

NORTHERN ARAPAHO CODE

TITLE 17. NORTHERN ARAPAHO TRIBAL COURTS

Chapter 1 - Preliminary Provisions

Section

- 101 Inherent Tribal Authority
- 102 Name of Code
- 103 Prior Inconsistent Codes, Ordinances or Resolutions Repealed
- 104 Findings
- 105 Construction
- 106 Definitions
- 107 Sovereign Immunity Preserved
- 108 Severability
- 109 Effective Date

Chapter 2 - Jurisdiction of the Tribe

Section

- 201 Jurisdiction; Tribal Policy
- 202 Territorial Jurisdiction
- 203 Personal Jurisdiction
- 204 Jurisdiction Over Property
- 205 General Subject Matter Jurisdiction
- 206 Concurrent Jurisdiction

Chapter 3 - Tribal Courts and Laws - General Provisions

Section

- 301 Findings
- 302 General
- 303 Courts Authorized by the Northern Arapaho Tribe
- 304 Copies of Laws
- 305 Records of Court Open to Public Inspections; Exceptions
- 306 Adoption by Reference Not a Waiver of Sovereign Power of the Tribe
- 307 Limitations
- 308 Tribal Notice Law
- 309 Court Administrator
- 310 Bonding of Court Personnel
- 311 Direct Contempt of Court
- 312 Indirect Contempt of Court
- 313 Civil Penalties for Contempt of Court
- 314 Attorneys and Representatives
- 315 Standards of Conduct for Attorneys and Representatives
- 316 Compensation of Witnesses
- 317 Issuance of Subpoenas
- 318 Service of Subpoenas; Return of Service

Chapter 4 - Magistrate Court

Section

- 401 Court Established; Jurisdiction
- 402 Appointment and Qualifications of Magistrates
- 403 Training
- 404 Removal of Magistrates
- 405 Powers and Duties of Magistrates
- 406 Disqualification of Magistrates

- 407 Oath of Office of Magistrates
- 408 Clerks of Court
- 409 Duties of Clerks
- 410 Oath of Clerks
- 411 Seal of the Tribal Court
- 412 Rules of Civil Procedure

Chapter 5 - Northern Arapaho Tribal Court

Section

- 501 Court Established; Jurisdiction
- 502 Seal of the Tribal Court
- 503 Rules of Civil Procedure
- 504 Recognition of Foreign Judgments
- 505 Declaratory Rulings upon Certification of Questions of Tribal Law from Foreign Jurisdictions

Chapter 6 - Shoshone and Arapaho Tribal Courts

Section

- 601 Findings
- 602 Purpose
- 603 Temporary, Limited Authorization

Chapter 7 - Northern Arapaho Court of Appeals

Section

- 701 Creation of the Court
- 702 Jurisdiction of the Court
- 703 Composition of Court
- 704 Records of the Court of Appeals
- 705 Right of Appeal
- 706 Notice of Appeal, How and When Taken
- 707 Stay of Judgment or Order Pending Appeal
- 708 Record of the Tribal Court
- 709 Briefs and Memoranda
- 710 Oral Argument
- 711 Separate Docket for Court of Appeals
- 712 Rules of Court of Appeals
- 713 Writs of Habeas Corpus
- 714 Effective Date

CHAPTER 1: PRELIMINARY PROVISIONS

Section 101 - Inherent Tribal Authority. The Northern Arapaho Tribe is a sovereign, federally recognized Indian Tribe with authority from time immemorial to legislate for the administration of justice. This Code is enacted pursuant to the Tribe's inherent powers of self-government and is a general act intended as a unified coverage of its subject matter, and no part of it shall be deemed impliedly repealed by subsequent legislation if it can be reasonably avoided.

Section 102 - Name of Code. This law shall be known as the Tribal Courts Code of the Northern Arapaho Tribe of the Wind River Indian Reservation and may be referred to as the Northern Arapaho Tribal Courts Code. Citation to this Code shall be to Title 17 of the Northern Arapaho Code (N.A.C.) and section (17 N.A.C. [section]).

Section 103 - Prior Inconsistent Codes, Ordinances or Resolutions Repealed. Any codes, ordinances, authorizations or resolutions of the Tribe which conflict with the provisions of this Code are hereby repealed to the extent that they are inconsistent with or conflict with this Code. Those which do not conflict will remain in effect.

Section 104 - Findings. Enactment of this Code is necessary for the Tribe to provide for the administration of justice and is essential to the health, education and general welfare of the Tribe, its members, and persons within its jurisdiction.

Section 105 - Construction. The provisions of this Code shall be construed so as to promote the policies and objectives expressed in this Code. The masculine gender includes the feminine and the neuter genders. References to any portion of this Code apply to all amendments or additions made hereafter.

Section 106 - Definitions. As used in this Code:

(a) "Agency or official" means agencies, programs, instrumentalities, enterprises or other entities of the Northern

Arapaho Tribe or their officers, employees, contractors or agents acting in their official capacity, but does not include members of the Northern Arapaho Business Council or Chairman of the General Council.

(b) "Code" means the Northern Arapaho Tribal Courts Code, Title 17 of the Northern Arapaho Code.

(c) "Business Council" means the Northern Arapaho Business Council unless otherwise specified.

(d) "Court," "Northern Arapaho court" or "Tribal Court" means a court authorized by the Northern Arapaho Tribe.

(e) "Person" includes, without limitation, individuals, general partnerships, limited partnerships, limited liability companies, corporations, trusts, business trusts, real estate investment trusts, estates, and other associations or entities.

(f) "Real Property" includes land, any interest, leasehold or estate in land, and any improvements on it.

(g) "Reservation" means the Wind River Indian Reservation of the Northern Arapaho Tribe, Wyoming.

(h) "Territory" or "territorial" means areas within the Reservation and such other areas without such boundaries as may have been or may hereafter be added to the Reservation or held in restricted status or trust for the Tribe or tribal members under any law of the United States or otherwise and to the aboriginal territories of the Tribe.

(i) "Tribe" means the Northern Arapaho Tribe unless otherwise specified.

Section 107 - Sovereign Immunity Preserved. Nothing in this Code shall be construed as a waiver of sovereign immunity of the Tribe or its agencies or officials unless specifically denominated as such.

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 unless otherwise specifically provided in each chapter or section.

CHAPTER 2: JURISDICTION OF THE TRIBE

Section 201 - Jurisdiction; Tribal Policy. It is hereby declared that as a matter of tribal policy and legislative determination, public and tribal interests demand that the Tribe provide all persons within the jurisdiction of the Tribe with an effective means of redress for conflicts between tribal members and other persons who through their residence, presence, business dealings, other acts or failures to act, or other significant minimum contacts with the Tribe, its territory or its residents commit acts affecting the interests of the Tribe or incur obligations to persons entitled to the Tribe's protection. Such means of redress may be provided by the Tribe pursuant to its ongoing delegation of authority to the Shoshone and Arapaho Tribal Courts, except as expressly modified by this Code, or to such other Courts of the Tribe as are established and authorized pursuant to this Code.

