

Washoe Tribe of Nevada and California

Law & Order Code

TITLE 18 – BUSINESS LICENSES, REGULATION AND TAXES

18-10 GENERAL PROVISIONS

18-10-10 Short Title

This Title is known and may be cited as the Business License, Regulation, and Tax Code.

18-10-20 General Policy

The Tribal Council hereby finds and declares to be the public policy of this Tribe that:

1. Economic development and the development of individually owned and operated business in Washoe Indian Country is vitally important to the self-sufficiency and economic security of the Tribe and the general welfare of the Tribal members;
2. The growth and success of the Washoe economy is dependent on public confidence and trust that businesses operating within Washoe Indian Country are free from criminal and corruptive elements;
3. Public confidence and trust can only be maintained by regulation of all persons, locations, and practices related to business activities;
4. All business activity must therefore be licenses and regulated to protect the public health, safety, and morals, good order and general welfare of members of the Tribe to foster the stability, success, political integrity, and economic security of the Washoe Tribe;
5. The development of a stable and well regulated private economy will allow the development of a stable base for taxation by the Tribe to support self-government and essential and customary governmental purposes;
6. The imposition of a gross sales tax by this Title is intended to provide an efficient and comprehensive means of supporting governmental functions and services to Washoe Indian Country.

7. The imposition and regulation of minimum standards for the commercial use of billboards shall promote public safety and general welfare, preserve and protect the environment and the Tribal economy, and improve, enhance and preserve the aesthetic qualities inherent in the Tribal lands and culture.

[Enacted 12/12/97, by Resolution No. 97-WTC-76]

18-10-30 Scope – Jurisdiction; Reserve Powers

1. The civil jurisdiction of the Washoe Tribe of Nevada and California, including that of its political subdivisions and agencies, shall cover, extend and apply to its fullest extent to all matters addressed by this Title and any regulations enacted thereto, including all activities thereof by any “person”, as that term is defined in this Code, which are conducted within Washoe Indian Country.
2. The Tribe is obligated to adhere to this Title; however, nothing herein shall limit the inherent powers of the Tribe to resolve any issues not otherwise governed or addressed herein, including the power to amend this Title.

18-10-40 Severability

If any provision of this Title or the application thereof to any person or circumstance is held invalid, the invalidity does not effect other provisions or applications of the Title which can be given effect without the invalid provision or application, and to this end the provisions of this Title are severable.

18-10-50 Definitions

The scope of all words in this Title shall be liberally construed in order to effectuate the purposes of this Title. In particular, the following words shall have the meaning ascribed to them as follows:

1. “Applicant” means any person who has applied for a Tribal business license or any permit.
2. “Application” means documentation notifying the Tribe of intent to seek permission to engage in business.
3. “Business” means any business, commercial enterprise, trade, occupation, calling, profession, vocation or activity engaged in, conducted or carried on by any person, agent or employee for the purpose of gain, benefit or advantage, either direct or indirect.
4. “Department” means the Department of Business License within the Washoe Development Enterprise.

5. “Director” means the Executive Director of Washoe Development Enterprise and those persons authorized by the Director to act in his or her behalf.
6. “Employee” means any person who performs services for another for hire, salary, wages or any other kind of compensation, whether or not the services are casual, temporary or permanent, and whether or not the contract of service is express or implied, oral or written.
7. “Establishment” means any business conducted in or upon any premises, and includes any buildings, improvements, equipment and facilities used or maintained in connection with such business at the same location.
8. “Gross sales” means the gross volume of business from all sales, service or other business transactions as measured by gross revenue and gross receipts.
9. “Gross revenues” means all revenue received by the business from sales, service, and other business transactions minus deductions only for returns, refunds, sales taxes, and discounts.
10. “Gross receipts” means actual payments received in cash or in kind, less deductions specified in gross revenue.
11. “License” means permission granted by the licensing authority to engage in the business for which the license is issued.
12. “Licensee” means any person to whom a valid license has been issued pursuant to this Title.
13. “License fee” or “license tax” means any money required by law to be paid to obtain, renew or maintain a license.
14. “Location” means the place where the business is to be operated at or from.
15. “Person” includes any association, corporation, firm, partnership, trust or other form of business or social association or organization, as well as a natural person and the estate of a natural person.
16. “Personal representative” means any person authorized to act on behalf of a person.
17. “Premises” means land together with all buildings, improvement, and personal property located thereon.

