

NORTHERN ARAPAHO CODE

TITLE 20. CODE OF CRIMINAL OFFENSES

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CHAPTER 1: GENERAL PROVISIONS

Section 101 - Gender and Singular or Plural 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. Any reference in this Code to the singular or the plural shall be interpreted to include either or both.

Section 102 - Civil Recovery for Criminal Act; Conviction as Evidence in Civil Suit.

(a) 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.

(b) 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 103 - 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 Five Thousand Dollars (\$5,000), or both.

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

(b) 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.

(c) 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.

(d) 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.

(e) 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 104 - Concurrent Jurisdiction. Jurisdiction of the Northern Arapaho Tribe ("Tribe") shall be concurrent and not exclusive over any offense of which the federal or other courts may also have jurisdiction.

CHAPTER 2: INCHOATE OFFENSES

Section 201 - Attempt.

(a) 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.

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

(c) No defense to attempt shall arise:

(1) Because the offense attempted was actually committed; or

(2) 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.

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

Section 202 - 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 203 - Solicitation.

(a) 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.

(b) 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 301 - Simple Assault.

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

(b) Any person found guilty of violating this section may upon conviction be sentenced:

(1) On a first offense to a fine of Fifty Dollars (\$50);

(2) On a second offense to a fine of One Hundred Dollars (\$100); and

(3) On a third or subsequent offense to a fine of Three Hundred Dollars (\$300).

Section 302 - Battery.

(a) 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.

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

(c) 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 21, Chapter 6, "Sentencing."

Section 303 - Aggravated Assault and Battery.

(a) 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:

(1) Bodily injury to another with a deadly weapon;

(2) Bodily injury to a woman whom he knows to be pregnant; or

(3) Serious bodily injury to another.

(b) Any person found guilty of violating this section may upon conviction be:

(1) Ordered to make restitution;

(2) 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

(3) Sentenced:

(A) 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 Three Hundred Dollars (\$300) nor more than Five Thousand Dollars (\$5,000);

(B) 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 Five Hundred Dollars (\$500) nor more than Five Thousand Dollars (\$5,000); and

(C) 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 One Thousand Dollars (\$1,000) nor more than Five Thousand Dollars (\$5,000).

Section 304 - Abduction.

(a) 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.

(b) 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 21, Chapter 6, "Sentencing."

Section 305 - Reckless Endangering.

(a) No person shall:

(1) Recklessly engage in conduct which places another person in danger of death or serious bodily injury; or

(2) 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.

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

(1) On a first offense to five (5) days of confinement and a fine of Fifty Dollars (\$50);

(2) On a second offense to ten (10) days of confinement and a fine of One Hundred Dollars (\$100); and

(3) On a third or subsequent offense to thirty (30)

days of confinement and a fine of Three Hundred Dollars (\$300).

Section 306 - Stalking.

(a) 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:

(1) 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;

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

(3) 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

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

(b) Except as provided under subsection (c) 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 21, Chapter 6, "Sentencing."

(c) A person convicted of stalking under subsection (a) 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 Seven Hundred Fifty Dollars (\$750) nor more than Five Thousand Dollars (\$5,000), or both if:

(1) 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;

(2) The defendant caused serious bodily harm to the victim or another person in conjunction with committing the offense of stalking;

(3) The defendant committed the offense of stalking in violation of any condition of probation, parole or bail; or

(4) The defendant committed the offense of stalking in violation of a temporary or permanent order of protection or restraining order under this Code or pursuant to a substantially similar law of another jurisdiction.

Section 307 - Child Neglect.

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

(1) Adequate food, clothing, shelter and support of the child;

(2) Adequate medical and surgical care;

(3) 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;

(4) Adequate supervision including:

(A) 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

(B) Insuring the child abides by the curfew or any other provisions of this Code; and

(5) Adequate protection including:

(A) Driving a motor vehicle in which a child is present without being under the influence of alcohol or a controlled substance; or

(B) Driving a motor vehicle in which every child present under eighty (80) pounds is restrained in a device appropriate to the child's weight.

