As used in this Section, “intoxicating liquor” means distilled spirits, wine, or malt beverages.

(4) Any person found guilty of violating this Section may, upon conviction, be sentenced

a) On a first offense to five (5) days of confinement and a \$50.00 fine;

b) On a second offense to ten (10) days of confinement and a \$100.00 fine;
and

c) On a third or subsequent offense to thirty (30) days of confinement and \$300.00 fine.

CHAPTER 5 OFFENSES AGAINST GOVERNMENT ADMINISTRATION

Section 7-5-1 Perjury

(1) No person shall deliberately in any judicial proceeding in Shoshone and Arapaho Tribal Court, falsely swear, interpret, or make a sworn statement or affidavit knowing the same to be untrue, nor induce or procure another person to do so.

(2) Any person found guilty of violating this Section may, upon conviction be sentenced to fifty (50) days payable.

Section 7-5-2 Bribery

(1) No person shall receive, solicit, attempt to solicit, give or offer to give any money, property, services, or anything else of value to or from another in the discharge of his public duties or conduct.

(2) Any person found guilty of violating this Section may, upon conviction be sentenced to fifty (50) days payable.

Section 7-5-3 Obstructing Justice

(1) No person shall:

- a) Harbor or conceal another;
- b) Provide or aid in providing aid of any means to avoid apprehension or help to escape;
- c) Conceal or destroy evidence of the offense, or tamper with a witness, informant, document or other service of information, regardless of its admissibility as evidence;
- d) Warn others of impending apprehension;
- e) Volunteer false information to a law enforcement officer for the purpose of preventing the apprehension of himself or another; or
- f) Obstruct by force, threat, bribery or deception anyone from performing an act which might aid in the discovery, apprehension, prosecution or conviction of another person.

(2) Any person found guilty of violating this Section may, upon conviction be sentenced to thirty (30) days payable, a fine not to exceed \$180.00, or both.

Section 7-5-4 Escape

(1) No person in lawful custody for any lawful offense shall escape or attempt to escape or permit or assist or attempt to permit or assist another person to escape therefrom.

(2) Any person found guilty of this Section may, upon conviction be sentenced to jail for one hundred eighty (180) days.

Section 7-5-5 Resisting Lawful Arrest

(1) No person shall willfully and knowingly, by force or violence, resist or assist another person to resist a lawful arrest.

(2) Any person found guilty of violating this Section may, upon conviction be sentenced to fifty (50) days imprisonment.

Section 7-5-6 Interfering with a Law Enforcement Officer

(1) No person shall willfully prevent or attempt to prevent a law enforcement officer from effecting an arrest or otherwise discharging his official duties by:

- a) Creating a substantial risk of bodily harm to the officer or any other person; or
- b) Employing means of resistance which justify or require substantial force to overcome.

(2) Any person found guilty of violating this Section may, upon conviction be sentenced to imprisonment for a period not to exceed fifty days, a fine not to exceed \$200.00 or both.

Section 7-5-7 Refusing to Aid Officer

(1) No person shall neglect or refuse, when called upon by any law enforcement officer to assist in the arrest of any person charged with or convicted of any offense, in securing such offender when apprehended, or in conveying such offender to confinement.

(2) Any person found guilty of violating this Section may, upon conviction be sentenced to ten (10) days payable.

Section 7-5-8 False Arrest

(1) No person shall willfully and knowingly make, or cause to be made, the unlawful arrest, detention or imprisonment of another person.

(2) Any person found guilty of violating this Section may, upon conviction be sentenced to one hundred eighty (180) days payable.

Section 7-5-9 Disobedience to Lawful Order of Court

(1) No person shall willfully disobey any order, subpoena, warrant or command issued, made or given pursuant to this Code by the Shoshone and Arapaho Tribal Court or any officer thereof.

(2) Any person found guilty of violating this Section may, upon conviction be sentenced to one hundred eighty (180) days, a fine of \$750.00, or both.

Section 7-5-10 Injury to Public Property

(1) No person shall, without proper authority, use or injure any public property of the Tribes or the United States.