18. “Principal” means
- (a) Any person who is an officer, director, trustee, personal representative or general partner or who has an ownership interest in or voting control of the business equal to or greater than ten percent (10%) of the entire ownership of voting control of such business. If the ownership interest or voting control is held by a person other than an individual, then each officer, director, trustee, personal representative or general partner of such person is a principal
 - (b) Any person who is or will be directly engaged in the administration or supervision of the business; and
 - (c) Any other person if, in the Director’s opinion, the person exercises, or is capable of exercising, significant influence over the business.
19. “Valid unexpired license” means a license that has not been suspended or revoked before its expiration date.
20. “WDE” means the Washoe Development Enterprise, an agency of the Washoe Tribe of Nevada and California.
21. “Billboard” means a freestanding sign which is supported by one or more uprights, poles or braces in or upon the ground or which is placed upon a fence, wall, retaining wall or other structure that is not an integral part of any building.
- [Enacted 12/12/97, by Resolution No. 97-WTC-76]*
22. “Nonconforming billboard” means a billboard that does not comply with the provisions of this chapter.
- [Enacted 12/12/97, by Resolution No. 97-WTC-76]*
23. “Double-faced billboard” means any billboard designed to be viewed from two directions.

[Enacted 12/12/97, by Resolution No. 97-WTC-76]

18-20 WASHOE DEVELOPMENT ENTERPRISE JURISDICTION

18-20-10 Investigation and Enforcement Powers

1. The Washoe Development Enterprise shall have the jurisdiction to investigate and enforce the provision of this Title.

2. The Washoe Development Enterprise shall have all powers which may be necessary or appropriate for a complete and effective exercise of its jurisdiction, including, but not limited to, the power to enter and inspect the licensee premises at any time during the business hours of the licensee, and the WDE shall have the power to examine all books and records of the licensee or applicant.
3. The Washoe Development Enterprise is authorized to request information from a licensee or applicant at any time in furtherance of the exercise of its jurisdiction.

18-20-20 Director to Administer Through the Department of Business Licenses

1. It shall be the duty of the Director to administer the provisions of this Title unless provided otherwise herein.
2. The Director shall administer this Title, to the extent practicable, through a Department of Business Licenses.

18-30 BUSINESS LICENSING

18-30-10 Business License Required

1. No person may:
 - (a) Commence, carry on, engage in or continue (including the making of deliveries of goods, wares, and merchandise sold elsewhere) any business within Washoe Indian Country without a valid unexpired license issued pursuant to this Title, and without first paying any business license tax imposed pursuant to this Title, or
 - (b) Conduct, manage or carry on, either permanently or temporarily any business of any other person if the person who conducts, manages or carries on such business knows or should know that such other person is not licensed under this Title to conduct, manage or carry on such business.
2. Each day or portion thereof in which a violation of any provision of this Section is committed, continued or permitted constitutes a separate violation of this section.

18-30-20 No Vested Right to License

No applicant for a license or other WDE approval has any right to a license or the granting of the approval sought. Any license or other approval granted pursuant to the provisions of this Title of the Washoe Tribe Law and Order Code is a revocable privilege, and no holder acquires any vested right therein or thereunder.

18-30-30 Exemptions

Nothing in this Title, including the imposition of any license tax, shall be deemed or construed to apply to any:

1. Person engaged solely as an employee of any other person who is properly licensed to conduct, manage or carry on any such business, unless specifically provided otherwise by this Title;
2. Public bus transportation service for the carrying of passengers from place to place within Washoe Indian Country; which is owned or operated by a governmental entity; provided, however, this exception does not apply to a private person who leases the service from the governmental entity for business purposes.

18-30-40 Temporary License

1. The Director is authorized to issue temporary business licenses to business license applicants.
2. The Director may issue a temporary business license:
 - (a) if an applicant has:
 - i. Filed a complete and accurate business license application; and
 - ii. Paid all fees relating thereto; and
 - (b) The premises within or the location at which the applicant's business is to be conducted has been inspected and tentatively approved by the proper departments of the Tribe for:
 - i. All appropriate zoning requirements, and
 - ii. Compliance with the Uniform Fire Code.
3. A temporary business license entitles an applicant for a period of not more than sixty (60) days to engage in business at the location identified in the application. During the sixty-day temporary business license period, an applicant shall comply with all of the requirements imposed upon the license by this Title or by any department or agency of the Tribe.
4. Upon good cause shown by an applicant, the Director may in his or her discretion extend a temporary business license for two (2) periods of sixty (60) days each.
5. In the event that the Director should deny an applicant an extension of a temporary license, the applicant may, pursuant to the applicable provisions of this Title, appeal the denial to the Washoe Development Enterprise Board of Directors. It is the applicant's burden to present to the Board any and all facts and mitigating circumstances in support of his appeal.