(b) Any person found guilty of violating this section may upon conviction be sentenced:

(1) On the first offense under this section or a substantially similar law of another jurisdiction to a fine of not less than One Hundred Dollars (\$100) nor more than Five Hundred Dollars (\$500);

(2) 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 Three Hundred Dollars (\$300) nor more than Five Hundred Dollars (\$500), or both; and

(3) 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 Five Hundred Dollars (\$500) nor more than Five Thousand Dollars (\$5,000), or both.

Section 308 - Child Abuse.

(a) 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 eighteen (18) years of age in imminent danger or substantial risk of harm in the form of:

(1) 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;

(2) 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;

(3) 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

(4) 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.

(b) 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.

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

(d) A person found guilty of violating this section may upon conviction be sentenced:

(1) 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 Seven Hundred Fifty Dollars (\$750) nor more than Five Thousand Dollars (\$5,000);

(2) 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 One Thousand Five Hundred Dollars (\$1,500) nor more than Five Thousand Dollars (\$5,000); and

(3) On the third or subsequent offense under this section or a substantially similar law of another jurisdiction to imprisonment of not less than one (1) year flat time and a fine of not less than Five Thousand Dollars (\$5,000).

Section 309 - Sexual Assault.

(a) 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.

(b) Any person found to have violated this section may upon conviction be:

(1) Ordered to make restitution;

(2) 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

(3) 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 Seven Hundred Fifty Dollars (\$750) nor more than Five Thousand Dollars (\$5,000);

(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 One Thousand Five Hundred Dollars (\$1,500) nor more than Five Thousand Dollars (\$5,000); and

(C) On the third or subsequent offense under this section or a substantially similar law of another jurisdiction to imprisonment of not less than one (1) year flat time and a fine of not less than Five Thousand Dollars (\$5,000).

Section 310 - Other Acts Prohibited Against Children.

(a) No person shall:

(1) Cause, encourage, aid or contribute to a minor's violation of any law;

(2) Cause, encourage, aid, contribute or permit a child to enter, remain or be employed in a house of prostitution;

(3) Commit any indecent or obscene act in the presence of a minor;

(4) Sell, give or otherwise furnish a child alcohol or any drug prohibited by tribal law without a physician's prescription; or

(5) Cause, encourage, aid or contribute to the endangering of a child's health, welfare or morals, including using, employing or permitting a minor to:

(A) Work in any business enterprise which is injurious or dangerous to the health, welfare, morals, life or physical safety of a minor;

(B) Work in any place for any medicant purposes;

(C) Be exhibited or display any deformity of a minor, except to physicians; or

(D) Engage in any obscene or indecent exhibition or practice.

(b) "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.

(c) Any person found guilty of violating this section may upon conviction be fined not less than Seven Hundred Fifty Dollars (\$750) nor more than Five Thousand Dollars (\$5,000), imprisoned not less than six (6) months nor more than one (1) year, or both.

Section 311 - Abuse of Spouse, Handicapped or Elderly Persons.

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

(b) Probable cause to arrest a person for violating this section shall be based on an officer's observations and statements made by the party(s) 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.

(c) As used in this section:

(1) "Abuse" means an act or omission which results:

(A) In unreasonable restraint or personal liberty of a spouse, handicapped person or elderly person;

(B) 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

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

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

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

(4) "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.

(d) Any person found guilty of violating this section may upon conviction be:

(1) Ordered to make restitution;

(2) Sentenced:

(A) 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 Three Hundred Dollars (\$300) nor more than Five Thousand Dollars (\$5,000);

(B) 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 Five Hundred Dollars (\$500) nor more than Five Thousand Dollars (\$5,000); and

(C) 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 One Thousand Dollars (\$1,000) nor more than Five Thousand Dollars (\$5,000); and

(3) 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 312 - Violation of Protection or Restraining Order.

(a) No person shall willfully violate an order of protection or restraining order issued pursuant to this Northern Arapaho Code or a valid foreign protection or restraining order as defined in subsection (b) of this section.

