

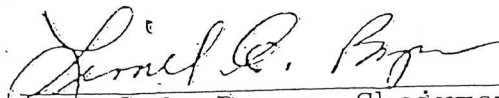
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ORDINANCE

BE IT ENACTED BY THE BUSINESS COUNCIL OF THE SHOSHONE-BANNOCK TRIBES, that the revision of the LAW AND ORDER CODE is hereby approved with the exception of Chapter 17, Fish and Game Hunting to be excluded from the Code at this time for further revision.

Authority for the foregoing ordinance is found in the Indian Reorganization Act of June 18, 1934 (48 Stat., 984) as amended and under Article VI, Section 1 (a,k,l,r) of the Constitution and By Laws of the Shoshone-Bannock Tribes of the Fort Hall Indian Reservation, Idaho.

Dated this 19th day of January, 1981.



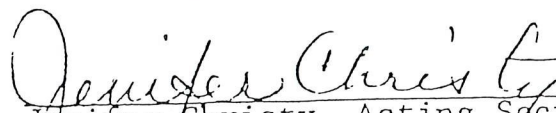
Lionel Q. Boyer, Chairman  
Fort Hall Business Council

S E A L



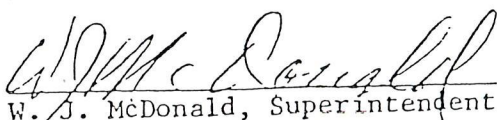
CERTIFICATION

I HEREBY CERTIFY, that the foregoing ordinance was passed while a quorum of the Business Council was present by a vote of 4 in favor, 2 opposed, and 1 not voting on the date this bears.



Jennifer Christy, Acting Secretary  
Fort Hall Business Council

APPROVED: 01-26-81



W. J. McDonald, Superintendent  
Fort Hall Agency  
Fort Hall, ID 83203

LWOR-81-S1

# The SHOSHONE-BANNOCK TRIBES

FORT HALL INDIAN  
RESERVATION

PHONE 237-0405  
237-0721



FORT HALL TRIBAL COURT

P.O. BOX 286572

FORT HALL, IDAHO 83203

January 20, 1981

Dale H. Itschner  
Assistant Regional Solicitor  
Pacific Northwest Region  
500 N.E. Multnomah Street, Suite 607  
Portland, Oregon 97232



Dear Dale:

Attached to this letter you will find a revised Law and Order Code for the Shoshone Bannock Tribe. As we discussed earlier by phone the changes suggested in your October 28, 1980 letter have been made as follows:

1. Page 23A(c): Reference to the idea that the Tribal Prosecutor represented the BIA was stricken.
2. Page 24 Section 5.1B(d): Last four words stricken.
3. Page 86 Section 3.63(a): Changed to read that the Tribal Court may "request" instead of "order" BIA to release IIM monies.
4. Page 91 Section 4: Entire section deleted.
5. Page 96 Section 2: Amended to allow jury trial on Appeal. Further, amended so that Appeals Court cannot "increase" a sentence.
6. Page 216 Section 3.7: Last sentence stricken.
7. Page 239 Section 1: Amended with reference to federal statutes and in accordance with agreement made during telephone conversation. Please refer to this section for exact changes.
8. Page 240 Section 6: Amended to allow only judicial sales pursuant to federal law.
9. Page 267 Section 12.1: Amended to require prior securing of search warrant.

