

The Law and Order Code of the Shoshone and Arapahoe Tribes of the Wind River Indian Reservation, Wyoming.

CHAPTER 5

ZONING CODE

Section 11-5-1

Purpose

Uncontrollable use and development of land within the Wind River Indian Reservation poses a threat to the use of the reservation as a homeland for the Shoshone and Arapahoe Tribes for whom the reservation was established and jeopardizes the value of the land and water, impairs the economic benefits of the natural resources and damages the environment. All residents of the reservation are affected. To protect the interests of the tribes and all persons on the reservation this code is adopted.

Section 11-5-2

General Definitions

- (1) "Agency" means the Wind River Agency.
- (2) "Councils" means the Business Council of the Shoshone Indian Tribe and the Business Council of the Arapahoe Indian Tribe.
- (3) "Person or Persons" means any individual, partnership, or corporation, association, or their agents, except Indians trading and selling traditional arts and craft items.
- (4) "Secretary" or "Secretary of the Interior" means the Secretary of the Interior or his authorized designate.

Section 11-5-3

Lands Affected

This code shall apply to all lands within the exterior boundaries of the Wind River Reservation, whether held in trust by the United States for the benefit of the individual Indians, or for the Shoshone and Arapahoe Tribes or held in fee by Indians or non-Indians.

Section 11-5-4

Establishment of Zoning Area Categories

Four categories are hereby established, as follows:

- (1) Residential. Subject to the protection of existing uses as provided in Section 11-5-10 of this code, all land subject to this code is hereby zoned as "residential". The residential designation may be

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changed pursuant to the procedures set forth in Section 11-5-5 of this code.

(2) Rural. All land reserved for farming and grazing that is designated "rural" pursuant to the procedures set forth in Section 11-5-5 of this code.

(3) Commercial. All land deemed suitable for the establishment of retail, wholesale, professional, or service businesses, designated "commercial" pursuant to the procedures set forth in Section 11-5-5 of this code.

(4) Industrial. All land deemed suitable for manufacturing, energy production, mineral development, or other industrial pursuits, designated "industrial" pursuant to the procedures set forth in Section 11-5-5 of this code.

Section 11-5-5 Procedures for Designation of Zone Areas Other Than Residential

(1) The councils, of their own initiative, or at the request of an applicant, may designate areas in the residential zone for zoning other than residential. Notice of the proposed rezoning shall be posted in conspicuous places in the tribal offices, in the agency, and with the consent of the county, in the Fremont County Courthouse in Riverton. The notice shall be advertised at least once a week for two weeks in at least one newspaper of general circulation within the reservation. The notice shall provide at least twenty days from the date of the first publication within which all interested persons, Indian and non-Indian, may submit their views at a public meeting of the councils to be held at a time, date and place designated in the notice. A transcript of the meeting shall be made, and if the meeting is held at the request of an applicant, the applicant shall have the right to be represented by counsel. After the councils have received the views of interested persons, the councils may take such action as may be appropriate in the premises. Any final zoning order adopted by the councils shall be posted and published. The final order shall take effect ten days after the date to the second publication, unless an emergency requires an earlier effective date. (Form XI-9 and XI-10)

(2) Emergency Situations. Where the councils deem that the interests of the public require emergency action, a rezoning order may be issued without regard to the notice procedures of Section 11-5-5, provided, that any order issued in an emergency shall be posted and

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published in accordance with the provisions of Section 11-5-5.

(3) Amendments. Any zoning order may be amended by the councils, provided that no substantive amendment shall be made except in accordance with the notice provisions of this section.

Section 11-5-6 Restrictions on Use in Residential Zones

(1) No building or structure shall be erected, or moved onto a residential zone unless it is:

(a) A single family dwelling, or outbuilding (including, barn, stable or the like) used in connection with a family dwelling;

(b) A school:

(c) A church or religious institution:

(d) A governmental or public service building; or

(e) For housing a commercial business for the convenience of the residents in the vicinity.

Section 11-5-7 Sub-divisions; Trailer Parks

(1)(a) No sub-divisions, or trailer park shall be expanded, enlarged, or established on trust lands without the prior written consent of the councils. No state, county or city approval is needed.

(b) No sub-division, or trailer park, shall be expanded, enlarged or established on feeland without the prior written consent of both councils.

