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Tribal Operations  
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SEP 26 1983

Through: Superintendent, Western Nevada Agency

Mr. Elvin Willie, Jr.

Chairman, Walker River Paiute Tribe

Dear Mr. Willie:

On June 28, 1983, the Walker River Paiute Tribal Council reenacted Ordinance No. WR-01-83B which was approved by the Western Nevada Agency Superintendent on July 5, 1983. The Superintendent's approval is subject to Secretarial review pursuant to Article V, Section 2 of the Tribe's Constitution.

Ordinance No. WR-01-83B establishes the following Law and Order Codes for the Walker River Paiute Tribal Court:

- Title 1 - The Tribal Court
- Title 2 - Civil Procedures
- Title 3 - Torts
- Title 4 - Criminal Procedures
- Title 5 - Code of Criminal Offenses
- Title 6 - Evidence
- Title 7 - Vehicles
- Title 9 - Domestic Relations
- Title 12 - Probate

Ordinance No. WR-01-82A was originally enacted on December 28, 1982, and approved by the Superintendent on January 5, 1983. However, the Superintendent's approval was rescinded on March 11, 1983 because the Law and Order Code contained seven major crimes in Sections 5-30-010, 5-30-020(b), 5-30-030, 5-30-050, 5-40-010, 5-40-030, and 5-40-050, over which the Tribe lacks jurisdiction.

We have reviewed the reenacted ordinance and find the deficiencies have been corrected. The ordinance contains a few typographical errors which have no bearing on the substance of the ordinance and are listed on a separate listing. It is recommended these errors be corrected in a separate resolution or ordinance at a later date.

Overall, we find all recommendations have been taken into consideration in finalizing this law and order code. With this input, we see no reason to rescind the Superintendent's July 5 approval. Therefore, Ordinance No. WR-01-83B remains in full force and effect as of July 5, 1983.

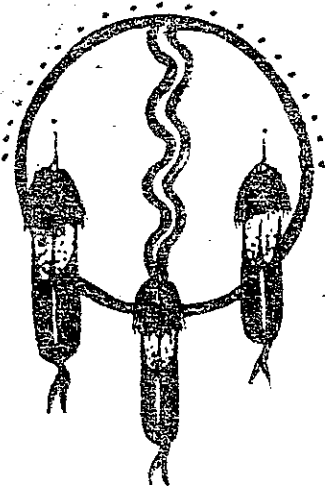
Sincerely,

JAMES H. STEVENS

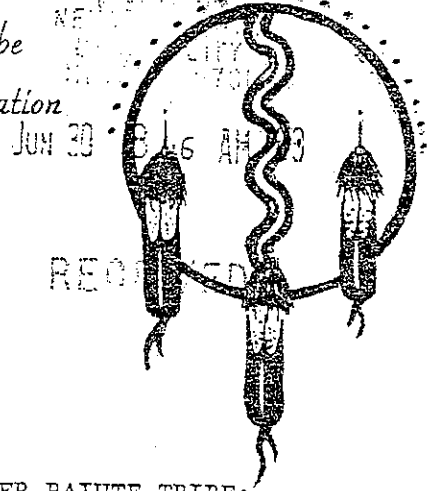
Area Director

Enclosure

cc: ~~Superintendent, Western Nevada Agency~~  
Field Solicitor, Phoenix  
PAO, Law Enforcement Services  
Judicial Services, Washington, D.C. CODE 440



Walker River Paiute Tribe  
 Walker River Indian Reservation  
 Schurz . Nevada  
 (702) 773-2306



ORDINANCE OF THE GOVERNING BODY  
 OF THE  
 WALKER RIVER PAIUTE TRIBE

ORDINANCE NO. WR-01-83B

BE IT ENACTED BY THE TRIBAL COUNCIL OF THE WALKER RIVER PAIUTE TRIBE:

AN ORDINANCE TO DEFINE AND ESTABLISH REGULATIONS AND PROCEDURES GOVERNING LAW AND ORDER PROCEEDINGS IN AND FOR THE TRIBAL COURT OF THE WALKER RIVER PAIUTE TRIBE.