Attachment to LWOR-81-S1 - ORDINANCE

10. Page 272 Section 7: Entire chapter revised only to the extent that any references to Federal Trader's License were stricken.
11. Page 276 Section 2(r): Stricken.
12. Page 290 Section 37: Restitution clause stricken.
13. Page 292 Sections 41 & 42: Reference to "proper medical treatment" stricken.
14. Page 301 Section 73: Amended to allow all defendants a reasonable time to pay fine rather than go to jail.
15. Page 310 Section 102: Entire section stricken. Section number reserved for future use.
16. Page 316 Section 113 et seq: Section 113 deleted. Section 114 is now 113. Section 115 deleted. Section 116 is now 114 (reference to federal or tribal permit deleted). Section 117 is now 114 (reference as to age deleted so that now possession by any person is unlawful). Section 118 is now 116.
17. Page 319a Section 7(4): Amended so as not to allow imprisonment of non-Indians.
18. Page 337 Section 7.2: Reference to federal officers stricken.
19. Page 404 Section 7: Reference to federal regulations stricken.
20. Page 409 Section 15: Reference to federal officers stricken.
21. Page 412 Section 20(2): Amended to prevent loss of rights a defendant may have when forced to stand trial with co-defendants, whose interest may be inimical.
22. Page 418 Section 35(7): Amended so as not to limit federal search warrants.
23. Page 425 Section 51(a): Amended so that a convicted person who cannot pay his fine will not be forced to be held in jail in lieu thereof.
24. Page 425 Section 51(b): Reference to federal officials stricken.

25. Page 425 Section 51 (c): Entire subsection on restitution stricken.

In addition, several other changes were made. I will not include here the mere corrections of typos, rather only those substantive changes:

26. Page 4 Section 2: Definition of Indian slightly reworded.

27. Page 4. Section 2.2: Reference to federal recognition stricken.

28. Page 7 Section 3.6.1(9): Amended to include the power to render decisions.

29. Page 22 Section 5.1: Section full ¶ amended to give the Prosecutor choice of issuing a warrant or a summons.

30. Page 30 Section 11: A new section - severability clause.

31. Page 44 Section 1.2: First ¶ stricken as inconsistent with Chapter 1 Sections 2 and 2.1 which is Council's intent.

32. Page 49 Section 3.4.5: Amended to allow reasonable time between last publication and hearing.

33. Page 79 Section 3.45(c): Last 2½ lines stricken.

34. Page 87 Section 3.64: Statute of limitations expanded to three years.

35. Page 90 Section 3.67: Amended so that a party to an action cannot be excluded when potential witnesses were excluded.

36. Pages 96-99: Entire Chapter revised to provide:

- a. Trial by jury on Appeal
- b. Court of Appeals cannot increase sentence
- c. Appeals Court changed from a panel of three judges to a single judge.
- d. Jurisdiction for Appeals Court to hear appeals from interlocutory orders.
- e. Time for appeal expanded to 20 days.
- f. No bond required where no fine imposed in criminal case.
- g. Rehearing procedures. See new Section 15

36. Page 197 Section 3.4: Amended to give Court more flexibility in considering best interests of child(ren) involved.
37. Page Sections 4.14 & 4.15: Both deleted.
38. Page 200 Section 4.21: Amended to ensure equal protection.
39. Page 205 Section 5.6: Amended to ensure equal protection.
40. Page 208 Section 2.5: Amended to allow child to establish paternity later in life.
41. Page 209 Section 2.10: Deleted. Reserved for future use.
42. Page 288 Section 30: Amended so as not to conflict with common law marriages.
43. Page 288 Section 32: Deleted; reserved for future use.
44. Page 289 Section 35: Word "unprivileged" stricken.
45. Page 291 Sections 39 & 40: Added element of intent and deleted last ¶ in Section 40.
46. Page 294 Section 50: Amended to allow the right to have guns in homes.
47. Page 296 Section 56: Amended to include fee lands.
48. Page 300 Section 66: Deleted entire section because already covered in Section 60. Reserved for future use.
49. Page 308 Section 95: Amended to define "dependent persons."
50. Page 309 Section 98: Amended to apply only to contiguous landowners and to make exceptions for emergency landings.
51. Page 347 Section 31B: Subsection 3,4, & 5 amended by adding "unless otherwise posted" at end of sentence. Numeral 6 added to regulate speed on reservation roads.
52. Page 350 Section 38A: Added at end of sentence, "until he can do so in a safe manner."
53. Pages 354 and 378 Sections 49 and 109D respectively: Deleted the requirement to have equipment approved by tribal Judge.
54. Page 388 Section 135: Deleted entire section because of conflict with Idaho P.L. 280 and agreement with State.