(2) In determining whether to grant such consent the councils shall consider, among other things, the following:

(a) Whether sufficient land will be provided for each structure mobile or fixed, to assure safety, law and order,

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and aesthetic use of the land;

(b) Whether sufficient park and recreational space will be provided;

(c) Whether adequate water, sewer, and other utilities will be provided.

(d) Whether adequate police and fire protection are available; and

(e) Whether the proposed sub-division will be in conformity with character of the surrounding community and whether it will not unduly infringe on rural or agricultural lands, or wildlife or fisheries.

(3) Applications for approval of sub-divisions or trailer parks shall be made in the following manner for fee lands not exempted from tribal approval under Section 11-5-3.

(a) Prior to submitting an application for a sub-division or trailer park permit to state, county, or city authorities, (thereafter if required by circumstances) the developer shall submit to the councils and obtain their conditional approval of his proposal outlining his developmental plan. The developer at a minimum must submit to the councils a map of the proposed sub-division and a written statement of why the sub-division or trailer park should be approved with special attention to the five considerations listed in Section 11-5-7. Photographs of the site and surrounding area should be attached.

(b) The councils will call and hold a public hearing, in accordance with the procedures set forth in Section 11-5-5 to consider the application. In addition to the publication required in Section 11-5-5, the applicant at least 15 days before the hearing, shall place a notice of his application on the property at a place visible to the public and shall furnish satisfactory proof of such posting at the hearing. The councils may also

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require that the applicant mail a copy of the notice by registered, or certified mail, return receipt requested, to each family unit or business within one-half mile of the premises within the time to notify them of the hearing.

(c) Within 60 days after the public hearing, the councils, will issue a written decision either granting or denying conditional approval and stating its reasons for so doing.

(d) Upon receipt of conditional approval of the councils, the developer will submit his formal application for a sub-division permit to the State, county or city, whichever are applicable. If the developer does not receive approval from the applicable state, county, or city within 6 months of tribal conditional approval or if the developers application is rejected, the tribal conditional approval will be considered revoked. If a sub-division or trailer park permit is granted by the applicable state, county and city authorities, the developer must submit the permit or permits to the councils, who within 60 days after submission, will issue final approval of the sub-division or trailer park provided all state, county and city approvals are in order and the permits are for development substantially in conformity to the plan initially submitted and conditionally approved by the councils.

(4) Applications for trailer parks and sub-divisions on trust land shall be made in the same way and with the same procedural rights as in Sub Sec (3) (a), (b), and (c) above except that instead of a conditional approval or rejection the councils' action shall be final.

(5) Sub-division defined. A sub-division is any land subject to this code, which is divided, or proposed to be divided, into three or more lots for the purpose of sale or lease as part of a common plan.

(6) Trailer Park defined. A trailer park is any land subject to this code, which is used or proposed to be used through sale or lease for the location of three

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or more trailers, or mobile homes.

Section 11-5-8 Restrictions on Use in Zones Other Than Residential

The councils shall establish the standards for zones other than residential by proposed and final orders designating such other zones.

Section 11-5-9 Variances

(1) Application for variance. No structure not in conformity with this code shall be erected or moved onto land, and subject to Section 11-5-10, no existing structure shall be used for a purpose not permitted by this code without an approved variance from the council. A variance may be requested by filing with the councils an application for variance, setting out all relevant facts including the nature and location of the proposed structure or use and the justification for the requested variance. The councils shall call and hold a public hearing in accordance with the procedures set forth in Section 11-5-5 to consider the applications. In addition to the publication required in Section 11-5-5, the applicant shall at least 15 days before the hearing, place a notice of the proposed variance on the property at a place visible to the public and shall furnish proof of such posting. The councils may also require that the applicant mail a copy of the registered, or certified mail, return receipt requested, to each family unit or business within one-half mile of the premises within time to notify them of the hearing. (Form XI-11)

(2) Action on applicant for variance. The councils shall deny a variance unless the applicant furnishes satisfactory proof.

(a) That the proposed variance would not materially interfere with the purposes of this Code, and

(b) That unless such variance is granted the applicant will suffer hardship out of proportion to the public gain achieved by denying the variance. The views of persons of persons living in the vicinity who make their views known to the council shall be considered in deciding whether to grant or deny the variance.