

Washoe Tribe of Nevada and California

Law & Order Code

TITLE 30 – EXCLUSION AND EXPULSION

30-10 PURPOSE

The Washoe Tribe of Nevada and California shall be authorized to exclude non-members from the Washoe Indian Country and to determine conditions upon which non-members may remain. It is the purpose of this Title to provide for exclusion and expulsion of non-members from Washoe Indian Country who act in disregard of tribal law, destroy tribal fish and game, trespass upon tribal trust property, pollute tribal lands and waters, destroy real and personal property of the Tribe or its members, endanger the lives of members, and who harm the natural social and psychological well-being of members, the minor children of members or other persons in Washoe Indian Country.

30-20 DEFINITIONS

"Exclusion" means the temporary removal of an individual from Washoe Indian Country.

"Expulsion" means the permanent removal of an individual from Washoe Indian Country.

"Washoe Indian Country" means all tribal lands described in Article I, Section 1 of the Constitution of the Washoe Tribe of Nevada and California and any other lands held in trust by the United States for the Washoe Tribe of Nevada and California.

30-30 WHO MAY BE EXCLUDED OR EXPELLED

Any non-member of the Washoe Tribe of Nevada and California (non-member) may be excluded or expelled from Washoe Indian Country pursuant to the provisions of this Title.

30-40 TRESPASS; GROUNDS FOR EXCLUSION OR EXPULSION

The commission of any of the following acts by any non-member constitutes a trespass punishable, in addition to any other sanction imposed under applicable federal or Tribal law, by exclusion or expulsion from Washoe Indian Country:

- (a) Entering an area of Washoe Indian Country for which a permit is required under any Tribal law, without first obtaining the requisite permit.
- (b) Failure or refusal to pay any taxes, rents, fees, or other charges due the tribe after reasonable notice and opportunity to pay.
- (c) The commission of any offense defined under Tribal, state or federal law, including violation of any provision of the Washoe Tribe Law and Order Code.
- (d) Unauthorized taking of any property from Washoe Indian Country.
- (e) Any other act causing physical loss or damage of any nature to Tribal property or to the property of any Tribal member.
- (f) Any other action, which constitutes a threat to the health, welfare, security, or property of the Tribe or any Tribal member or the minor child of a member.

30-50 INITIATION OF EXCLUSION OR EXPULSION PROCEEDING BY PETITION

An expulsion or exclusion proceeding shall be initiated by the filing of a written petition with the Tribal Court by any Tribal Prosecutor or by the General Counsel on behalf of the Washoe Tribal Council. The petition shall state in plain terms the reason(s) for the proposed exclusion or expulsion.

30-60 NOTICE OF PROPOSED EXCLUSION OR EXPULSION; SERVICE

Upon receipt of an expulsion or exclusion petition, the Clerk of the Tribal Court shall issue a notice of proposed expulsion or exclusion, stating the date, time and place at which the non-member may appear before the Tribal Court to show cause why he/she should not be excluded or expelled from Washoe Indian Country. The notice shall also state the time and manner in which the person may re-enter Washoe Indian Country only for the purpose of attending the hearing. The Clerk shall cause the notice, along with a copy of the petition, to be served on the non-member pursuant to the provisions of Title 2, Section 2-30-030 of the Washoe Tribe Law & Order Code.

30-70 TIMING OF HEARING

The hearing shall take place not less than five (5) days after the completion of service of the notice and petition; PROVIDED, that if a Judge of the Tribal Court shall have reasonable cause to believe that an emergency exists, and the notice so states, then the hearing may be held a minimum of twenty-four (24) hours after completion of service.

30-80 HEARING TO DETERMINE EXCLUSION OR EXPULSION

The hearing to determine whether the non-member shall be expelled or excluded from Washoe Indian Country shall be conducted by a Judge of the Tribal Court. The person shall be given an opportunity to present his/her defense at such hearing and may, at his/her own cost, be represented by counsel.

30-90 ORDER OF THE COURT

- (a) At the conclusion of the hearing, or after the time set for the hearing in the event the non-member fails to appear or obtain a continuance thereof, the Court shall issue an order:
 - 1. Excluding or expelling the non-member from Washoe Indian Country, or
 - 2. Permitting the person to enter and/or remain upon Washoe Indian Country on such conditions as the Tribal Court sees fit to impose.
- (b) The order of expulsion or exclusion shall remain in force until revoked by the Tribal Court unless the order specifically provides otherwise.

30-100 ENFORCEMENT OF ORDERS OF EXCLUSION OR EXPULSION

If any non-member ordered excluded or expelled from Washoe Indian Country does not promptly obey the order, a Judge of the Tribal Court may order:

- (a) Immediate physical removal of such person from Washoe Indian Country by the Washoe Police Department; or
- (b) That the non-member be brought before the Tribal Court for a civil contempt hearing under the provisions of Title 2, Section 2-90-150 of the Washoe Tribe Law & Order Code.

30-110 PHYSICAL REMOVAL OF NON-MEMBERS: EMERGENCY

In cases involving immediate danger to the life, health, welfare, security, or property of the Tribe or any of its members or the minor or child of a member, or where any delay would result in irreparable damage, a Judge of the Court may, by written order, authorize any Washoe Police Officer to remove a non-member or any of his/her property from Washoe Indian Country, either before or after the person has been ordered excluded or expelled from Washoe Indian Country as provided in the Title above. The Washoe Police Officer executing such emergency removal order shall use only as much force as deemed necessary by the Washoe Police Officer to effect the removal. If service of the notice of proposed expulsion or exclusion has not already been made as provided for in the Title above, the Tribal Court shall cause the Washoe Police Officer to serve the notice upon the person at the time of removal or as soon after removal as possible.