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PAGE FIVE

55. Page 392 Section 8: Limitation on number of witnesses  
stricken.

56. Page 400 Section 24: Amended so as not to apply to place  
of employment. Age changed to 18.

57. Page 420 Section 38(1): First sentence amended to provide  
exception for length of sentences.

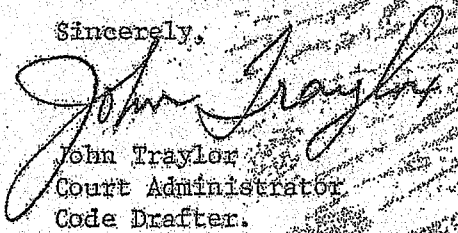
Please remember that if any of these changes is subject to  
legal disapproval by your office, the severability clause is workable  
so that the entire Code will not have to suffer.

Finally, the Council had some other problems with the Fish and  
Game Chapter (17) and thus that Chapter was not approved. Thus, you  
will find it noticeably missing. Subsequent approval is expected,  
however, and thus the Chapter and the page numbers have been reserved  
for future use to avoid having to renumber all subsequent chapters and  
pages.

I affirm that the modifications listed in this letter are the  
only changes of any substance made from the last version of the Code  
which you reviewed most recently and disapproved.

As you stated earlier, you did not anticipate that you would  
need much time in getting some word back to us on this Code. Because  
of the need we have to operate under a workable Code, your prompt  
action on this review will be greatly appreciated.

Sincerely,

  
John Traylor  
Court Administrator  
Code Drafter.

GJT/jt

cc: Larry Echohawk  
Jack Ross  
Lionel Boyer.

Sec. 3-1-36. - Tribal Court Advocates.

(a) (5) c. 3.

The Prosecutor will also represent State Department of Health and Welfare Agencies (in child welfare cases), Department of Social Services (child welfare) in such cases that may require Court intervention to protect minor children from abuse, neglect abandonment, etc.

(b) (4)

The Defender's office will handle every action in a manner which promotes justice and fairness.

Sec. 4-1-83. - Satisfaction of Judgment.

(a) Upon failure of a judgment debtor to satisfy any final judgment for money rendered by the Court, the Court may, after proper assurance that the judgment creditor has exhausted all possible efforts to satisfy such good judgment, request the Secretary of the Interior or his authorized representative to pay over to the judgment creditor any funds which may be held or received by the Bureau of Indian Affairs for the credit of the judgment debtor in satisfaction of the judgment. Only monies of the individual and not of other members of his family may be requested to pay such judgments.

~~Sec. 4-1-112. — Standard of Proof.~~

~~The standard of proof in any civil action shall be a preponderance of the evidence (or clear and convincing evidence).~~

Sec. 7-1-2. - Jurisdiction of the Court of Appeals.

The Court of Appeals shall have jurisdiction to review final orders, commitments and judgments of the Shoshone-Bannock Tribal Court. On appeal, each case shall be tried anew, except for questions of fact submitted to a jury in the Trial Court. A jury trial is allowed in the Court of Appeals. In a criminal appeal, the Court of Appeals may affirm or reverse the judgment of the Trial Court, may order a new trial, may decrease not increase any sentence or modify any other order of the Trial Court. In a civil case, the Court of Appeals may affirm, modify or reverse any judgment, decree or order of the Trial Court and may remand the case and order a new trial or may direct the entry of an appropriate judgment, decree or order of the Trial Court and may remand the case and order a new trial or may direct the entry of an appropriate judgment, decree or order, or require such other action or further proceedings as may be just in the circumstances. A decision by the Court of Appeals must be by a majority of the three Appellate Judges.

Sec. 18-2-6. - Certificates of Sale.