Section 202 - Territorial Jurisdiction. The jurisdiction of the Tribe shall extend to the territory of the Tribe to the greatest extent permitted by applicable law. The jurisdiction of the Tribe shall extend beyond its territorial limitation, to effectuate the jurisdictional provisions set forth below, to the greatest extent permitted by applicable law.

Section 203 - Personal Jurisdiction.

(a) The Tribe shall have personal jurisdiction over the following persons to the greatest extent permitted by applicable law:

(1) Any person residing, located or present within the territory of the Tribe for any civil cause of action;

(2) Any person who transacts, conducts or performs any business or activity within the territory of the Tribe, either in person or by an agent or representative, for any civil cause of action;

(3) Any person who owns, uses or possesses any property within the territory of the Tribe for any civil cause of action;

(4) Any person who commits tortious conduct within the territory of the Tribe, either in person or by an agent or representative, for any civil cause of action arising from such act, conduct or omission; and

(5) Any enrolled or non-enrolled member of any indigenous Indian tribe who commits a criminal offense prohibited by the laws of the Tribe by his conduct or the conduct of another for which they are legally accountable, if:

(A) The conduct occurs either wholly or partly within the territory of the Tribe;

(B) The conduct which occurs outside the territory of the Tribe constitutes an attempt, solicitation or conspiracy to commit an offense within the territory, and an act in furtherance of the attempt or conspiracy occurs within the territory; or

(C) The conduct which occurs within the territory of the Tribe constitutes an attempt, solicitation or conspiracy to commit in another jurisdiction an offense prohibited by the laws of the Tribe or such other jurisdiction.

(b) None of the foregoing bases of jurisdiction is exclusive, and jurisdiction over a person may be established upon any one or more of them as applicable.

(c) Jurisdiction may also be established pursuant to a delegation or recognition of the same as a matter of federal law.

Section 204 - Jurisdiction Over Property. The Tribe shall have jurisdiction over any real or personal property located within

the territory of the Tribe to the greatest extent permitted by applicable law, including to determine the ownership thereof or rights therein or to determine the application of such property to the satisfaction of a claim for which the owner of the property or other interested parties may be liable.

Section 205 - General Subject Matter Jurisdiction. The Tribe shall have general subject matter jurisdiction over all civil causes of action arising within the territory of the Tribe and over all offenses prohibited by the laws of the Tribe which occur within such territory to adjudicate and determine the rights and responsibilities of all parties to the greatest extent permitted by applicable law.

Section 206 - Concurrent Jurisdiction. Unless otherwise specified herein, the jurisdiction invoked by this Code over any person, cause of action or subject shall be concurrent with any valid jurisdiction over the same of the courts of the United States, any tribe or state, or any subdivision thereof; provided, however, that this Code does not recognize, grant or cede jurisdiction to any other governmental entity in which jurisdiction does not otherwise exist in law.

CHAPTER 3: TRIBAL COURTS AND LAWS - GENERAL PROVISIONS

Section 301 - Findings. The population of the Tribe and the services, programs, enterprises and regulations of tribal government are expanding steadily and require the establishment of Northern Arapaho courts to provide for the fair and orderly appeals of actions by agencies or officials of the Tribe and otherwise for the proper administration of justice.

Section 302 - General. To aid in the exercise of its jurisdiction, the Tribe may from time to time establish and vest with certain tribal courts authority to hear and dispose of certain matters specified by the laws of the Tribe. The Tribe may also divest or redefine the authority of such courts from time to time in the interests of justice.

Section 303 - Courts Authorized by the Tribe. The provisions of this Code and other laws of the Tribe shall govern any court established or authorized by the Tribe. Only such courts as have been expressly authorized by the Tribe through this Code to exercise any jurisdiction or authority of the Tribe are entitled to do so. Any determinations, rulings or other actions of a court not duly authorized shall have no force or effect.

COMMENT - Chapter 4 of this Title authorizes the Magistrate Court; Title 5 authorizes the Northern Arapaho Tribal Court; Title 6 authorizes the Court of Appeals. Provisions primarily addressing the status of the Shoshone and Arapaho Tribal Courts have been moved to Chapter 7 of this Title.

Section 304 - Copies of Laws. Copies of the Northern Arapaho Code, and any amendments thereto, shall be posted on a website of the Tribe and kept available for public inspection during regular business hours at the office of the clerk of any Tribal Court or of the Business Council.

Section 305 - Records of Court Open to Public Inspections; Exceptions. The files and records of the courts of the Tribe shall be open for public inspection, except that the files and records of adoptions, incompetency proceedings, and Tribal Juvenile Court proceedings shall not be open to public inspection, but may be inspected with proper specific judicial authorization. Specific documents may be sealed or otherwise protected against public disclosure by order of the court for good cause shown.

Section 306 - Adoption by Reference Not a Waiver of Sovereign Power of the Tribe. The adoption by reference of any law, code or other document by reference into this Code shall in no manner constitute a waiver or cession of any sovereign power of the Tribe to the jurisdiction whose law or code is adopted, or in any way diminish such sovereign power, but shall result in the law or code thus adopted becoming the law of the Tribe.

Section 307 - Limitations. Limitations applicable in the Tribe's Courts shall be strictly adhered to in accordance with the

specific provisions setting such limitations or deadlines for the filing of actions or appeals.

(a) Limitations. Any action brought by or against the Tribe, any individual who is a member of the Tribe, or a tribal officer or employee, filed in courts authorized by the Tribe must be commenced within four (4) years of the date that the cause of action accrued.

(b) Equitable Tolling. The limitation period set out in paragraph 307(a) may be equitably tolled in the event that a potential plaintiff has pursued his or her rights diligently, but extraordinary circumstances have prevented, impaired or delayed him or her from asserting a claim. Extraordinary circumstances may include but are not limited to:

(1) Defendant conduct that significantly interferes with a plaintiff's ability to assert a claim in a timely manner;

(2) Circumstances that make it impossible or nearly impossible for a plaintiff to assert a claim in a timely manner;

(3) Existence of a disability or impairment that delays a plaintiff from the ability to assert a claim in a timely manner; or

(4) Pendency of other actions or proceedings that limit or delay a plaintiff from the ability to assert a claim in a timely manner.

(c) Savings.

(1) Notwithstanding the provisions in paragraph 307(a), if a plaintiff timely commences an action according to the law of the forum in which the action is filed, but that action is reversed or otherwise fails for reasons other than on the merits, a new action may be re-filed in courts authorized by the Tribe within one (1) year of the reversal or failure.