Option: Give Director broader flexibility to issue a temporary license. When adopting this Title, the Council could also postpone implementation of law for two or three months into the future to give existing businesses a grace period to get licensing in order.

18-30-50 Application

1. Any person who desires to engage in business shall first apply for and obtain the appropriate license.
2. The license application shall be filed with the Department on forms acceptable to the Department.
3. The applicant shall furnish all the information required by the Department including, but not limited to:
 - (a) The applicant's business organization and structure;
 - (b) The proposed business operation and location;
 - (c) The name and address of each principal;
 - (d) The date when the applicant proposes to commence business; and
 - (e) Any other information that reasonably relates, or may lead to information that reasonably relates, to the applicant's qualification, acceptability or fitness for a license.
4. The applicant shall swear or affirm the truth of the information contained in the application.

18-30-60 Processing Fee

1. A thirty-dollar (\$30.00) nonrefundable processing fee will be charged for each application filed for a new business license, a change of business ownership, a change of business location or change of business name.
2. Processing of such applications shall not commence until the Department has received the processing fee.
3. The processing fee set forth in Subsection 1 above is to be in addition to any other license fee required by this Title for the type of business in question.

18-30-70 Issuance – Content – Term

1. Upon final approval of a license application and upon payment of all required fees and taxes, the Director shall issue a license.
2. The licensee shall specify the classification of the license, the premises where the business is allowed and the name of the licensee.
3. The license shall be for a period of twelve months, or for such other term as may be appropriate.

18-30-80 Action of Application

1. Other than an application for a license which requires prior approval by another agency of the Tribe, the Director, not more than thirty (30) calendar days after receipt of an application for a license, shall approve, deny or take such other action with respect to such application as he considers appropriate.
2. In the event that any department to which the Director is required to refer the application for additional approval is unable to complete its review thereof in time for the Director to comply with such thirty-calendar-day requirement, the Director shall issue a temporary license as provided in Section 18-30-30.

18-30-90 Fixed Place of Business Required

A business license shall only be issued if the applicant has a fixed place of business from which the business will actually be conducted, unless this Code specifically states otherwise.

18-30-100 Other Tribal Licenses and Permission Required

No license to conduct any business or occupation which is regulated or licensed under any other provision of the Washoe Law and Order Code shall be issued unless and until a license, approval or other necessary permission has been obtained therefore.

18-30-110 Grounds for Denial of License to Applicant

The Director may deny an applicant a license if:

1. The application is incomplete or contains false, misleading or fraudulent statements with respect to any information that is required in the application;
2. The applicant or any of its principals fails to satisfy any qualification or requirement that is imposed by this Title, or other Tribal or federal law or regulation that pertains to the particular license or approval for suitability which is sought;
3. The applicant or any of its principals resides in the United States illegally;
4. The applicant or any of its principals is or has engaged in a business, trade or profession without having obtained a valid license or other permit when such applicant or principal knew that one was required or under such circumstances that he or she reasonably should have known one was required;

5. The applicant or any of its principals has been subject, in any jurisdiction, to disciplinary action of any kind with respect to a license, an approval for suitability, a permit or a work card to the extent that such disciplinary action reflects upon the qualification, acceptability or fitness of the applicant or principal;
6. The applicant or any of its principals has been convicted of an act that constitutes a crime which involves moral turpitude or involves any Washoe Tribe or other government's law or regulation which relates to the same or a similar business;
7. The applicant or any of its principals has been convicted of having perpetrated deceptive practices upon the public;
8. The applicant or any of its principals suffers from a legal disability under the laws of the Tribe; or
9. The premises on which the business is conducted is structurally unsafe, or not provided with adequate egress, or which constitutes a fire hazard, or which is otherwise dangerous to human life or safety, or which in relation to existing use constitutes a hazard to safety or health, or public welfare, by reasons of inadequate maintenance, dilapidation, obsolescence or abandonment; or do not satisfy Tribal or Federal laws or regulations which pertain to the activity which is actually engaged in;
10. The premises on which the business is proposed to be conducted do not satisfy Tribal or Federal laws or regulations which pertain to the activity that is proposed to be engaged in.

18-30-130 Display at Fixed Place of Business

Every person having a license under the provisions of this Code and carrying on a business at a fixed place of business shall prominently display this license in the place of business for which it is issued, and shall retain this license as long as this business is in operation at the licensed address under the same name.