In the case of the sale of non-trust real property, the said Tribal Law Enforcement Officer making such sale shall make as many certificates of such sale as there are counties in which such real property is situated, adding a sufficient number to deliver one to each purchaser of such real property and deliver

one copy to the Shoshone-Bannock Tribal Court for filing. The Law Enforcement Officer shall deliver one of said certificates to each purchaser of such real property, and shall file one with the county recorder of the county where such sale was made; and he shall also send one to each of the county recorders of the several counties in which any portion of said non-trust real estate is situated, by United States mail, prepaying the postage thereon. Such certificate of sale shall be filed and recorded by several county recorders as is now provided by law in sales of real property under execution. In the case of the sale of trust real property, pursuant to judicial proceedings under 25 United States Code Section 483(a), the Law Enforcement Officer shall deliver said certificates to each purchaser of such real property and shall file one with the Office of Realty, Fort Hall Reservation, and one with the Shoshone-Bannock Tribal Court for filing therein.

Sec. 22-2-13. - Enforcement and Penalties.

- (a) **Enforcement.** The enforcement of this Chapter and any amendment hereto shall be the responsibility of the Tribal Police through the Tribal Business Council.
- (b) **Inspection.** Upon securing a Search Warrant from the Tribal Court in accordance with the provisions of Chapter 20 of the Code, the Tribal Police and the Health Advisor shall be permitted access to all premises and business establishments at all reasonable times for the purpose of determining compliance with this Chapter.

Sec. 2-1-3. - Grounds for Exclusion.

Non-members of the Shoshone-Bannock Tribes may be excluded on one or more of the following grounds:

~~(18) — Non-members failure to register at Tribal Headquarters within five days from residency on the Reservation.~~

~~Sec. 8-1-100. — Trespass by Non-Indians.~~

~~(a) — It shall be unlawful for any non-Indian to berry pick or have picnics or parties on the Fort Hall Reservation, or to fish or hunt thereon except in season when fishing and hunting permits are issued in areas designated on the permits.~~

~~(b) — Any person found to be in violation of this Section shall be immediately escorted off the Reservation by the Tribal or Bureau of Indian Affairs Police.~~

Sec. 5-1-15. - Arrests.

(a) **By Police Officers.** Tribal Police will not arrest any person for any offense defined by this Law and Order Code or Ordinances hereafter enacted or by federal law except when such event: occurs in the presence of the arresting officer or he has reasonable cause to believe that the person arrested has committed an offense, or the officer has official knowledge that a valid Warrant exists for the arrest of such person.

Sec. 5-1-51. - Sentences.

(a) **Nature and Kind of Sentences.** Any person who has been convicted by the Shoshone-Bannock Tribal Court on an offense enumerated in this Law and Order Code may be sentenced to imprisonment,



fined, or may be sentenced to work for the benefit of the Tribes for a period not to exceed the maximum provided for the offense in this Code, and the period shall begin to run from the day of sentence. Any convicted person may be sentenced to serve his sentence in jail or by work or by a combination of both at the discretion of the Judge. If the convicted person cannot pay his find, he shall likewise be held in jail or made to work at the discretion of the Judge. In serving said fine either in jail or by work, the convicted person shall be credited on said fine \$5.00 per day for each day in jail or \$10.00 per day or fraction of day at work, whichever is applicable.

(b) Payment of Fines. Fines shall be paid in cash, or in commodities or other personal property of the required value as may directed by the Court. All monies received from costs and fines shall be paid to the Court and shall be delivered by the Court to authorized personnel in Tribal headquarters for deposit in the Tribal general fund.

Sec. 5-1-51. - Sentences.

~~(c) Restitution. In addition to any other sentence, the Court may require an offender who has inflicted injury upon the person or property of any individual to make restitution or to compensate the party injured, through the surrender of property, the payment of money damages, or the performance of any other act for the benefit of the injured party.~~

Sec. 3-1-16. - Criminal Jurisdiction.

(a) The Shoshone-Bannock Tribal Court shall have criminal jurisdiction over all offenses enumerated in this Law and Order Code when said offenses are committed by an Indian while within the exterior boundaries of the Fort Hall Reservation.

Sec. 3-1-36. - Tribal Court Advocates.

(a) (5) a.