(2) Any person found guilty of having violated this Section may upon conviction:

- a) Be sentenced to:
 - i) not less than ten (10) days nor more than thirty (30) days imprisonment; and
 - ii) a fine of not less than \$200.00 nor more than \$750.00; and
- b) Be ordered to replace or repair the property used or injured.

Section 7-5-11 Maintaining a Public Nuisance

(1) No person shall act in such a manner, or permit his property to fall into such condition, so as to injure or endanger the safety, health, comfort, or property of his neighbors.

(2) Any person found guilty of violating this Section may upon conviction be sentenced to ten (10) days payable and shall remove such nuisance when so ordered by the court.

CHAPTER 6 OFFENSES AGAINST PROPERTY

Section 7-6-1 Timber Trespass

(1) No person shall willfully cut timber without a permit issued by the Bureau of Indian Affairs (BIA) Forestry Department or the Shoshone and Arapaho Tribes or with a free use permit issued by same and sell the timber product.

(2) Any person found guilty of violating this Section may, upon conviction ordered to pay damages to the benefit of the Shoshone and Arapaho Tribes at three (3) times the approved stumpage rate for the particular product cut, and sentenced to a fine not to exceed \$500.00, imprisonment not to exceed six (6) months, or both.

Section 7-6-2 Negligent Burning

(1) No person shall purposely or knowingly start a fire or cause an explosion whether on his own property or another's property, including the Shoshone and Arapaho Tribes', and thereby negligently:

- a) Place another person in danger of death or bodily injury; or
- b) Place property of another, including the Shoshone and Arapaho Tribes', in danger of damage or destruction.

(2) Any person found guilty of violating this Section may upon conviction be sentenced to imprisonment for a period not to exceed one hundred fifty (150) days, a fine not to exceed \$600.00, or both.

(3) In addition, the court may order the violator to make proper restitution if held responsible for the expenses incurred for fighting the fire, such as labor, equipment used, supplies, tools, and transportation for extinguishing the fire.

Section 7-6-3 Cruelty to Animals

(1) No person shall torture or cruelly mistreat any animal, domestic or not.

(2) Any person found guilty of violating this Section may upon conviction be sentenced to imprisonment for a period not to exceed thirty (30) days, or a fine of \$150.00, or both.

Section 7-6-4 Misbranding

(1) No person shall knowingly and willfully misbrand or alter any brand or mark on any livestock of another person, including the Shoshone and Arapaho Tribes’.

(2) Any person found guilty of violating this Section may upon conviction be sentenced to imprisonment for a period not to exceed six (6) months, a fine of \$750.00, or both.

Section 7-6-5 Extortion

(1) No person shall willfully, by making false charges against another person or by any other means whatsoever, extort or attempt to extort any monies, goods, property or anything else of value.

(2) Any person found guilty of violating this Section may upon conviction be sentenced to one hundred fifty (150) days payable and ordered to either return what was extorted to the owner, or replace it.

Section 7-6-6 Receiving Stolen Property

(1) No person shall receive, conceal or aid in concealing or receiving any property knowing the same to be stolen, embezzled or obtained by fraud, false pretenses, robbery, theft or burglary.

(2) Any person found guilty of violating this Section may upon conviction be sentenced to one hundred fifty (150) days payable.

Section 7-6-7 Malicious Mischief

(1) No person shall maliciously disturb, injure or destroy any livestock or other property of another, including the Shoshone and Arapaho Tribes'.

(2) Any person found guilty of violating this Section may upon conviction be sentenced to one hundred fifty (150) days payable and ordered to make full restitution for the benefit of the owner.

Section 7-6-8 Theft

(1) No person shall take the property of another person, including the Shoshone and Arapaho Tribes', with intent to steal.

(2) Any person found guilty of violating this Section may upon conviction be sentenced to one hundred fifty (150) days payable, and ordered to either return or replace the stolen items or to make restitution to the owner.

Section 7-6-9 Fraud

(1) No person shall by willful misrepresentation or deceit, false interpreting, or the use of false weights or measures obtain any money or other property.

(2) Any person found guilty of violating this Section may upon conviction be sentenced to one hundred fifty (150) days payable.

Section 7-6-10 Forgery

(1) No person shall, with intent to defraud, falsely sign, execute or alter any written instrument.