18-30-140 Carrying When Business Not Fixed

It is unlawful for any person who is not required to have a fixed place of business and who was issued a license under the provisions of this Code to fail to carry such license either upon his person or in any vehicle or other conveyance which is used in such business.

18-30-150 Ownership Change

1. Upon the transfer of ownership of a business licensed under this Code for which a license fee has already been paid, the transferee shall apply for the transfer of the license and shall be entitled to receive the same upon payment of the processing fee; provided that the transferred business meets all other requirements of this Code.

2. No transfer of license shall be approved until the required license tax has been paid for the next succeeding licensing period.

18-30-160 Location Change

A licensee may change the location of the licensed business by filing a form to be provided by the Director, who shall approve such transfer if the new location meets all the requirements of this Title and such applicant pays the required processing fee upon filing of such application.

18-30-170 Name-of-Business Change

All persons licensed to do business under this Title shall report to the director on a form acceptable to the Department any change in business license application with thirty (30) days after such change occurs and pays the required processing fee.

18-30-180 Duty to Report Changes

Licensees have a continuing duty and obligation to notify the Department of additions, deletions, changes or modifications in the information furnished the Department and this duty continues as long as a valid license remains in effect.

18-30-190 Disciplinary Action – Good Cause Designated

The licensee may be subject to disciplinary action by the WDE Board of Directors as detailed in section 18-50 for good cause, which may, without limitation, include:

1. The failure of any licensee or principal while engaged in the conduct of the licensed business, to comply with any of the provisions of this code.
2. The licensee or any of its principals violates a condition which is imposed upon the license;
3. The licensee or any of its principals has engaged in a business, trade or profession without having obtained a valid license or permit when such licensee or principal knew that one was required or under such circumstances that he reasonably should have known one was required;
4. The licensee or any of its principals has been subject, in any jurisdiction, to disciplinary action of any kind with respect to a license, an approval for such disciplinary action reflects upon the qualification, acceptability or fitness of such licensee or principal;
5. The licensee or any of its principals has been convicted of an act which constitutes a crime which involves moral turpitude or involves any Tribal or federal law or regulation which relates to the same or a similar business;

6. The licensee or any of its principals has been convicted of having perpetrated deceptive practices upon the public;
7. The licensee or any of its principals suffers from a legal disability;
8. The premises on which the business is conducted do not satisfy Tribal or federal law or regulations which pertain to the activity which is actually engaged in;
9. The actual business activity constitutes a public or private nuisance, or has been or is being conducted in an unlawful, illegal or impermissible manner.

18-30-200 Disciplinary Action – Required or Prohibited Act Violations

Whenever this Title requires any act to be done, or prohibits or makes unlawful the doing of any act, the failure to do any such required act or the doing of any such prohibited or unlawful act shall subject the person who commits such violation to disciplinary action.

18-30-210 Disciplinary Action – Acts of Principals and Subordinates

A licensee under this Chapter shall be subject to disciplinary action not only for acts or omissions done by such licensee but also for acts and omissions done by the principals, managers, agents, representatives, servants or employees of such licensee.

18-30-220 Designated Nuisance

The doing of any act for which a license is required or the violation of any provision of this Title is declared to be unlawful and harmful to the safety, welfare, health, peace and morals of the residents and taxpayers of the Washoe Tribe and constitutes a public nuisance per se, unless such act is done by a person who is authorized to do so by a license issued pursuant to this Title.

18-40 LICENSE RENEWAL

18-40-10 Renewal – Requirements

In order to renew a license the licensee must pay the appropriate license tax, and where the tax is based upon gross sales, the licensee shall certify the gross sales or amount of business he did in the last preceding period.

18-40-20 Renewal – Notice – Due Date

1. The Director shall cause notices to be mailed to each licensee of the license tax required before the due date to the next licensing period; provided, however, that the failure of a licensee to receive notice does not waive the payment of the license tax; and provided, further, that the actual receipt of such notice is in no case required.

2. The due date shall be the first day of the month of a licensing period.

18-40-30 Delinquency – Expiration – Reinstatement

1. All licenses shall become delinquent if the due and payable license tax is not received on or before the fifteenth day after the due date; provided, however, if the fifteenth day following the due date is a Saturday, Sunday or holiday, no penalty shall be assessed if the license fee is received before 5:00 p.m. of the next day which is not a Saturday, Sunday or holiday. If payment is made after fifteen days and before thirty days after the due date, five percent of the license fee shall be assessed as a delinquency charge. If a payment is made after thirty days after the due date, ten percent of the license fee shall be assessed as a delinquency charge.
2. All licenses for which taxes and assessed delinquency charges have not been paid within thirty (30) days after the due date may be suspended by the Director, or the Director's designee, and, if suspended, shall not be reinstated until the license taxes and assessed delinquency charges, unless deferred pursuant to subsection 3 below, has been paid.
3. If the assessed delinquency charges are not paid or are only partially paid when the semiannual license taxes are paid, payment of the unpaid assessed delinquency charges or balance thereof may be deferred and paid with the license fees for the next semiannual license period; provided, however, that the deferment does not apply if the amount of the delinquency charges exceed twenty-five dollars (\$25), and the delinquency charges may not be deferred for more than on (1) license period.