After the Prosecutor obtains the information and it is determined that the complaint is valid, he will then secure a Tribal warrant to apprehend, with the signature of a Tribal Judge, or he will issue to the defendant a Summons commanding him/her to appear.

Sec. 4-1-26. - Service by Publication.

If after reasonable attempts have been made to personally serve a party as required by Section 4-1-24, said party cannot be located for personal service, the Clerk of the Court shall cause to be published said Notice in the Sho-Ban News once a week for two consecutive weeks prior to the date of the hearing. The hearing shall thus not be scheduled sooner than ten (10) days after the date of the last publication of said notice. Proof of publication shall be by affidavit of the publisher of said newspaper, or his designated agent over the age of 18 years stating the dates of publication and attaching a true copy of the publication, both of which shall be entered in the Court file of that particular matter.

Sec. 4-1-72. - Subpoena.

(c) Service. A subpoena may be served by the Fort Hall Police Department or by any other person who is not a party and is not less than 18 years of age. Service of a subpoena upon a person named therein shall be made by delivering a copy thereof to such person.

Sec. 4-1-84. - Limitation of Actions.

Subject to the provisions of the Consumer Code, the Court shall have no jurisdiction over any action brought more than three years after the cause of action occurred.

Sec. 4-1-87. - Exclusion of Witnesses.

If either party requests it, the Judge may exclude from the courtroom any or all prospective witnesses, other than a party to the action, not at the time under examination, so that he may not hear the testimony of other witnesses.

Sec. 14-3-4. - Custody of Children.

The Court must award the custody of the children of a marriage annulled on the ground of fraud or force to the innocent parent, and may also provide for their education and maintenance out of the property of the guilty party. Provided, however, that the award of custody of such children must be based on the consideration by the Court of the best interests of said children.

Sec. 14-4-14. - Recrimination.

~~Recrimination is the showing by the defendant of any cause of divorce against the plaintiff, in bar of the plaintiff's cause of divorce.~~

Sec. 14-4-15. - Condonation.

~~Condonation of a cause of divorce shown in the answer as a recriminatory defense is a bar to such defense when the condonee has fully performed the marital duties, and is felt reproached since the condonation, or if two years or more have elapsed after the condonation.~~

Sec. 14-4-24. - Alimony.

Where a divorce is granted the Court may compel either party to provide for the maintenance of the children of the marriage, and to make such suitable allowance to the other party for his/her support as the Court may deem just, having regard to the circumstances of the parties respectively, and the Court may from time to time modify its orders in these respects.

Sec. 14-5-6. – Support of Spouse.

Where one spouse is not able or competent to support himself/herself, and said spouse has no separate or community property, it shall be the duty of the other spouse to support said infirm from the separate property of the able spouse, so long as they shall continue as man and wife.

Sec. 10-1-36. - Special Restrictions.

(b)

(3) 50 miles per hour in other locations during the day time except Reservation highways, unless otherwise posted.

(4) 45 miles per hour during the night time on other locations except Reservation highways, unless otherwise posted.

(5) 55 miles per hour during the night time on state highways, unless otherwise posted.

(6) 55 miles per hour on Reservation highways unless otherwise posted.

Sec. 10-1-43. - Overtaking a Vehicle on the Left.

The following rules shall govern the overtaking and passing of a vehicle proceeding in the same direction, subject to those limitations, exceptions and special rules stated in this Section:

(1) The driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the roadway, until he can do so in a safe manner.

Sec. 10-1-54. - Signals by Hand and Arm or Signal Device.

Any stop or turn signal when required by this Chapter shall be given either by means of the hand and arm or by a signal lamp or lamps or mechanical signal, but when a vehicle is so constructed or loaded that a hand and arm signal would not be visible both to the front and rear of the vehicle, the signals must be given by lamp or lamps or signal device.

Sec. 10-1-114. - Horns and Warning Devices.

(d) Any authorized emergency vehicle may be equipped with a siren, whistle or bell, capable of emitting sound audible under normal conditions from a distance of not less than 500 feet, but the siren shall not be used except when the vehicle is operated in response to an emergency call or in the immediate pursuit of an actual or suspected violator of the law, in which latter events the driver of the vehicle shall sound the siren when reasonably necessary to warn pedestrians and other drivers of the approach thereof.