(2) As to any action pending and having been timely filed in a forum other than courts authorized by the Tribe, if the action (A) presents claims properly within the

jurisdiction of courts authorized by the Tribe, and (B) is brought by or against the Tribe, an individual who is a member of the Tribe, or a tribal officer or employee, then any party to the pending action may file an action in courts authorized by the Tribe within one (1) year of the date of enactment of this amendment to Section 307 of Title 17 of the Northern Arapaho Code so long as the foreign action has not proceeded to final judgment.

(3) An action that comes within the provisions of paragraph 307(c)(2) above may be reinstated pursuant to Title 17, Section 307, of the Northern Arapaho Code, notwithstanding that an action raising the same or substantially the same claims has previously been dismissed by courts authorized by the Tribe as time barred.

COMMENT - The provisions found in this section of the Northern Arapaho Code amended the Limitation in Civil Actions set forth in the Shoshone and Arapaho Law and Order Code (S&A LOC) Section 1-8-6 and the Northern Arapaho Code, Title 17 - Northern Arapaho Tribal Courts, Section 307 - Limitations, to the extent of jurisdiction of the Tribe. Subsequently, the Tribe rescinded its authority for the Shoshone and Arapaho Tribal Courts to exercise any jurisdiction on behalf of the Tribe except on a limited and temporary basis as set forth in this Code.

Section 308 - Tribal Notice Law.

(a) Notice Required.

(1) **Duty of Parties.** A party raising a challenge to tribal sovereignty, jurisdiction or the validity of any tribal law shall give written notice thereof to the Business Council and the Tribal Attorney for the Tribe. Such notice shall identify the proceeding in which the challenge or issue is raised and shall include a brief written explanation of the grounds upon which tribal sovereignty or jurisdiction or the validity of any tribal law is being questioned. A copy of the pleading(s) raising the issue shall be included with the notice.

(2) **Timing of Notice and Proof of Service.** Service of the notice shall be made simultaneously with the filing of the pleading giving rise to the notice requirement. A copy

of the notice shall be filed in the case file. Service of the notice shall be by a method of delivery which requires the recipient's signature upon delivery. Proof of service shall be filed with the court in which the matter is pending within ten (10) days after service has been accomplished.

(3) Late Notice.

(A) If a party discovers that notice under this Rule should have been but has not been given, the party with the duty of providing notice will promptly notify the Tribal Court of the omission and shall give notice as required by this Section.

(B) If the Tribal Court determines that notice should have but has not been given, it may order the appropriate party to provide the notice and may make other orders as are reasonable and necessary to remedy the omission.

(4) Stay of Proceedings. The Tribal Court may stay any proceeding at any stage to allow compliance with the notice requirement and may make such orders as are reasonable and necessary to allow opportunity for the Tribe to proceed as provided by this Section.

(5) Proceedings After Final Judgment. Failure of a party to give notice as required herein may be considered by the Tribal Court in evaluating motions for a new trial or for relief from a judgment or order.

(6) Civil Sanctions. The Tribal Court may impose sanctions as permitted by law on any party for willful failure to give notice as required hereunder. In addition, the Tribal Court may use other reasonable means to cure any significant harm to compelling tribal interests caused by failure to give notice as required.

(b) Tribal Participation Following Notice.

(1) Access to Court File. The Tribe is allowed access to the Court file after receipt of the required notice and may copy any part of the file. Upon the Tribe's timely written request, the Tribal Court may require any party to serve copies of subsequent case filings upon a designated

tribal representative.

(2) **Amicus Curiae.** Upon timely motion, the Tribe may appear as *amicus curiae* in any proceeding raising a challenge to tribal sovereignty, jurisdiction or the validity of any tribal law.

(3) **Timeliness.** Unless the Tribal Court orders otherwise, where timely and proper notice has been given under this Rule, any motion by the Tribe to appear as *amicus curiae* must be filed within twenty (20) days of receipt by the Tribe of such notice.

(c) Failure to Provide Notice.

(1) **No Waiver of Rights.** The failure of a party to give notice as required by this Section is not a waiver or modification of any rights otherwise timely asserted by the party, but may subject the party to sanctions as provided herein.

(2) **Notice Does Not Substitute for Pleadings.** Any notice given under this Rule is not a substitute for, or a waiver or modification of, any other pleading requirements.

Section 309 - Court Administrator. The Business Council may appoint a court administrator whose job it will be to aid in administering the court, scheduling cases, processing and safe keeping papers related to the court system, and other things as the Business Council may direct to assure the orderly and efficient operation of the court. This shall include supervision of all clerks, preparing, submitting and administering the budget, and other general clerical duties.

Section 310 - Bonding of Court Personnel. All clerks and other personnel who handle funds shall be bonded at the Tribe's expense to secure the honest collection of bonds, fines and other monies which may be paid into the court system.

Section 311 - Direct Contempt of Court. Any person coming under the jurisdiction of the Tribal Court guilty of disorderly, contemptuous or insolent behavior toward any Tribal Court Judge,

Magistrate or judicial officer, while they are engaged in the trial or consideration of a case, or in rendering any judgment, or engaged in any judicial proceedings, or who commits any action which would tend to interrupt such judicial proceedings, or to impair the respect rightfully due to the court shall be deemed guilty of contempt of court. If the offender is present during court proceedings, he may be arrested immediately and removed from the court room. Any violations of the foregoing shall be deemed a misdemeanor and may be prosecuted pursuant to applicable criminal law. Any violations of the foregoing shall also be subject to civil penalty imposed pursuant to this Chapter.

Section 312 - Indirect Contempt of Court. Any person coming under the jurisdiction of the Tribal Court duly subpoenaed and obliged to attend court as a witness who fails to do so shall be considered guilty of contempt, unless he shall show reasonable cause to the satisfaction of the Tribal Court Judge or Magistrate for his failure to attend and testify. No person shall be punished for contempt in this regard until an opportunity has been given him to be heard in his own defense; and for this purpose the Judge or Magistrate shall request a warrant to arrest and bring the defendant before him for such hearing. Any violation of the foregoing without reasonable cause for absence at the time of the hearing shall be deemed a misdemeanor and may be prosecuted pursuant to applicable criminal law. Any violations of the foregoing shall also be subject to civil penalty imposed pursuant to this Chapter.

Section 313 - Civil Penalties for Contempt of Court. Any individual found by the Tribal Court Judge or Magistrate to be in contempt pursuant to this Code may be fined not more than Five Thousand Dollars (\$5,000) for each such violation, and any business organization or other entity may be fined not more than Twenty Thousand Dollars (\$20,000) for each such violation. Judgment may be entered against the violator and shall be recognized by other courts of record on the Reservation and such other jurisdictions as may be appropriate for enforcement or execution of such judgment.

Section 314 - Attorneys and Representatives.