WHEREAS, the governing body of the Walker River Paiute Tribe of Nevada adopted a Constitution and By-Laws in accordance with Section 16 of the Indian Reorganization Act on February 20, 1937, and approved by the Acting Secretary of the Interior on March 19, 1937, and as amended, and

WHEREAS, the Walker River Paiute Tribe of Nevada desires to prepare and define regulations and procedures governing Law and Order on the Reservation, and

WHEREAS, the following titles of the Law and Order Code have been studied and considered:

- Title 1 - The Tribal Court
- Title 2 - Civil Procedure
- Title 3 - Torts
- Title 4 - Criminal Procedure
- Title 5 - Code of Criminal Offenses
- Title 6 - Evidence
- Title 7 - Vehicles
- Title 9 - Domestic Relations
- Title 12 - Probate

THEREFORE BE IT RESOLVED, that the Walker River Paiute Tribe of Nevada does hereby provide the following regulations and procedures to be followed in the Walker River Tribal Court, and

BE IT FURTHER RESOLVED that these ordinances shall become effective upon the date of approval of the Secretary of the Interior, and

BE IT FINALLY RESOLVED that the following Ordinances and Resolutions are hereby rescinded upon the final approval of these NEW Ordinances:

Ordinance No. III	Adoption into the Tribe
Ordinance No. IV	Gambling
Unnumbered (1951)	Adoption into the Tribe
No. WR-57-2	Liquor Control
No. WR-573	Liquor Control
No. WR-58-3 (1958)	Liquor Control
No. WR-62-5 (1962)	Minors Loitering
No. WR-67-1 (1967)	Associate Judge Appointment
No. WR-67-2 (1967)	Signs
No. WR-72-1 (1972)	Motorcycle Operation
No. WR-I-77 (1977)	Motor Vehicle

CERTIFICATION

It is hereby certified that the foregoing Ordinance of the Walker River Paiute Tribal Council of the Walker River Paiute Tribe composed of seven members, of whom 4 constituting a quorum were present at a meeting held on the 28th day of June, 1983, and that the foregoing ORDINANCE NO. WR-01-83B was adopted by the affirmative vote of 4 for and 0 against pursuant to the authority contained in the Constitution and By-Laws of the Walker River Paiute Tribe of Nevada, approved on March 29, 1937.

Elvin Willie, Jr.  
Elvin Willie, Jr., Tribal Chairman

Roger B. Williams  
Roger B. Williams, TREASURER

Absent  
Douglas D. Quintero, VICE-CHAIRMAN

Absent  
Walter Voorhees, Member

Norma Lessard  
Norma Lessard, SECRETARY

Robert G. Voorhees  
Robert Voorhees, Member

Absent  
Ellison McMasters, Jr., Member

APPROVED BY: Robert L. Hunter  
Robert L. Hunter, SUPERINTENDENT

DATE: 7-5-1983

LAW AND ORDER CODE

Title 3 - Civil Causes of Action

TORTS

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LAW AND ORDER CODE

Title 3 - Civil Causes of Action

TORTS

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3-10

DEFINITIONS - The following words have the meanings given below when used in this Title 3 of the Law and Order Code:

- (a) Consent - A voluntary agreement to do something or allow something to be done which is proposed by another.
- (b) Contributory Negligence - The negligence of the party complaining of injury.
- (c) Intention - An act is performed intentionally when the act is performed with the purpose of causing the intended harm or when the act is performed with knowledge to a substantial certainty that the intended harm will result.
- (d) Landlord - One who rents lands or dwelling.
- (e) Minor - A child under the age of eighteen (18).
- (f) Personal Property - All things other than real property.
- (g) Real Property - Land and anything built or growing upon or attached to land.
- (h) Tort - A wrongful act or omission which causes injury to another.

3-20

TORTS TO THE PERSON -

3-20-010

Assault -

- (a) A party who acts in such manner as to intentionally place another without his consent in reasonable

3-20-010 cont.

apprehension of an immediate battery, is liable to the party for any pain or injury caused by the conduct.

- (b) Apprehension - Awareness of a physical act likely to occur.
- (c) Apprehension must be such as would normally be aroused in the mind of a reasonable person.

3-20-020 Battery -

- (a) A party who intentionally touches another or something he is in contact with without his consent in a harmful or offensive manner is liable for any pain or injury caused by such conduct.
- (b) A party who intends to commit an assault or battery on one person and by accident commits a battery or assault on a third person, is liable to such third person for any injury caused by reason of his conduct.

3-20-030 Defenses to a Law Suit for Battery and/or Assault -

- (a) Consent.
- (b) A reasonable degree of force may be used in self-defense when there is a reasonable apprehension of battery present.
- (c) A reasonable degree of force may be used to defend real property after a request to depart has been made or where circumstances exist under which such request would be futile.
- (d) A reasonable degree of force may be used to reobtain personal property when the party is immediately in

3-20-030 cont.

hot pursuit of the offender.