18-40-40 Grounds for Refusal to Renew a License

The Director may refuse to renew a license if:

1. The licensee or any of its principals is or has engaged in a business, trade or profession without having obtained a valid license, trade or profession without having obtained a valid license, an approval for suitability; a permit or a work card when such applicant or principal knew that one was required or under such circumstances that he reasonably should have known one was required;
2. The licensee or any of its principals has been subject, in any jurisdiction, to disciplinary action of any kind with respect to a license, an approval for suitability, a permit or a work card to the extent that such disciplinary action reflects upon the qualification, acceptability or fitness of such licensee or principal;
3. The licensee or any of its principals has been convicted of an act that constitutes a crime which involves moral turpitude or involves any Tribal

or federal law or regulation which relates to the same of a similar business;

4. The licensee or any of its principals violates a condition which is imposed upon the license;
5. The licensee or any of its principals has been convicted of having perpetrated deceptive practices upon the public;
6. The licensee or any of its principals suffers from a legal disability under the laws of the Tribe;
7. The premises on which the business is conducted is structurally unsafe, or not provided with adequate egress, or which constitutes a fire hazard, or which is otherwise dangerous to human life or safety, or which in relation to existing use constitutes a hazard to safety or health, or public welfare, by reasons of inadequate maintenance, dilapidation, obsolescence or abandonment; or do not satisfy Tribal or federal laws or regulations which pertain to the activity which is actually engaged in;
8. The actual business activity constitutes a public or private nuisance, or has been or is being conducted in an unlawful illegal or impermissible manner.

18-50 ADMINISTRATIVE AND JUDICIAL ACTION

18-50-10 Disciplinary Action – Forms

1. Upon a showing of good cause, and in the discretion of the WDE Board of Directors, disciplinary action against a licensee may take the form of:
 - (a) cancellation,
 - (b) revocation,
 - (c) refusal to renew,
 - (d) suspension,
 - (e) imposition of conditions or restrictions, or
 - (f) civil fine in an amount not to exceed one thousand dollars (\$1,000) for each violation of the provisions of this Title. A separate offense shall be deemed committed on each day during or on which a violation occurs.
2. The WDE Board of Directors may also impose against the licensee the actual costs incurred, and a reasonable amount for attorney's fees, resulting from the imposition of disciplinary action.
3. The disciplinary actions available in this Section shall be in addition to, and not exclusive of, any other civil or criminal remedy which otherwise might be available.

18-50-20 Disciplinary Action by WDE Board of Directors – Hearing

The WDE Board of Directors may, upon complaint or upon its own motion, cite any licensee to appear before it or the Director at any time to show cause why the license of any licensee shall not be revoked or renewed. At or before the hearing, written charges shall be made against said licensee specifying therein the facts which form the basis of the charges. At such hearing the licensee may present a reasonable number of witnesses and such other evidence as may be relevant. After the hearing, the WDE Board of Directors, or the Director as the case may be, may then take such action as authorized. A decision pursuant to this section to revoke a business license or to decline to renew a business license shall be ordered only by the majority vote of the members of the WDE Board of Directors present at the time when such matter was considered.

18-50-30 Appeal of Action by Director

1. Any person aggrieved by a decision of the Director denying or refusing to renew a license or denying, revoking or suspending a permit may appeal that decision within thirty (30) days to the Washoe Development Enterprise Board of Directors by filing written notice of appeal with the Director.
2. The Washoe Development Enterprise Board of Directors shall hear the applicant at the next regularly scheduled meeting following the expiration of ten (10) days after the applicant filed a notice of appeal.

18-50-40 Appeal of Action by WDE Board of Directors

1. Any person aggrieved by a decision of the WDE Board of Directors made pursuant to the Title may appeal that decision within thirty (30) days to the Washoe Tribal Court by filing written notice of appeal with the Tribal Court in accordance with all applicable Tribal Court rules and procedures.
2. The Washoe Tribal Court shall hear the appeal in accordance with all applicable Tribal Court rules and procedures. The Tribal Court shall not disturb the decision of WDE unless it finds the decision to be arbitrary, capricious, and unreasonable.