(a) Any person appearing as a party in any judicial

proceeding before the court shall have the right to be represented by an attorney licensed in good standing by the bar of any state. Any such person may, in the alternative, request permission from the Tribal Court Judge or Magistrate to allow a lay representative to assist him, which the Judge or Magistrate will grant liberally in the interests of justice.

(b) The Tribe shall have no obligation to provide or pay for an attorney or any other representative; such obligation shall rest entirely with the person desiring such representation.

(c) Any person appearing as a lay representative shall be subject to standards of competence, honesty and confidentiality as determined by the Tribal Court Judge or Magistrate. The Judge or Magistrate may in his discretion permit, condition or revoke the authority of a lay representative to appear or proceed in the matter.

(d) Whenever it is made to appear to the Tribal Court Judge or Magistrate that any attorney has been disbarred or suspended from the practice of law in the state to which reference for leave to practice before the Tribal Court was made, he shall immediately be given notice that he shall be suspended from practice before the court.

(e) If an attorney is found to be in contempt of court before the Tribal or Magistrate Court, then in addition to any other sanction imposed, the court may order him to appear within ten (10) days and show cause why he should not be barred from further appearances or practice before the Court.

(f) The Tribal Court Judge or Magistrate may, upon receiving a written, verified complaint which alleges improper or unethical behavior of an attorney or representative, order him to appear and defend himself at a hearing to consider all relevant matters, and order the suspension from practice of such an attorney or representative if such appears reasonably necessary or appropriate.

(g) All suspensions from practice before the court shall be for an indefinite period unless ordered otherwise. At the end of the specified period or one (1) year, the person suspended from practice may petition the court for permission to re-apply or terminate the suspension. Upon a showing that he now appears willing to conduct himself in a proper manner or has been

reinstated to practice if disbarred or suspended elsewhere, the court may allow the reapplication and terminate the suspension.

Section 315 - Standards of Conduct for Attorneys and

Representatives. Every attorney, lay counselor, advocate or representative who holds themselves out as being available to act as such shall conform their conduct in every respect to the requirements and suggested behavior of the Code of Professional Responsibility as adopted by the American Bar Association. No oath of attorneys or representatives and no professional appearance or licensing fees are required in order to appear or practice before the Magistrate court. The Tribal Court may require or establish such an oath or fees as it deems reasonable by Rule of Court.

Section 316 - Compensation of Witnesses. The party requesting that a witness be subpoenaed or appear voluntarily is responsible for compensating that witness, if he so appears. No witness may demand or receive reimbursement for expenses or payment in excess of rates established by the federal courts located in Wyoming.

Section 317 - Issuance of Subpoenas. The clerk shall issue subpoenas to compel the attendance of witnesses or such other persons, or the production of property or records, as the Tribal Court Judge or Magistrate may direct for a trial, hearing or other proceeding before the court.

Section 318 - Service of Subpoenas; Return of Service.

(a) Subpoenas may be served by any person over eighteen (18) years of age not a party to the action.

(b) Except by order based upon good cause shown therefor, no subpoena shall be served between the hours of 9:00 p.m. and 7:00 a.m.

(c) The person serving a subpoena shall endorse upon the copy served his name, title and the place, date and time of service.

(d) The person serving a subpoena shall make a return to

the clerk stating the name of the case, the name of the person served, the place, time and date of service, and shall subscribe his name thereto under penalty of perjury for the intentional making of a false return.

CHAPTER 4: MAGISTRATE COURT

Section 401 - Court Established; Jurisdiction. The Magistrate Court is hereby established and shall have exclusive jurisdiction with regard to all matters referencing "Tribal Court" or "Northern Arapaho Tribal Courts" in Title 3 (Gaming); Title 10 (Family Support); Sections 804 and 805 of Title 14 (SORNA) and Title 15 (Taxation). All references to "Tribal Court" or to "Northern Arapaho Tribal Courts" in such provisions shall mean the "Magistrate Court."

Section 402 - Appointment and Qualifications of Magistrates.

(a) The Business Council shall appoint one (1) Magistrate and may appoint one (1) alternate Magistrate, for terms not to exceed four (4) years. A Magistrate shall not be removed prior to the expiration of his term except as provided hereinafter. Compensation for Magistrates shall be determined by contract between the Magistrate and the Business Council.

(b) Each Magistrate must be a licensed member of the bar of any state and must maintain such license in good standing during the term of his appointment. The Business Council may grant preference in the appointment of Magistrates to those who are members of a federally recognized Indian Tribe or a descendant thereof.

(c) No Magistrate shall have been convicted of a felony or a misdemeanor involving moral turpitude.

Section 403 - Training. All Magistrates shall receive at least fifteen (15) hours of training each year which is relevant to the performance of their duties under this Code.

Section 404 - Removal of Magistrates. Any Magistrate may be removed from office prior to the expiration of his term by an

affirmative vote of at least five (5) members of the Business Council, but only upon the grounds of breach of contract or neglect of duty or gross misconduct, and only after the holding of a public hearing at which the Magistrate, after being given at least five (5) days' notice, is given an opportunity to answer all charges and present evidence in defense.

Section 405 - Powers and Duties of Magistrates.

(a) The Magistrate shall be responsible for the administration of the Magistrate Court and shall supervise such administration as is necessary for the effective functioning of the court. The Magistrate shall be responsible for the assignment of cases and the management of the court's calendar and business.

(b) The Magistrate shall administer justice and discharge all duties imposed upon him by law and shall hear and decide matters of a judicial nature and enter judgments and orders disposing of such matters.

(c) All Magistrates of the court shall conform their conduct to the Code of Judicial Conduct as adopted by the American Bar Association.

(d) The Magistrate is authorized to:

(1) Preserve and enforce order in his immediate presence and in proceedings before him, when he is engaged in the performance of his official duty;

(2) Compel obedience to his lawful orders;

(3) Compel the attendance of persons to testify in a proceeding before him and to bring any material along;

(4) Administer oaths to persons in proceedings before him and in any other case where such shall be necessary in the exercise of his powers and duties; and

(5) Punish for contempt to assure the effectual exercise of these powers.

Section 406 - Disqualification of Magistrates.

(a) A Magistrate shall disqualify himself from hearing any matter in which he has a direct interest or in which any party to the matter is a relative by blood in the fourth degree (first cousins) or where he feels that he will not be able to render a just decision.

(b) Any party to a legal proceeding may request a change of Magistrate by filing an affidavit giving sufficient, reasonable grounds why another Magistrate is necessary.

Section 407 - Oath of Office of Magistrates.

(a) Every Magistrate prior to taking office or acting in such office shall take the following oath of affirmation:

"I, _____, do solemnly affirm that I will support and defend the laws of the United States which apply; that I will support, defend and uphold the laws and treaties of the Northern Arapaho Tribe and support and defend the best interest of the Northern Arapaho Tribe and members; and that I will faithfully and impartially discharge the duties of my office to the best of my ability."