- (e) A reasonable degree of force may be used by a teacher or parent to discipline a minor.
- (f) A person is justified in using force which is intended or likely to cause death or serious bodily injury only if he reasonable believes that such force is necessary to prevent death or serious bodily injury to himself or a third person.

3-20-040

False Imprisonment -

- (a) A party who intentionally detains a person against his will in such a manner as to deprive that person of his liberty, is liable to such person for any emotional, mental, or physical injury caused.
- (b) The following are defenses to an action for false imprisonment:
  - (1) A legal right to confine.
  - (2) Citizen arresting a party in a reasonable belief that a felony had been committed by that party.
  - (3) A citizen arresting a party for a misdemeanor committed by that party in the presence of the citizen.

3-20-050

Intentional Infliction of Emotional Distress -

- (a) A party who intentionally causes severe emotional distress by extreme and outrageous conduct is liable for the pain and suffering caused by his conduct.



3-20-060

Defamation of Character and Injury to Reputation -

(a) A party who intentionally in written or oral form makes a false statement to a third person which exposes someone to public hatred, contempt, or ridicule and causes damage to such party's reputation, is liable for the damages caused by such conduct. A law suit for defamation does not survive the death of a party.

(b) Slander is oral defamation. No law suit can be brought for slander without proof of special damages unless it falls within one or more of the following categories:

- (1) Loathsome disease.
- (2) Accusation of a crime.
- (3) Statements adversely affecting a party in his trade or business.

(c) Libel is written defamation. A law suit for libel may be brought without proof of special damages.

(d) Defenses to law suits for defamation of character:

- (1) Truth.
- (2) Statements in the course of court proceedings or tribal council or committee proceedings.
- (3) Statements of opinion made without malice.

3-20-070

Invasion of the Right of Privacy -

(a) A party who intentionally violates the privacy of another in such a way as to be objectionable to a person of reasonable sensitivity is liable to the person for the distress caused by the conduct.

3-20-070 cont.

- (b) A party who uses the name, picture, or personality of another for a commercial use without permission is liable to such person for damages caused by such conduct or the reasonable value of the use of his name, picture, or personality.
- (c) A party who discloses non-public information concerning another in such a manner as to offend a reasonable person's sensibility is liable for any damages suffered by the person caused by the disclosure.

3-30

INTENTIONAL TORTS TO PROPERTY -

3-30-010

Trespass to Real Property -

- (a) A party who voluntarily enters real property in the possession of another is liable to the party in possession for injury caused by the invasion.
- (b) Defenses to law suits for trespass through real property:
  - (1) Consent of the person in possession of the property.
  - (2) Entry made to reclaim property on the land of a person in possession after reasonable demand has been made where the property is on the land due to no fault of the trespasser. This section does not apply to goods delivered under an installment sales contract.
  - (3) Entry made necessary in order to benefit the public.

3-30-010 cont.

(4) Entry pursuant to court order.

(5) Entry by mistake induced by the conduct of the party in possession.

3-30-020 Interference with Personal Property - A party who intentionally interferes with personal property of another is liable for any damage suffered by reason of such conduct. Damage may include loss of use of the property as well as injury to the property.

3-40 UNFAIR INTERFERENCE WITH ECONOMIC RELATIONSHIPS -

3-40-010 Interference With Contractual Relations - A party who intentionally interferes with an existing contractual relationship is liable for damages caused by the interference unless the contract is illegal or he is privileged to interfere.

3-40-020 Interference With Prospective Economic Advantage - A party who intentionally interferes with the prospective economic advantage of another is liable in damages for any injury caused by that conduct.

3-50 FRAUD, MISREPRESENTATION, AND DECEIT -

A party who intentionally or in reckless disregard of the truth, misrepresents a past or present fact to another intending that the misrepresentation be relied on is liable for damages suffered in reliance on such misrepresentation.

3-60 NUISANCE -

A party who intentionally or negligently uses his land in such manner as to create an obnoxious sight, sound,

3-60 cont.

or odor affecting the use and enjoyment of the land of another or affecting the use and enjoyment of public property is liable for damages caused by such nuisance and may be ordered by the Court to stop using the land in such a manner.

3-70

NEGLIGENCE -

(a) A party who has a duty to use and fails to use reasonable care thereby causing harm to the person or property of another is liable for the harm caused by reason of his conduct.

(b) There is no duty to rescue a person in danger. A party who undertakes to act on behalf of another is liable for failing to use reasonable care if by his acts he thereby increases the danger of another.