(2) Any person found guilty of violating this Section may upon conviction be sentenced to one hundred fifty (150) days payable.

Section 7-6-11 Embezzlement

(1) No person shall, having lawful custody of property not his own, appropriate the same to his own use with intent to deprive the owner thereof.

(2) Any person found guilty of violating this Section may upon conviction be sentenced to one hundred fifty (150) days payable.

Section 7-6-12 Breaking and Entering

(1) No person shall break into or attempts to break into any building, dwelling or other property including an automobile, with the intent to commit any crime.

(2) Any person found guilty of violating this Section may upon conviction be sentenced to one hundred fifty (150) days payable.

Section 7-6-13 Landmark and Antiquities Violation

(1) No person shall, without proper authority, remove, excavate, injure, alter, or destroy any historical or pre-historical landmark, living monument, site or any other object of antiquity including ceremonial artifacts, ancient or recent, or any materials erected by the Tribes, State, or United States Government.

(2) Any person found guilty of violating this Section may upon conviction be sentenced to one hundred fifty (150) days payable.

Section 7-6-14 Eluding in Vehicle

(1) Any person who shall willfully refuse or fail to bring his vehicle to a stop, or who otherwise flees or attempts to elude a pursuing police vehicle, when given a visual or audible signal or both, shall be guilty of a misdemeanor and upon conviction thereof may be imprisoned for not less than thirty (30) days nor more than one hundred eighty (180) days, or by a fine of not less than \$50.00 nor more than \$500.00, or both.

(2) A visual or audible signal as used in this in Section means a signal given by an officer by hand, voice, emergency light or siren. The officer giving such signal shall promptly display a badge of office, and his vehicle shall be appropriately marked showing it to be an official law enforcement vehicle.

Section 7-6-15 Illegally Taking Automobile

(1) No person shall willfully, wantonly, or maliciously take possession of, or drive, propel, or take away an automobile, which is the property of another for the purpose of temporarily making use of the same without specific authority of the owner or his duly authorized and accredited agent.

(2) “Automobile” as used in this Section means any vehicle of whatever description propelled by any power other than muscular, except vehicles running on rails.

(3) “Owner” as used in Section means any person, firm, co-partnership, association, or corporation.

(4) Any person found guilty of violating this Section may, upon conviction, be sentenced to imprisonment for not less than thirty (30) days nor more than one hundred eighty (180) days, a fine of not less than \$300.00 nor more than \$500.00, or both.

Section 7-6-16 Driving in Roadless Area

(1) No person shall use a motorized vehicle of any kind within the exterior boundaries of the Wind River Reservation Roadless Area, unless authorized by permit issued by the Shoshone and Arapaho Tribes.

(2) Any person found guilty of violating this Section may upon conviction be sentenced to imprisonment for not less than ten (10) days nor more than thirty (30) days, a fine of not less than \$100.00 nor more than \$300.00, or both.

Section 7-6-17 Spotlighting and Selling Game

(1) No person shall:

a) Pursue, shoot, kill, take, or attempt to take any wildlife with the aid of a spotlight or any other artificial light of any kind or;

b) Sell, buy, barter, exchange or give away any game bird, or fish taken on or from the Wind River Reservation.

(2) Any person found guilty of violating this Section may, upon conviction:

a) Be sentenced to imprisonment for not less than ten (10) days nor more than thirty (30) days, a fine of not less than \$100.00 nor more than \$300.00, or both; and

b) In the discretion of the court, forfeit the privilege to hunt and fish on the reservation for a period set by the court.

Section 7-6-18 Wanton Waste of Game or Bird

(1) No person shall:

a) Capture or destroy any bird or game animal, except fur bearing animals, on the Wind River Reservation, and detach or remove from the carcass only the head, hide, antlers, horns, tusks, or combination of these parts; or

b) Leave through carelessness, neglect or otherwise, any bird or game animal or any edible portion thereof so that it or that portion needlessly goes to waste.

(2) Any person found guilty of violating this Section may, upon conviction, be sentenced to imprisonment of not less than ten (10) days nor more than thirty (30) days, a fine of not less than \$100.00 nor more than \$300.00, or both.