18-50-50 Tax Collection by Civil Action

1. Any license tax imposed by this Code shall be deemed a debt due the Washoe Tribe payable by any person who commences, carries on, engages in, or conducts any business, for which a license is required.
2. Such person shall be liable in a civil action in the name of the Washoe Tribe as plaintiff in any court of competent jurisdiction for the recovery of the amount of license tax, penalties and interest imposed by this Title, and for the costs of suit and reasonable attorney's fees.

18-50-60 Violations – Action Against Nuisance

1. The Tribal representative, upon order of the Council, shall institute legal action, in any court of competent jurisdiction, to abate, remove or enjoin the nuisance.
2. This remedy shall be in addition to any other remedy available under this Chapter or any other law.

18-60 TAXES**18-60-10 Sales-Based Tax**

Unless specifically provided otherwise in this Code, each person doing business in Washoe Indian Country shall pay to the Department, in advance, a semiannual (twice a year) license fee based on the gross sales of the business according to the following schedule:

Semiannual	Gross	Semiannual	Fee
\$ 0	-	\$ 12,000	25
12,001	-	18,000	35
18,001	-	24,000	42
24,001	-	30,000	54
30,001	-	45,000	66
45,001	-	90,000	78
90,001	-	135,000	90
135,001	-	180,000	100
180,001	-	240,000	120
240,001	-	300,000	167
300,001	-	360,000	200
360,001	-	420,000	230
420,001	-	480,000	270
480,001	-	540,000	300
540,001	-	600,000	350
600,001	-	660,000	370
660,001	-	720,000	400
Semiannual	Gross	Semiannual	Fee
720,001	-	780,000	440
780,001	-	840,000	470
840,001	-	900,000	500
900,001	-	960,000	540
960,001	-	1,020,000	570
1,020,001	-	1,080,000	600
1,080,000	-	1,140,000	640
1,200,001	and over	multiplied by	.00056

18-60-20 Period – Proration

Unless specifically provided otherwise, all license taxes imposed by this Title shall be for a semiannual (twice per year) period and shall be billed by the Department accordingly.

18-60-30 Due Dates – Advance Payment

1. License taxes are due in advance and shall fall due on a semiannual basis, with the initial annual period commencing on the date the application for business license is filed.
2. License taxes for the initial semiannual period only shall be prorated based upon the fact that a business does not start at the beginning of the initial semiannual period.

18-60-40 Gross Sales, Revenue, or Receipts – Allocation and Apportionment

Every person doing business in Washoe Indian Country who has gross sales, gross revenue or gross receipts, which are taxable both within and without Washoe Indian Country, may elect to apportion gross revenue as provided in this section.

1. For purposes of allocation and apportionment of gross revenue under this section, a business is taxable in another jurisdiction if:
 - (a) In that jurisdiction it is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax; or
 - (b) That jurisdiction has the authority to subject the business to a net income tax regardless of whether, in fact, the jurisdiction does or does not.
2.
 - (a) Net rents and royalties from real property interests located in Washoe Indian Country are subject to the Tribal tax.
 - (b) Net rents and royalties from tangible personal property are subject to the Tribal tax:
 - i. If and to the extent that the property is utilized in Washoe Indian Country; or
 - ii. In their entirety if the business' commercial domicile is in Washoe Indian Country and the business is not organized under the laws of or taxable on the Tribal lands in which the property is utilized.
 - (c) The extent of utilization of tangible personal property in Washoe Indian Country is determined by multiplying the rents and royalties by a fraction, the numerator of which is the number of days of physical location of the property in Washoe Indian Country during the rental or royalty period in the taxable year and the denominator of which is the number of days of physical location of the property everywhere during all rental or royalty periods in the taxable year. If the physical location of the property during the rental or royalty period is unknown or unascertainable by the business, tangible

personal property is utilized in Washoe Indian Country if the property was located therein at the time the rental or royalty payer obtained possession.