(b) Said oath may be administered by the Chairman of the Business Council or another Magistrate of the court.

Section 408 - Clerks of Court. There shall be one or more clerks in the court system as are reasonably necessary to fulfill the duties of clerk(s) set forth in this Code. Such clerk(s) may be appointed by the Magistrate and may be an employee of the Magistrate, unless otherwise determined by resolution of the Business Council.

Section 409 - Duties of Clerks. It shall be the duty of the clerk(s) of the court to supervise and keep all records, files, dockets or other records required to be kept by the laws of the Tribe, by rule of court, tribal ordinance or resolution, or as otherwise established, and further to keep a written record of all proceedings of the court, administer oaths, to further assist

the court, facilitate the performance of the duties of the court and Magistrate, and aid private citizens or other persons in their dealings with the court.

Section 410 - Oath of Clerks.

(a) Every clerk shall take the following oath upon assuming office:

"I, _____, having been appointed clerk of the Northern Arapaho Magistrate Court, do solemnly affirm that I will truly, faithfully, honestly and impartially discharge all of the duties of my office to the best of my ability and understanding."

(b) Such oath shall be administered by a Magistrate of the court.

Section 411 - Seal of the Magistrate Court.

(a) The seal of the Magistrate Court shall contain the words "Magistrate Court for the Northern Arapaho Tribe" in a circular fashion and the word "Seal" shall be in the center thereof.

(b) The clerk (or court administrator if one is appointed) shall be the custodian of the seal, which shall be kept in the clerk's or Magistrate's office and shall be attached to all writs, orders or other instruments that he is or may be required or permitted to sign or certify in his official capacity as clerk of the court.

Section 412 - Rules of Civil Procedure. Any procedures or matters not specifically set forth herein shall be handled in accordance with the rules of civil procedure for the United States District Courts insofar as such are not inconsistent with these rules and with general principles of fairness and justice as prescribed and interpreted by the Magistrate or other Tribal Court; provided, however, that nothing in this Code provides a right to trial by jury before the Magistrate Court, nor rights regarding class actions, derivative actions, actions relating to unincorporated associations, or other matters outside the subject

matter jurisdiction of the Magistrate Court. The Magistrate may adopt special rules of court from time to time in the interests of justice and shall provide the Business Council and Tribal Attorneys with copies of the same at least thirty (30) days in advance of their effective date.

CHAPTER 5: NORTHERN ARAPAHO TRIBAL COURT

Section 501 - Court Established; Jurisdiction. The Northern Arapaho Tribal Court is hereby established and shall have jurisdiction as provided below:

(a) The Northern Arapaho Tribal Court shall have exclusive jurisdiction with regard to all matters referenced in those Titles of the Northern Arapaho Code which are not listed in paragraph Section 401 above, unless specifically provided otherwise in the relevant Title, Chapter or Section. All references to "Tribal Court" in such provisions shall mean the Northern Arapaho Tribal Court, Magistrate Court, or any other courts duly authorized by the Tribe.

(b) The Tribal Court shall also have jurisdiction with regard to all matters addressed or provided in the Shoshone and Arapaho Law & Order Code ("S&A LOC"), except to the extent the Shoshone and Arapaho Tribal Courts remain authorized to exercise such jurisdiction on a temporary basis pursuant to this Title.

(c) The Tribal Court shall also have such additional jurisdiction as is set forth in this Title or Chapter including, without limitation, jurisdiction to recognize foreign judgments and exclusive jurisdiction to determine and declare the laws of the Tribe. It shall consist of one (1) Chief Judge and such Associate Judges as are required from time to time and shall function as a court of record.

Section 502 - Seal of the Tribal Court.

(a) The seal of the Tribal Court shall contain the words "Tribal Court for the Northern Arapaho Tribe" in a circular fashion and the word "Seal" shall be in the center thereof.

(b) The clerk (or court administrator if one is appointed) shall be the custodian of the seal, which shall be kept in the

clerk's office and shall be attached to all writs, orders or other instruments that he is or may be required or permitted to sign or certify in his official capacity as clerk of the court.

Section 503 - Rules of Civil Procedure. Any procedures or matters not specifically set forth herein shall be handled in accordance with the rules of civil procedure for the United States District Courts insofar as such are not inconsistent with these rules and with general principles of fairness and justice as prescribed and interpreted by the Tribal Court. The Chief Judge may adopt special rules of court from time to time in the interests of justice and shall provide the Business Council and Tribal Attorneys with copies of the same at least thirty (30) days in advance of their effective date.

Section 504 - Recognition of Foreign Judgments.

(a) Definition. "Foreign judgment" means any judgment, decree or order issued by a court in a jurisdiction other than the jurisdiction of the Tribal Court or Magistrate Court.

(b) Applicability. This foreign judgments section is applicable to judgments which are final, conclusive and enforceable where issued and is applicable to default judgments.

(c) Petition for Recognition.

(1) A petitioner seeking recognition of a foreign judgment in the Tribal Court must file a "Petition for Recognition of a Foreign Judgment" setting out the following:

(A) The name of the court which issued the judgment;

(B) The case number and date of the judgment;

(C) The name and last known address of the judgment debtor; and

(D) The name and address of the petitioner or his advocate or lawyer.

(2) Recognition of foreign judgments regarding child or family support shall be governed by the Northern Arapaho Family Support Code, Title 10, N.A.C.

(d) **Notice of Filing.** Promptly upon the filing of the petition and the affidavit, the clerk of court shall authorize service of notice of the filing of the petition to the respondent according to the requirements of service of process in this jurisdiction.

(e) **Request for a Hearing; Recognition; Enforcement.**

(1) The respondent shall have ten (10) days after the receipt of process to request a hearing in the Tribal Court. The respondent may raise the defenses of:

(A) Lack of proper jurisdiction in the original action; or

(B) Lack of due process in the original action.

(2) If, upon the conclusion of the hearing, the judgment is recognized, it shall issue as a judgment of the Tribal Court.

(3) If the respondent does not request a hearing, the Tribal Court, after fourteen (14) days have passed and after being satisfied that the requirements of the preceding Section are met, may recognize the foreign judgment as a judgment of the Tribal Court.

(f) **Stay.** If the respondent shows the Tribal Court that an appeal from the foreign judgment is pending or will be taken, or that a stay of execution has been granted, the court shall stay enforcement of the foreign judgment until the appeal is concluded, the time for appeal expires, or the stay of execution expires or is vacated.

(g) **Fees.** Except as may be required by the Family Support Code, Title 10, N.A.C., any person filing a Petition for Recognition of a Foreign Judgment shall pay to the clerk of court a fee of Twenty-Five Dollars (\$25).

Section 505 - Declaratory Rulings upon Certification of Questions of Tribal Law from Foreign Jurisdictions.

