

NORTHERN ARAPAHO CODE

TITLE 12. TRESPASS

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Section 101 - Findings.

(a) High rates of unemployment and poverty among members of the Northern Arapaho Tribe have been persistent problems. Solutions require the Tribe to acquire real property in its own name and develop economic enterprises and employment opportunities for the benefit of the Tribe and its members. Regulation of the uses of the Tribe's lands and other property is necessary in the best interests of the Tribe and its members.

(b) The Shoshone and Arapaho Tribes have jointly approved a trespass ordinance (Shoshone and Arapaho Law & Order Code, S&A LOC, at 14-21-1 et seq.) which, alone, is no longer sufficient to meet the expanding development and needs of the Northern Arapaho Tribe and its members with respect to its own properties and activities.

(c) The Northern Arapaho Tribe has reserved the right and authority, from time immemorial, to control the use of its properties and the activities of persons on or affecting its properties. This right has been recognized in treaties with the United States and other federal law.

(d) Economic enterprises of the Northern Arapaho Tribe are located primarily on lands owned by the Tribe; are critical sources of funding for tribal government, including for the provision of essential governmental services; and are important sources of employment for tribal members and families.

Comment: 73% to 78% of all employees in the Tribe's primary enterprises are members of the Tribe. 90% to 92% are members of a federally recognized Tribe.

Section 102 - Relation to S&A LOC. The provisions of this Code do not purport to bind or regulate the Eastern Shoshone Tribe or to rescind, amend, or supersede the provisions of Shoshone and Arapaho Law & Order Code ("S&A LOC") Chapter 21 (Control of Trespass and Unauthorized Use of Tribal and Member Lands) or any other provisions of the S&A LOC. This Code supplements the provisions of the S&A LOC with respect to lands or other property of the Northern Arapaho Tribe by providing rules regarding the issuance of use permits regarding Northern Arapaho property and related matters.

Section 103 - Tribal Property Not Public. The lands or other property of the Northern Arapaho Tribe, including lands and

economic enterprises available to patrons, are not public property but are the private property of the Tribe.

Section 104 - Use Permits. No person may cross, enter upon, engage in activities upon, or otherwise use lands of the Tribe without first obtaining a written permit from the Northern Arapaho Business Council. Applications for permits shall be submitted to the Secretary of the Northern Arapaho Business Council. The Business Council may request additional information concerning the permit application and grant, grant with conditions, or deny the application. The decision of the Business Council shall be final and not subject to appeal.

Section 105 - Exceptions. The following persons or circumstances do not require written use permits regarding use of the Tribe's lands:

(a) Any person whose presence or use of the Tribe's land is permitted by lease, right of way, tribal license, or other written agreement.

(b) Any member of the Tribe (or their guests when the member is present with them), when use of the Tribe's land is consistent with the rights of the tribal member to cross over, hunt, fish, gather, or be involved in traditional ceremonies.

(c) Any person who has been invited by the Business Council or a regulatory agency of the Tribe to attend a meeting, tribal function, or activity sponsored or supported by the Tribe.

(d) Any person who is a supplier, contractor, customer, or other business invitee whose purpose is to provide goods or services to the Tribe or to one of the Tribe's businesses or whose purpose is to patronize that business as a customer.

(e) Any duly authorized law enforcement personnel or any other person duly authorized by Federal or Tribal Court.

Section 106 - Prohibited Uses. The following uses of or activities on the Tribe's lands are prohibited.

(a) Solicitation of the public, the Tribe, tribal members or others for business, organizational, political or other purposes including, without limitation, solicitation by means of the display or distribution of written or symbolic messages, audio or other communication;

(b) Interference with the lawful activities of the Tribe or its business invitees; and

(c) Any other activity, including presence on Tribal lands, which is inconsistent with permissible uses of Tribal lands, any applicable use permit issued by the Business Council, or with the provisions of this Code or the S&A LOC.

The Business Council may, in its sole discretion, authorize limited exceptions to the above uses or activities if requested in writing in advance and if the use or activity promotes the best interests of the Tribe or its members.

Section 107 - Remedies and Sanctions. Any person (which includes any organization or entity) which violates this Code may be subject to one or more of the following remedies or sanctions:

(a) remedial orders for equitable relief including, without limitation, orders requiring the person to cease or desist his/her activities or excluding him/her from Tribal lands, or other injunctive relief, whether temporary or permanent;

(b) civil fines not to exceed \$2,500 per day per violation, payable to the Tribe;

(c) damages for financial or other injury to the Tribe;

(d) when a person's position is not substantially justified, an award of attorney's fees and costs to the Tribe;

(e) when a person's violation of this Code is intentional or malicious, punitive damages; and

(f) all other remedies or sanctions permitted by law including, where applicable, criminal sanctions for trespass or other prohibited conduct.

Section 108 - Severability. If any provision of this Code, any regulations promulgated hereunder, or any application hereof is held invalid by a court of competent jurisdiction, the valid provisions of this Code and the valid regulations shall continue in full force and effect.

Section 109 - Effective Date. The provisions of this Code shall be effective on the date of enactment certified by the Northern Arapaho Business Council.

History: 2009. Title 12. Section 101 et seq., *Trespass*, was enacted by the Northern Arapaho Tribe by resolution of the Northern Arapaho Business Council dated November 16, 2009, Resolution No. 2009-062. (Typographic error in Section 105 corrected June 1, 2010.)