3.
 - (a) Capital gains and losses from sales or leases of interests in real property located in Washoe Indian Country are subject to the Tribal tax.
 - (b) Capital gains from sales of tangible personal property are subject to the Tribal tax if:
 - i. The property had a situs in Washoe Indian Country at the time of the sale; or
 - ii. The business' commercial domicile is in Washoe Indian Country and the business is not taxable in the jurisdiction in which the property had a situs.
 - (c) Capital gains from sales of intangible personal property are subject to the Tribal tax if the business' commercial domicile is Washoe Indian Country.
4. All gross revenue shall be apportioned to the Tribe by multiplying the gross revenue by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor, and the denominator of which is three.
5. The "property factor" is a fraction, the numerator of which is the average value of the business' real and tangible personal property owned or rented and used in Washoe Indian Country during the license period and the denominator of which is the average value of all the business' real and tangible personal property owned or rented and used during the license period.
6. Property owned by the business is valued at its original cost. Property rented by the business is valued at eight times the net annual rental paid by the business less any annual rental rate received by the business from sub-rentals.
7. The average value of property shall be determined by averaging the values at the beginning and ending of the license period but the license director may require the averaging of monthly values during the license period if reasonably required to properly reflect the average value of the business' property.
8. The "payroll factor" is a fraction, the numerator of which is the total amount paid in Washoe Indian Country during the tax period by the business for compensation and the denominator of which is the total compensation paid everywhere during the tax period.

9. Compensation is paid to the Tribe if:
 - (a) The individual's service is performed entirely within Washoe Indian Country;
 - (b) The individual's service is performed both within Washoe Indian Country and without Washoe Indian Country, but the service performed without Washoe Indian Country is incidental to the individual's service within Washoe Indian Country; or
 - (c) Some of the service is performed in Washoe Indian Country and
 - i. The base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in Washoe Indian Country, or
 - ii. The base of operations or the place from which the service is directed or controlled is not on any state or county of this state in which some part of the service is performed, but the individual's residence is in Washoe Indian Country.
10. The "sales factor" is a fraction, the numerator of which is the total sales, as defined below, of the business in Washoe Indian Country during the tax period, and the denominator of which is the total sales of the business every where during the tax period.
11. Sales of tangible personal property are in Washoe Indian Country if:
 - (a) The property is delivered or shipped to a purchaser, other than the United States Government, within Washoe Indian Country regardless of the f.o.b. point or other conditions of the sale; or
 - (b) The property is shipped from an office, store, warehouse, factory or other place of storage in Washoe Indian Country and:
 - i. The purchaser is in the United States Government, or
 - ii. The business is not taxable in the jurisdiction of the purchaser.
12. Sales, other than sales of tangible personal property, are in Washoe Indian Country if:
 - (a) The income-producing activity is performed in Washoe Indian Country; or
 - (b) The income-producing activity is performed both in Washoe Indian Country and outside the Tribal boundaries and a greater proportion of the income-producing activity is performed in Washoe Indian Country than in any other jurisdiction, based on costs of performance.
13. If the allocation and apportionment provisions of this section do not fairly represent the extent of the business' activity in Washoe Indian Country, the licensee may petition for, or the Director or his designee may require, in respect to all or any part of the business' activity, if reasonable:
 - (a) Separate audit and/or accounting;

- (b) The exclusion of any one or more of the factors;
 - (c) The inclusion of one or more additional factors which will fairly represent the business' business activity in Washoe Indian Country; or
 - (d) The employment of any other method to effectuate an equitable allocation and apportionment of the business' gross revenue.
14. Because the business is in the best position to determine the extent and nature of its business activity in other jurisdictions, the burden is on the licensee to produce evidence that the formula set forth herein is not equitable or that it is taxed or taxable in the states where its sales are delivered.
15. Words and terms used in this section have the meaning ascribed to them in Public Law 86-272 (15 U.S.C. Section 351) unless a different meaning clearly appears in the context where used.
17. “Commercial domicile” means the principal place from which the trade or business of the licensee is directed or managed.

18-60-50 Gross-Sales Basis – First-Time Amount

When first securing a license to commence operations of a business required to pay the license tax on the basis of gross sales, the applicant shall pay a minimum fee of fifty dollars (\$50) for the first semiannual period.

18-60-60 Gross-Sales Basis – Calculation

1. In the event the gross sales of a business for the first semiannual period exceed the amount of sales for the payment of the minimum fee, the balance due shall be added to the fee for the second semiannual period.
2. With respect to calculating the fee for the second semiannual period and all periods thereafter, the licensee shall certify the amount of gross sales made during the last preceding semiannual period, which shall be used as the basis of payment for the next licensing period.
3. If an audit during the first period of operation indicates that the gross sales of the business will substantially exceed the amount required for the payment of the minimum fee, the Director may require the immediate payment of the balance of the fee for such period.