Sec. 10-1-140. - ~~Public Law 280 Enforcement.~~

~~(a) It is hereby declared as a provision of this Traffic Code that the enforcement of Public Law 280 (Concurrent Jurisdiction) is only applicable on the following roadways or highways that cross or pass over the Fort Hall Reservation: U.S. 191-91 (North/South), Interstate 15 (North/South) and Interstate 86 (East/West), and that the enforcement of State Traffic Regulations by any officer shall be only in effect upon the roadways and highways noted herein.~~

~~(b) All other roadways that lie within the exterior boundaries of the Fort Hall Reservation are under the exclusive jurisdiction of the Shoshone-Bannock Tribes and the Shoshone-Bannock Tribal Law and Order Code. Any Officer's use of the State of Idaho Traffic Code in the citing of an offender into Tribal or State Court is not a concession by the Shoshone-Bannock Tribes, the Tribal Police or the Tribal Court to the jurisdiction of state, county or city law.~~

Sec. 9-1-11. - Payment of Travel Expenses.

(a) The Court may authorize payment of any necessary travel expenses incurred by any person summoned or otherwise required to appear at the hearing of any case coming within the purview of this Chapter at an amount to be determined by the Court.

Sec. 9-1-27. - Curfew.

(a) It shall be unlawful for any unmarried person under the age of 18 years to be in any public place upon the Fort Hall Reservation or in any other place other than his/her normal place of residence or

employment between the hours of 10:00 p.m. and 5:30 a.m., Sunday through Thursday, and between the hours of 12:00 midnight and 6:00 a.m., Friday through Saturday.

Sec. 5-1-38. - Time.

(a) **Computation.** In computing time, except length of sentences, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, a Sunday, or legal holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday. When a period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation. As used in these rules, "legal holiday" includes New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, Christmas Day, and other days appointed as a holiday by the President or the Congress of the United States, or by the Tribal Council of the Tribe.

Change	Bill's Book		Municode	Marci notes
1	diff		changed	
2	diff		changed	
3	OK		changed	
4	diff		changed	
5	diff		changed	
6				
7				
8	ok		changed	
9	ok		changed	The list says section 12.1 but the change is made in 12.2
10				
11	OK		changed	r is # 18 in municode
12	OK		unchanged	mentions fine but no restitution
13			changed	§ 41 mentions nothing about proper medical treatment
13				§ 42
14				doesn't mention anything about reasonable
15	OK		changed	strike out. delete from Municode
16	diff		unchanged	
17	???		???	
18	diff		unchanged	
19	OK		unchanged	
20	OK		changed	Federal is still listed.
21				Not too sure about this one
22				Not too sure about this one
23				Not too sure about this one
24	OK		changed	reference to federal officer
25	OK		changed	deleted the section restitution
26				Both have two different versions. Which is correct?
27	OK		changed	deleted the section referencing federally...
28	OK		unchanged	
29	OK		changed	added or he will issue a summons
30	OK		unchanged	
31				?? no clue
32	OK		changed	
33	OK		changed	
34	OK		changed	took out the citation to Ordinance #
35	OK		changed	added party cannot be excluded
36				#36 re Court of Appeals
36	OK		changed	pg 4 #36 re custody of children. Updated to reflect best interest
37	OK		changed	Stike out. delete from Municode.

38					not sure. if changed or not. Municode is different than book
39		OK		changed	updated entire paragraph
40					?? no clue
41					?? no clue
42		OK		unchanged	
43		OK		unchanged	
44		OK		unchanged	
45		OK		unchanged	
46		OK		unchanged	
47		OK		unchanged	
48		OK		unchanged	
49		OK		unchanged	
50		OK		unchanged	
51		OK		changed	
52		OK		changed	
53		OK		changed	
54		OK		changed	Strike out. delete from Municode
55		OK		changed	
56		OK		changed	
57		OK		changed	