Section 7-6-19 Trespass

(1) No person shall go upon or pass over any cultivated or enclosed lands of another person, including the Shoshone and Arapaho Tribes', and refuse to immediately leave therefrom on the request of the owner or rightful occupant thereof.

(2) No person shall willfully and knowingly allow livestock to occupy or graze on the cultivated or enclosed lands of another person, including the Shoshone and Arapaho Tribes'.

(3) Any person found guilty of violating this Section may upon conviction be:

- a) Sentenced to a fine not to exceed \$120.00; and
- b) Ordered to pay the injured party for any damage caused thereby.

CHAPTER 7 NONCRIMINAL OFFENSES OR STATUS

Section 7-7-1 Curfew Violation

(1) No person of the ages specified below shall be upon any of the public streets, highways, bridges, alleys, parks or any public place of the Wind River Indian Reservation during the hours hereinafter provided, unless reasonable necessity can be shown therefor and such child is accompanied by a parent, legal guardian or a responsible person of good reputation over twenty-one (21) years of age:

- a) Under the age of fourteen (14) years of age, between the hours of 9:00 p.m. and 5:00 a.m. Sunday through Thursday, and 10:00 p.m. and 5:00 a.m. Friday and Saturday; and
- b) Between fourteen (14) years of age or older up to and including seventeen (17) years of age, between the hours of 10:00 p.m. and 5:00 a.m., Sunday through Thursday and between the hours of 12:00 p.m. and 5:00 a.m. Friday and Saturday.

(2) Any person found in violation of section (1) (a) or (b), shall be deemed guilty of an offense and disposition of such child taken pursuant to the Children's Code, Title III, Ch 4, Sec 14, or Ch. 5, Sec 16.

(3) All adult-supervised activities attended primarily by youth shall cease no later than midnight, and any person under eighteen (18) years of age attending shall be allowed one-half (½) hour after midnight to return home.

Section 7-7-2 Illegal Possession, Purchase or Use of Alcohol; Forfeiture

(1) Any person under the age of twenty-one (21) years of age, who shall purchase or attempt to purchase, or to have in his possession any alcoholic beverages as defined in Section (2) herein, shall be guilty of an offense and upon conviction thereof sentenced to a fine of \$100.00, or if under the age of eighteen (18), disposition may be as provided in Title III, Ch. 4, Sec. 14, or Ch. 5, Sec. 16, of the Children's Code.

(2) "Alcoholic beverages" means alcohol, brandy, whiskey, rum, gin, beer, ale, port, hard cider, any spiritous wines, malt, or fermented liquor, liquids, or compounds, whether medicated, proprietary, penetrated, or not, and by whatever name called, containing one-half of one percent (.5%) or more of alcohol by volume, which are fit and intended for use for beverage purposes. All alcoholic beverages shall be deemed intoxicating.

(3) Any alcoholic beverages present at the scene of a person's violation of this Code, shall be seized and held pending prosecution and upon conviction of that person, shall be forfeited to the Tribes to be disposed of pursuant to the written order of the court.

Section 7-7-3 Truancy

(1) No person under the age of eighteen (18) years of age shall be:

- a) Wayward or habitually disobedient; or
- b) Truant from school or home.

(2) As used in this Section:

- a) "Truant" means to stay away without permission of those with authority to grant such permission; and
- b) "Wayward" means to habitually turn away from what is right or proper.

(3) Any person found in violation of section (1) (a) or (b) shall be deemed guilty of an offense and disposition of such child taken pursuant to the Children's Code, Title III, Ch. 4, Section 14 or Ch. 5, Section 16.

Section 7-7-4 Finding of Delinquency

Every decree adjudging guilt in a criminal case where the defendant was under eighteen (18) years of age at the time the offense was committed shall include a finding that the act constituting the criminal offense under this Code is a delinquent act.

History. First enacted by the Eastern Shoshone and Northern Arapaho Tribes in 1988. Certain amendments to the Code were approved by the Eastern Shoshone Tribe in 2000. The Northern Arapaho Tribe approved most of the amendments to the Code, pursuant to its legislative process, on July 28, 2003. The above provisions are those which have been enacted by both the Eastern Shoshone and the Northern Arapaho Tribes and fully replace the 1988 version of the Code. Effective date: September 1, 2003.

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