(b) 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.

(c) Any person found guilty of violating this section may upon conviction be sentenced:

(1) On a first offense to five (5) days of confinement and a fine of Fifty Dollars (\$50);

(2) On a second offense to ten (10) days of confinement and a fine of One Hundred Dollars (\$100.00); and

(3) On a third or subsequent offense to thirty (30) days of confinement and a fine of Three Hundred Dollars (\$300).

CHAPTER 4: OFFENSES AGAINST PUBLIC ORDER AND DECENCY

Section 401 - Carrying a Concealed Weapon.

(a) 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.

(b) 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 402 - Unlawful Discharge of a Weapon.

(a) 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.

(b) 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 Five Hundred Dollars (\$500) nor more than Five Thousand Dollars (\$5,000), or both, and the weapon so discharged or thrown shall be confiscated.

Section 403 - Inhaling Noxious Substances.

(a) Any person who:

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

(2) 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 a fine of Eighty Dollars (\$80), or both.

(b) "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 404 - Drug - Unlawful Possession.

(a) No person shall knowingly or intentionally:

(1) 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

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

(b) As used in this section:

(1) "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;

(2) "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;

(3) "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.

(4) "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

(5) 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.

(c) 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, a fine of not less than Three Hundred Twenty-Five Dollars (\$325) nor more than Five Thousand Dollars (\$5,000), or both:

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

(2) For a controlled substance in liquid form, no more than three-tenths (3/10) of a gram;

(3) For a controlled substance in powder or crystalline form, no more than three (3) grams;

(4) For a controlled substance in pill or capsule form, no more than three (3) grams;

(5) For a controlled substance in the form of cocaine-based "crack" cocaine, no more than five-tenths (5/10) of a gram; or

(6) For a controlled substance known as LSD (lysergic acid diethylamide), no more than three-tenths (3/10) of a gram.

(d) 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 Five Hundred Dollars (\$500) nor more than Five Thousand Dollars (\$5,000).

Section 405 - Drugs - Unlawful Sale or Delivery.

(a) 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.

(b) As used in this section:

(1) "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;

(2) "Deliver" or "delivery" means the actual, constructive or attempted transfer from one person to another of a controlled substance;

(3) "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

(4) "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.

(c) 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 Five Hundred Dollars (\$500) nor more than Five Thousand Dollars (\$5,000).

Section 406 - Drugs - Unlawful Manufacture.

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

(b) As used in this section:

(1) "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;

(2) "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;

(3) "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.

(4) "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.

(c) 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 Five Hundred Dollars (\$500) nor more than Five Thousand Dollars (\$5,000).

Section 407 - Forfeiture.

(a) The following are subject to forfeiture:

(1) All items confiscated pursuant to the provisions of any other section of this Code;

(2) All controlled substances and drug paraphernalia as defined by this Code;

(3) All raw materials, products or 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;

(4) 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

(5) 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.

(b) 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.

(c) 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.

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

(1) 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;

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

(3) 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

(4) 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 Northern Arapaho 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.

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

(f) The Office of Northern Arapaho Finance, with the assistance and cooperation of the Office of Tribal Prosecutor, shall provide the Northern Arapaho 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 408 - Littering.

(a) 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 Tribe.

(b) Any person found guilty of violating this section may upon conviction be sentenced to a fine of One Hundred Dollars (\$100).

Section 409 - Use of Obscene Language in a Public Place.

(a) 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.

(b) "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.

(c) Any person found guilty of violating this section may upon conviction be sentenced to a fine of Forty Dollars (\$40).

Section 410 - Prostitution.

(a) No person shall:

(1) Sell or trade anything as compensation for any sexual favor; or

(2) Maintain a house of prostitution within the exterior boundaries of the Reservation.

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

Section 411 - Disorderly Conduct.

(a) 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.

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

Section 412 - Disturbing the Peace.

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

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

Section 413 - Indecent Exposure.

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

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

Section 414 - Public Intoxication.

(a) 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.