(c) A party who causes harm to an unborn child able to live apart from his mother by failing to use reasonable care is liable to such child for injuries caused by reason of his conduct.

3-70-010

Special Situations Involving Reasonable Care -

(a) Where it must be determined whether a person engaged in a profession has acted with reasonable care, that decision should be made by deciding whether the care exercised was in accordance with the skill and learning commonly possessed by a member in good standing in the same profession in that area.

(b) A party who violates a section of this law and order code or any other law applicable within the bound-

3-70-010 cont.

aries of the reservation or colony requiring a certain standard of conduct to be exercised to protect a class of persons will be presumed to have failed to have used reasonable care if anyone in the class has been injured as a result of the violation. The law violated must protect against the type of harm suffered.

(c) Where a party in exclusive control of an instrumentality which causes an accident which would not have ordinarily occurred without negligence, that party will have been presumed to have failed to use reasonable care.

3-70-020

Proximate Cause - A party causing physical injury to another as a result of his failure to use reasonable care is liable for all harm suffered including injuries that one could not reasonably foresee. A party causing harm to property of another as a result of his failure to use reasonable care is liable only for damages which are reasonably foreseeable.

3-70-030

Comparative Negligence -

(a) The contributory negligence of a plaintiff shall not prevent a recovery if the negligence of the person seeking recovery is equal to or less than the negligence of the person against whom the recovery is sought. Any damages allowed shall be diminished in proportion to the amount of negligence attributable to the person seeking

3-70-030 cont.

recovery.

- (b) Where recovery is allowed against more than one defendant, each defendant's liability shall be in proportion to his negligence. In all cases where the contributory negligence of the plaintiff is greater than the negligence of the person against whom recovery is sought, the plaintiff's contributory negligence shall prohibit any recovery for the plaintiff.

3-70-040

Negligent Liability In Real Property Cases -

- (a) A party in possession of land has a duty to use reasonable care to keep his land safe for all persons who may foreseeably enter his land. Whether a party in possession of land has exercised his duty to use reasonable care depends partly on the likelihood of entry.
- (b) Landlord liability:
- (1) A landlord is not liable for all injury caused as a result of an unreasonable risk of harm on premises owned by the landlord.
  - (2) A landlord is liable to those injured by his failure to use reasonable care on the premises controlled by him.
  - (3) A landlord is liable to those injured by his failure to use reasonable care where the persons are injured by an unreasonably dangerous condition known to him and concealed by him when the

3-70-040 cont.

property was turned over to the tenant.

- (4) A landlord is liable for injuries caused by his failure to use reasonable care when he agreed to make and failed to make repairs.

3-70-050

Strict Liability -

- (a) In certain instances a party will be liable for injuries suffered in the absence of negligence.
- (b) The possessor of wild animals is strictly liable for injury caused by such animal to another. A wild animal includes any domesticated wild animal otherwise considered tame by its possessor.
- (c) One who engages in ultra-hazardous activity will be held strictly liable for any reasonably foreseeable damage caused to person or property by such activity.

3-80

VICARIOUS LIABILITY -

- (a) Parent or guardian of a minor child is liable for all damage caused by the intentional torts of that child. Liability under this section will not exceed \$ \_\_\_\_\_.
- (b) OPTION 1: An owner of a motor vehicle is not liable for the negligence of any person who drives his motor vehicle with or without his consent.
- OPTION 2: An owner of a motor vehicle is liable for the negligence of a member of his immediate family who is driving his motor vehicle with his consent.

3-80 cont.

OPTION 3: An owner of a motor vehicle is liable for the negligence of any person who is driving his motor vehicle with his consent.

(c) An employer is liable for the negligence of his employee within the scope of employment for injuries caused to the person or property of a third person.

3-90

PRODUCT LIABILITY -

Any seller of goods who places an article on the market which is in a defective condition, unreasonably dangerous to the user, or any third person who may foreseeably be injured, is liable for damages caused by the defective condition of the product.

3-100

DAMAGES -

- (a) General Damages - Those damages which necessarily result from a certain type of injury.
- (b) Special Damages - Those damages which are the actual but not the necessary result of the injury complained of and which occur by reason of special circumstances or conditions. Special damages may include, but are not limited to:
- (1) Loss of wages.
  - (2) Medical expenses.
  - (3) Property damage.
- (c) Punitive Damages - Those damages awarded in the discretion of the Court in order to punish a wrongdoer for his malicious act.