(a) **Purpose and Scope.** These procedures are adopted for the purpose of providing a just determination and declaration of the law of the Tribe, including questions of tribal customary and common law. These procedures shall apply to cases and controversies in which the courts or administrative agencies of foreign jurisdictions are called upon to make a determination of tribal law.

(b) **Procedure.** Any foreign court or administrative agency may certify to the Tribal Court a question of Northern Arapaho law which may be determinative of the cause and concerning which it appears there is no controlling precedent. The certificate shall include:

- (1) The question of law to be answered;
- (2) A statement of all facts relevant to the question certified; and
- (3) The nature of the controversy involved.

(c) **Rulings.** The Tribal Court may issue such writs or orders as are necessary and proper to the complete exercise of jurisdiction under this Section. As a precondition to its ruling on the question, the Tribal Court may require the parties in the foreign jurisdiction to submit all or portions of the record in that foreign jurisdiction and briefs or arguments regarding the question or proposition certified and may set schedules in accordance with the same.

Section 506 - Appeals; Protection of Tribal Sovereignty.

Judgments and final orders or decrees of the Tribal Court may be appealed only pursuant to the provisions of this Title. No court other than the Tribal Court established by this Code is authorized to make determinations or issue rulings which restrict or diminish the sovereign authority of the Tribe. The Tribe preserves its immunity from such determinations or rulings except as expressly provided herein.

CHAPTER 6: SHOSHONE AND ARAPAHO TRIBAL COURTS

Section 601 - Findings.

(a) The Tribe is an independent, federally recognized Indian Tribe with inherent authority to establish, regulate and empower courts of the Tribe to hear and determine matters appropriately decided by judicial process.

(b) Since 1988, the Tribe has empowered on an on-going basis the Shoshone and Arapaho Tribal Courts to hear and determine a range of matters set forth in the S&A LOC. The Northern Arapaho Business Council and the Eastern Shoshone Business Council both approved that Code. Since that time, the legislative authority of the Shoshone Business Council has been rescinded by that Tribe and is currently exercised exclusively by that Tribe's general council. Also since that time, a series of substantial problems with the S&A LOC developed or became apparent which the Northern Arapaho Tribe sought to remedy in cooperation with the Eastern Shoshone Tribe, but could not.

(c) In 1995, the Northern Arapaho Tribe enacted, and the National Indian Gaming Commission later approved, what is now codified as 3 N.A.C. 101, et seq. This law established the Northern Arapaho Gaming Agency and regulates persons and activities related to gaming under the jurisdiction of the Northern Arapaho Tribe. In 2006, the U.S. Department of the Interior approved a gaming compact for the Shoshone Tribe. Since that time, each Tribe has had its own, separate gaming agency and laws, established and governed independently by each Tribe.

(d) In 1996, the Tribe enacted, and the U.S. Housing and Urban Development agency approved, what is now codified as 4 N.A.C. 101, et seq. This law established the Northern Arapaho Housing Authority and regulates persons and activities related to housing under the jurisdiction of the Northern Arapaho Tribe. The former (Shoshone and Arapaho) Wind River Housing Authority had been established by Title XII, Chapter 1, of the S&A LOC. In *Eastern Shoshone Tribe v. Northern Arapaho Tribe*, 926 F.Supp. 1024 (D.Wyo.1996), the U.S. District Court rejected the argument of the Shoshone Tribe that the Northern Arapaho Tribe could not act or legislate independently in matters affecting the reservation generally. The Northern Arapaho Tribe argued that the joint council was merely a joint powers board operating with the consent of each Tribe but without any authority independent

of each Tribe. The Shoshone Tribe had presented a "common sovereignty" theory which the Court flatly rejected. The Shoshone Tribe did not appeal that ruling, which is final and binding. Since that lawsuit, each Tribe has had its own, separate housing authority and laws, established and governed independently by each Tribe.

(e) In 2007, the Northern Arapaho Tribe enacted its Family Support Code, 10 N.A.C. 101, et seq. This law established the Northern Arapaho Child Support Enforcement agency and regulates persons and activities related to child support under the jurisdiction of the Northern Arapaho Tribe. Thereafter, the Shoshone Tribe established its own laws and agency for family support matters. Since that time, each Tribe has had its own, separate family support agency and laws, established and governed independently by each Tribe.

(f) In 2010, a major effort was undertaken to revise S&A LOC Title VII (Code of Offenses). Eventually, proposed changes were submitted by referendum vote to members of the Shoshone Tribe on August 31, 2010. As the vote was structured, each proposed change was voted on individually. According to the official results, eight of the proposed changes were approved. However, at least one of the draft amendments was incorrectly numbered. The apparent intent included creating a new chapter IX in the Code of Offenses, setting out procedures for requiring treatment, counseling, and other services for "expectant mothers" found to be using drugs or alcohol. Because of the perceived problems with the ballot, the Shoshone Attorney General questioned whether the vote was valid. Other Shoshone officials believed the changes were effective. The information needed to determine the status of the Title VII amendments is not available through the former joint secretary's office nor otherwise available publically. There is no official record of these efforts or the outcome. The entire process highlighted difficulties and uncertainties that were inherent in attempting to enact laws through the former JBC structure.

(g) In 2011, the Northern Arapaho Tribe enacted, and the U.S. Department of Justice approved, 14 N.A.C. 101, et seq., its Sex Offender Registration and Notification (SORNA) Code. The Shoshone Tribe opted not to enact any law on the subject. Pursuant to 14 N.A.C. 101, et seq., the Northern Arapaho Tribe requires sex offenders to register with the Tribe and independently regulates their conduct and related matters

throughout the Reservation.

(h) In addition to provisions of Northern Arapaho law referenced above, the Tribe has enacted its own, separate laws governing labor rights, religious freedom, education and a wide range of other matters.

(i) In 2014, the Northern Arapaho Tribe enacted 6 N.A.C. 103, et seq., dissolving the former joint powers board known as the joint business council. Thereafter, the Bureau of Indian Affairs awarded a judicial services contract to the Shoshone Business Council, which falsely claimed to represent both the Shoshone and Arapaho Tribes. As a result, the Shoshone Business Council has attempted to unilaterally control the Shoshone and Arapaho Tribal Courts, including such Court's exercise of jurisdiction over members of the Northern Arapaho Tribe and others, in derogation of the sovereign authority of the Northern Arapaho Tribe.

(j) As a direct result of such action by the Bureau of Indian Affairs, in concert with the Shoshone Business Council, additional separation of the judicial authorities of the Northern Arapaho Tribe from those of the Shoshone Tribe is imperative and in the best interests of the Tribe and those within its jurisdiction. An orderly transition to greater independence of the judiciary of the Northern Arapaho Tribe is in the best interests of the Tribe and those within the jurisdiction of the Tribe.