(b) "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 415 - Open Container in Vehicle; Furnishing Alcohol to Persons Under Twenty-One (21) Years of Age.

(a) 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.

(b) 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.

(c) Any person found guilty of violating this section may upon conviction be sentenced:

(1) 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 Five Hundred Dollars (\$500) nor more than One Thousand Dollars (\$1,000);

(2) 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 One Thousand Dollars (\$1,000) nor more than Five Thousand Dollars (\$5,000).

Section 416 - Sale of Intoxicating Liquor.

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

(1) Engage in the business of purchasing intoxicating

liquor for resale within the exterior boundaries of the Wind River Reservation;

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

(b) 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.

(c) As used in this section, "intoxicating liquor" means distilled spirits, wine or malt beverages.

(d) Any person found guilty of violating this section may upon conviction be sentenced:

(1) On a first offense to five (5) days of confinement and a fine of Fifty Dollars (\$50);

(2) On a second offense to ten (10) days of confinement and a fine of One Hundred Dollars (\$100); and

(3) On a third or subsequent offense to thirty (30) days of confinement and a fine of Three Hundred Dollars (\$300).

CHAPTER 5: OFFENSES AGAINST GOVERNMENT ADMINISTRATION

Section 501 - Perjury.

(a) No person shall deliberately in any judicial proceeding in the Northern Arapaho Tribal Courts, 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.

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

Section 502 - Bribery.

(a) 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.

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

Section 503 - Obstructing Justice.

(a) No person shall:

(1) Harbor or conceal another;

(2) Provide or aid in providing aid of any means to avoid apprehension or help to escape;

(3) 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;

(4) Warn others of impending apprehension;

(5) Volunteer false information to a law enforcement officer for the purpose of preventing the apprehension of himself or another; or

(6) 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.

(b) Any person found guilty of violating this section may upon conviction be sentenced to thirty (30) days payable, a fine not to exceed One Hundred Eighty Dollars (\$180), or both.

Section 504 - Escape.

(a) 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.

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

Section 505 - Resisting Lawful Arrest.

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

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

Section 506 - Interfering with a Law Enforcement Officer.

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

(1) Creating a substantial risk of bodily harm to the officer or any other person; or

(2) Employing means of resistance which justify or require substantial force to overcome.

(b) Any person found guilty of violating this section may upon conviction be sentenced to imprisonment for a period not to exceed fifty (50) days, a fine not to exceed Two Hundred Dollars (\$200), or both.

Section 507 - Refusing to Aid Officer.

(a) 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.

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

Section 508 - False Arrest.

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

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

Section 509 - Disobedience to Lawful Order of Court.

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

(b) Any person found guilty of violating this section may upon conviction be sentenced to one hundred eighty (180) days, a fine of Seven Hundred Fifty Dollars (\$750), or both.

Section 510 - Injury to Public Property.

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

(b) Any person found guilty of having violated this section may upon conviction:

(1) Be sentenced to:

(A) Not less than ten (10) days nor more than thirty (30) days imprisonment; and

(B) a fine of not less than Two Hundred Dollars (\$200) nor more than Seven Hundred Fifty Dollars (\$750); and

(2) Be ordered to replace or repair the property used or injured.

Section 511 - Maintaining a Public Nuisance.

(a) 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.

(b) 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 601 - Timber Trespass.

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

(b) Any person found guilty of violating this section may upon conviction be ordered to pay damages to the benefit of the Tribe 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 602 - Negligent Burning.

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

(1) Place another person in danger of death or bodily injury; or

(2) Place property of another, including the Tribe's, in danger of damage or destruction.

(b) 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 Six Hundred Dollars (\$600), or both.

(c) 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 603 - Cruelty to Animals.

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

(b) 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 One Hundred Fifty Dollars (\$150), or both.

Section 604 - Misbranding.

(a) No person shall knowingly and willfully misbrand or alter any brand or mark on any livestock of another person, including the Tribe's.

(b) 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 Seven Hundred Fifty Dollars (\$750), or both.

Section 605 - Extortion.

(a) 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.