Section 602 - Purpose. The primary purpose of this Code is to provide for the fair and orderly transition of jurisdiction currently exercised by the Shoshone and Arapaho Tribal Courts to the Northern Arapaho Tribal Court.

Section 603 - Temporary, Limited Authorization. The Shoshone and Arapaho Tribal Courts are hereby authorized, on a temporary and limited basis, to continue to exercise the sovereign authority of the Northern Arapaho Tribe, subject to the general laws of the Tribe and to the following specific provisions:

(a) The Shoshone and Arapaho Tribal Courts are not authorized to make determinations or issue rulings which restrict or diminish the sovereign authority of the Northern Arapaho Tribe

and are prohibited from doing so. The Tribe preserves its immunity from any such determinations or rulings.

COMMENT - The provisions in (a) above were also codified in 17 N.A.C. 425 in 2014.

(b) All references in the S&A LOC to the former joint powers board known as the joint business council or "JBC" mean and refer to the Northern Arapaho Business Council and the Eastern Shoshone Business Council, when both Tribes approve any proposed resolution, law or other action.

(c) Provisions of law in the S&A LOC not specifically addressed in the Northern Arapaho Code are incorporated herein by reference. Any provisions of the S&A LOC which conflict with the provisions of the Northern Arapaho Code shall be of no force or effect, and the provisions of the Northern Arapaho Code shall govern. Unless specifically provided otherwise, provisions of the Northern Arapaho Code which address a particular subject preempt provisions of the S&A LOC which may address the same subject matter.

COMMENT - Examples of Northern Arapaho law which have amended or pre-empted specific portions of the S&A LOC include those identified in Section 601.

(d) Establishment of the Northern Arapaho Environmental Office, 19 N.A.C. 101, et seq., does not diminish or withdraw the authority of the Wind River Environmental Quality Commission to seek funding, administer program(s) or engage in lawful activities regarding Treatment as a State pursuant to Section 105 of the Clean Air Act.

(e) Only those specific judges appointed by the Business Council by resolution are authorized to act on behalf of the Tribe in the fulfillment of their judicial duties through the Shoshone and Arapaho Tribal Courts. Nothing in the S&A LOC, this Code, or other law authorizes any entity other than the Northern Arapaho Tribe to appoint or authorize judicial officers on behalf of the Tribe.

COMMENT - Northern Arapaho Business Council Resolution NABC-2015-595 authorizes Chief Judge John St. Clair and Associate Judges Roma Jimerson and Ed Miller on a temporary basis.

(f) Neither the temporary, limited authorization provided herein, nor any other law or act of the Tribe, authorizes or ratifies:

(1) The award of funds by the Bureau of Indian Affairs, or any other entity, to the Shoshone Business Council for the operation of the Shoshone and Arapaho Tribal Courts; or

(2) Any unilateral action by the Shoshone Business Council, whether purporting to act as a "joint" council or otherwise, with respect to the Shoshone and Arapaho Tribal Courts including, without limitation, the appointment of judges or other staff to such court.

Section 604 - Coordination with Bureau of Indian Affairs Police.

(a) The Northern Arapaho Tribal Courts are authorized to enter into cooperative agreements with the Bureau of Indian Affairs (BIA) for the purpose of providing effective and efficient law enforcement services.

(b) The terms "officer" or "police officer" shall mean any member of the Indian Police of the BIA, any member of the Tribal Police Department if the Tribe chooses to operate such department, or any authorized law enforcement officer pursuant to Northern Arapaho Business Council action.

(c) Prior to or within one (1) year after employment, an officer must have successfully completed a full course of instruction at an accredited Police Academy approved by the Tribe.

(d) Officers shall enforce this Code and carry out the orders of the court as provided in this Code. Officers shall also promptly serve all notices which the courts request and serve subpoenas in criminal cases, unless other persons or entities are designated to do so by a judge.

(e) Officers shall use reasonable force in discharge of their duties; deadly force is authorized only to protect human life.

(f) "Probation officer" shall mean the person filling the position of probation officer or, in the event of a vacancy, the person(s) appointed to assume the duties of such officer.

COMMENT - These provisions were adapted from S&A LOC 1-1-4 (Enforcement of Code; Service of Notices, Orders; Warrants); S&A LOC 1-7-2 (criminal subpoenas); and S&A LOC 6-4-1 (Law Enforcement Officers).

CHAPTER 7: NORTHERN ARAPAHO COURT OF APPEALS

Section 701 - Creation of the Court. There is hereby created the Northern Arapaho Court of Appeals ("Court of Appeals") of the Wind River Indian Reservation, Wyoming.

Section 702 - Jurisdiction of the Court. The Court of Appeals shall have exclusive jurisdiction of all appeals from final orders and judgments of all the Northern Arapaho Courts, including the Shoshone and Arapaho Tribal Courts to the extent they have been authorized on a limited, temporary basis to exercise judicial authority of the Tribe. The Court of Appeals and shall have original jurisdiction to issue all writs of habeas corpus on the Reservation. The court shall have jurisdiction:

(a) To take all steps necessary to preserve and protect the jurisdiction of the court;

(b) During the pendency of any appeal, to release the appellant on his own recognizance or on bail; and

(c) To make any order appropriate to preserve the status quo or to protect any ultimate judgment of the court.

Section 703 - Composition of Court. The Court of Appeals shall be made up of three (3) judges of the court, and shall in all cases exclude the judge who presided over the case being appealed.

Section 704 - Records of the Court of Appeals. The Court of Appeals shall keep a record of all proceedings of the court, showing the title of the case, the names and addresses of all parties and attorneys, the briefs, the date of any oral argument, the name of the judges who heard and decided the case, and the judgment, together with any other facts and circumstances deemed of importance to the case.

Section 705 - Right of Appeal.

(a) **Criminal Appeals by Defendant.** A criminal defendant may appeal as of right from any final judgment of conviction, except that convictions from traffic offenses may be appealed only with the permission of the Court of Appeals.

(b) **Criminal Appeals by Prosecutor.** The prosecutor may appeal to the Court of Appeals from an order or judgment in a criminal case:

(1) Dismissing the entire case, or any one or more counts against the defendant by the court;

(2) Any court order or judgment modifying a jury verdict by finding the defendant not guilty, guilty of a lesser degree of the crime charged, or guilty of a lesser included crime;

(3) Granting a new trial;

(4) Quashing an arrest or search warrant;

(5) Suppressing evidence; or

(6) Suppressing a confession or admission;

except where prohibited by the double jeopardy clause of the Indian Civil Rights Act, 25 U.S.C. Section 1302 (3).