(b) 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 606 - Receiving Stolen Property.

(a) 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.

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

Section 607 - Malicious Mischief.

(a) No person shall maliciously disturb, injure or destroy any livestock or other property of another, including the Tribe's.

(b) 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 608 - Theft.

(a) No person shall take the property of another person, including the Tribe's, with intent to steal.

(b) 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 609 - Fraud.

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

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

Section 610 - Forgery.

(a) No person shall, with intent to defraud, falsely sign,

execute or alter any written instrument.

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

Section 611 - Embezzlement.

(a) 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.

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

Section 612 - Breaking and Entering.

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

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

Section 613 - Landmark and Antiquities Violation.

(a) 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 Tribe, State or United States Government.

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

Section 614 - Eluding in Vehicle.

(a) 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 Fifty Dollars (\$50) nor more than Five Hundred Dollars (\$500), or both.

(b) 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 615 - Illegally Taking Automobile.

(a) 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.

(b) "Automobile" as used in this section means any vehicle of whatever description propelled by any power other than muscular, except vehicles running on rails.

(c) "Owner" as used in section means any person, firm, co-partnership, association or corporation.

(d) 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 Three Hundred Dollars (\$300) nor more than Five Hundred Dollars (\$500), or both.

Section 616 - Driving in Roadless Area.

(a) 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 Tribe.

(b) 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 One Hundred Dollars (\$100) nor more than Three Hundred Dollars (\$300), or both.

Section 617 - Spotlighting and Selling Game.

(a) No person shall:

(1) 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

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

(b) Any person found guilty of violating this section may upon conviction:

(1) Be sentenced to imprisonment for not less than ten (10) days nor more than thirty (30) days, a fine of not less than One Hundred Dollars (\$100) nor more than Three Hundred Dollars (\$300), or both; and

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

Section 618 - Wanton Waste of Game or Bird.

(a) No person shall:

(1) 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

(2) 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.

(b) 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 One Hundred Dollars (\$100) nor more than Three Hundred Dollars (\$300), or both.

Section 619 - Trespass.

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

(b) No person shall willfully and knowingly allow livestock to occupy or graze on the cultivated or enclosed lands of another person, including the Tribe's.

(c) Any person found guilty of violating this section may upon conviction be:

(1) Sentenced to a fine not to exceed One Hundred Twenty Dollars (\$120); and

(2) Ordered to pay the injured party for any damage caused thereby.

CHAPTER 7: NONCRIMINAL OFFENSES OR STATUS

Section 701 - Curfew Violation.

(a) 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:

(1) 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

(2) 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 a.m. and 5:00 a.m. Friday and Saturday.

(b) Any person found in violation of this section shall be deemed guilty of an offense and disposition of such child taken pursuant to the Children's Code.

(c) 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 ($\frac{1}{2}$) hour after midnight to return home.

Section 702 - Illegal Possession, Purchase or Use of Alcohol; Forfeiture.

(a) 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 this section herein, shall be guilty of an offense and upon conviction thereof sentenced to a fine of One Hundred Dollars (\$100), or if under the age of eighteen (18), disposition may be as provided in the Children's Code.

(b) "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.

(c) 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 Tribe to be disposed of pursuant to the written order of the court.

Section 703 - Truancy.

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

(1) Wayward or habitually disobedient; or

(2) Truant from school or home.

(b) As used in this section:

(1) "Truant" means to stay away without permission of those with authority to grant such permission; and

(2) "Wayward" means to habitually turn away from what is right or proper.

(c) Any person found in violation of this section shall be deemed guilty of an offense and disposition of such child taken pursuant to the Children's Code.

Section 704 - 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: Title 20. The Northern Arapaho Code of Criminal Offenses (modeled on the Code of Tribal Offenses of the Shoshone and Arapaho Law and Order Code) was enacted by the Northern Arapaho Tribe by resolution of the Northern Arapaho Business Council dated August 17, 2016, Resolution No. NABC-2016-703, and additional technical amendments were enacted on August 31, 2016, by Resolution No. NABC-2016-713.