(c) **Civil Appeals.** An aggrieved party in a civil action may, with permission of the Court of Appeals, appeal from:

(1) Any final order or judgment of the Northern Arapaho Courts, including the Shoshone and Arapaho Tribal

Courts to the extent they have been authorized on a limited, temporary basis to exercise judicial authority of the Tribe;

(2) Any order of such Tribal Courts, granting, continuing, modifying, refusing or dissolving injunctions, or refusing to dissolve or modify injunctions, or dissolving or refusing to dissolve a writ of execution; or

(3) Any order of such Tribal Courts directing the delivery, transfer or surrender of property.

Section 706 - Notice of Appeal, How and When Taken.

(a) **Filing Notice of Appeal.** An appeal shall be taken by filing a notice of appeal with the clerk of the Northern Arapaho Tribal Courts, including the Shoshone and Arapaho Tribal Courts to the extent they have been authorized on a limited, temporary basis to exercise judicial authority of the Tribe, within twenty (20) days after the date of entry of the judgment or order appealed from; except that an appeal from the granting of a temporary restraining order or a preliminary injunction shall be filed within five (5) days. Upon a showing of good cause, such Court may extend the time of filing the notice of appeal by any party for a period not to exceed thirty (30) days from the expiration of the normal period allowed for the filing of a notice of appeal.

(b) **Content of the Notice of Appeal.** The notice of appeal shall specify the party or parties taking the appeal and shall designate the judgment, decision or order appealed from. Upon request of a party, the clerk of such Court shall prepare the notice of appeal.

(c) **Service of the Notice of Appeal.** The clerk of such court shall serve notice of the filing of a notice of appeal on all adverse parties by either mailing a copy of the notice of appeal to the party at his last known address or personally serving the party with the notice of appeal, noting in the court register the date the appeal was filed and the date the notice of appeal was served. Failure of the clerk to serve notice shall not affect the validity of the appeal.

(d) **Appeals by Permission of Court.** In civil and other cases where permission of court is required to appeal, a notice

of appeal shall be filed in the manner prescribed in this Section. Within twenty (20) days after filing the notice of appeal, the appellant shall file with the clerk an application to file an appeal and a short statement of reasons why the appeal should be heard. The clerk shall serve copies of the application and statement on other parties to the case, who may respond within twenty (20) days after receiving it. If the court thereafter agrees to hear the appeal, the parties shall comply with all applicable rules set forth herein.

Section 707 - Stay of Judgment or Order Pending Appeal.

(a) Criminal Cases. When the defendant in a criminal case has appealed, the trial judge may continue bail as originally set or may either lower the amount or release the defendant on his own recognizance pending disposition of the appeal. The Court of Appeals may, on petition of the defendant, review any decision of the trial court concerning bail.

(b) Civil Cases. In civil cases, the judgment shall be stayed pending action on the request to appeal and the appeal itself, if the permission is granted, and any party may request the Court of Appeals to grant or stay an injunction pending appeal. The Court of Appeals may condition a stay or injunction pending appeal on the depositing of cash or a surety bond in an amount deemed satisfactory to the court to cover the amount of the judgment and any costs on appeal. The cash or bond may be deposited at or after the time the notice of appeal is filed. The stay shall be effective when the deposit of cash or bond is approved by the court.

(c) Judgments Against Surety. Any surety to a bond thereby submits to the jurisdiction of the Tribal Courts and irrevocably appoints the clerk of the court as his/its agent upon whom any papers affecting his/its liability on the bond may be served. The liability of a surety may be enforced on motion without the necessity of an independent action. The motion and such notice of the motion as the court prescribes may be served on the clerk of the court who shall forthwith mail copies to the surety at his/its last known address.

Section 708 - Record of the Tribal Court. Within five (5) days after a notice of appeal is filed, the clerk of the trial court

shall certify and file with the Court of Appeals all papers comprising the record in the case.

Section 709 - Briefs and Memoranda.

(a) Within twenty (20) days after the notice of appeal is filed in a criminal case or permission to appeal is granted, or within such other time as the court allows, the appellant may file a written brief, memorandum or statement in support of his appeal. An original and one copy for each appellee shall be filed with the clerk who shall mail one copy, registered or certified mail, return receipt requested, to each appellee. The return receipt shall be filed with the clerk.

(b) The appellee shall have fifteen (15) days after receipt of the appellant's brief, memorandum or statement, or such other time as the court allows, within which to file an answer brief, memorandum or statement if he desires. An original and one copy for each appellant shall be filed with the clerk who shall mail one copy, registered or certified mail, return receipt requested, to each appellant. The return receipt shall be filed with the clerk.

(c) No further briefs, memoranda or statements shall be allowed without leave of court.

Section 710 - Oral Argument. The Court of Appeals shall assign all criminal cases for oral argument. The Court of Appeals may in its discretion assign civil cases for oral argument or may dispose of civil cases on the briefs without argument. Parties may present their own argument or be represented by counsel at their own expense.

Section 711 - Separate Docket for Court of Appeals. A separate docket shall be maintained for the Court of Appeals in which all actions taken at each stage of the proceedings in the court shall be recorded.

Section 712 - Rules of Court of Appeals. Written rules of the Court of Appeals consistent with the provisions of this code may

be prescribed by the Court of Appeals. The rules shall be available to the public.

Section 713 - Writs of Habeas Corpus.

(a) Application. An application for a writ of habeas corpus may be filed by any person or guardian of a person who is wrongfully detained by another. The application shall state the facts constituting such wrongful detention, the name of the person detained and the place of detention, and shall be served upon the clerk of the Court of Appeals.

(b) Hearing. The court must call a hearing on the application within two (2) days after receipt thereof, unless on a weekend or legal holiday, in which case the hearing shall be called the next business day after the weekend or legal holiday. Three (3) judges must sit at the hearing on the application, and the applicant and any counsel retained at the applicant's expense may be present for oral arguments on the merits of the writ. The person detaining the applicant shall be notified of the hearing by the clerk, and may be present at the hearing himself or by counsel retained at his expense. If the judges find after the hearing that the person detained has been unlawfully detained, they shall proceed to issue the writ of habeas corpus and order the applicant's immediate release.

Section 714 - Effective Date. The provisions of this Chapter shall be effective one hundred twenty (120) days after enactment hereof or on such other date as may be set by Resolution of the Business Council.

History: Title 17. The Northern Arapaho Tribal Courts Code was enacted by the Northern Arapaho Tribe by resolution of the Northern Arapaho Business Council dated March 14, 2014, Resolution No. NABC-2014-371. Section 307 was amended by Resolution No. NABC-2014-442 dated October 28, 2014. Chapters 5, 6 and 7, and technical amendments to conform the remainder of the Code to the new chapters, were enacted by Resolution No. NABC-2015-605 dated December 29, 2015. Technical amendments for the purpose of clarifying references to tribal courts were enacted on August 17, 2016, by Resolution No. NABC-2016-702, and additional technical amendments were enacted on August 31, 2016, by Resolution No. NABC-2016-713.