18-60-70 Gross-Sales Basis – Underpayment

1. In the event there is an underpayment for any licensing period because of a discrepancy between actual and declared gross sales:
 - (a) the balance of the fee shall be paid before the renewal of a license for any subsequent period, and
 - (b) the licensee making such underpayment declaration shall be assessed a penalty and interest on the deficiency which shall be paid before the renewal of a license for any subsequent period.
2. In the event the underpayment is discovered by the first audit of the business, the penalty shall be an amount equal to thirty-five percent (35%) of the delinquency.
3. In the event the underpayment is discovered by the second or any subsequent audit of the business, the penalty shall be an amount equal to seventy percent (70%) of the delinquency.
4. Interest on the amount of such delinquency shall be one percent (1%) per month from the date when such tax became due and payable until the date when paid.

18-60-80 Gross-Sales Basis – Records and Tribal Access

1. The Director and any other person designated by him or her shall have access to the books of such businesses for the purpose of auditing the amount of gross sales.
2. Each licensee shall keep adequate records of gross sales and produce adequate records to the Director or any other person designated by him. The term “adequate” means original copies of all sales invoices and credit slips for a period of one (1) year preceding the date of the audit and all cash receipts journals for a period of three (3) years preceding the date of the audit. Any allowable deductions from gross sales must be reflected in a monthly summary and must be substantiated by original documentation. Failure of a licensee to maintain adequate gross sales records as well as gross receipts or gross revenue may result in a disallowance of deductions.
3. The information received from the licensee under this Section shall be confidential and available to only Tribal officers or employees concerned in such matters.

16-60-90 Gross-Sales Basis – Underdeclaration Unlawful

1. It is unlawful for any licensee required to pay a license tax on the basis of gross sales to make a material and intentional underdeclaration of his gross sales for any licensing period to the Director.

2. In determining materiality, the fact that the underdeclaration places the licensee in a lower fee bracket shall be considered.

18-70 BILLBOARDS

18-70-10 Billboard Dimensions and Design

1. The height of a billboard shall not exceed twenty-eight feet (28') from an existing grade.
2. In computing maximum permissible billboard area or display surface, the area of a billboard shall not exceed six hundred fifty (650) square feet.
 - (a) A double-faced billboard shall be counted as one sign, with the square footage measured from the largest face.
 - (b) The structure supporting a billboard shall not be included in determining the billboard area unless the structure contains advertising copy.
3. In a double-faced billboard, the supporting structure of a billboard shall not contain more than one sign on each side of the structure.
4. Appendages, cut-outs or other such components shall be allowed only where:
 - (a) such devices do not exceed more than two feet (2') above the maximum height limitations set forth in this section, and
 - (b) The added billboard area is not greater than ten percent (10%) of the area of the maximum display surface.

18-70-20 Density and Location of Billboards

1. On a single street or highway, multiple billboards shall be erected at least one hundred feet apart.
2. Where a property abuts two or more public streets, a billboard of maximum display surface permitted under the provisions of this section may be permitted on each property, provided that such billboards are placed not less than 100 feet from any street intersection.
3. No billboard shall be erected or located in a manner so as to cause a hazard to the movement of vehicles or pedestrians upon public rights-of-way or in a manner as to obstruct or interfere with the view of a traffic sign, signal or other safety device located upon a public right-of-way.
4. No permit for any billboard shall be issued and no billboard shall be constructed or maintained which has less horizontal or vertical clearance from communication or energized electrical power lines than that

prescribed by applicable laws or rules and regulations duly promulgated by agencies with competent jurisdiction.

18-70-30 Illumination of Billboards

All billboards may be illuminated by exposed incandescent bulbs or other electrical lights if, in the discretion of the Director, the lighting does not invade the privacy of residents nearby or create an unsafe traffic condition.

18-70-40 Structural Safety and Maintenance

1. All billboards erected on Washoe Tribal lands shall have all parts, portions, units and materials comprising the same together with the frame, background, supports or anchorage therefore:
 - (a) Manufactured, fabricated, assembled, constructed and erected according to any and all safety specifications established therein;
 - (b) Comprised of weather resistant materials which will not rapidly deteriorate from adverse environmental conditions; and
 - (c) Maintained in a proper state of repair and preservation.
2. The immediate area surrounding all billboards must be maintained in a neat and orderly manner free of weeds and other debris.

18-70-50 Nonconforming Billboards

Any billboard erected in violation of laws in effect at the time of erection is an illegal billboard and shall be removed.

1. Where the cost of conforming the billboard is less than one hundred dollars (\$100) or where the billboard has a value of less than one hundred dollars (\$100), the billboard shall be conformed or removed within 30 days after the effective date of this ordinance.
2. A nonconforming billboard which is destroyed or which is damaged to an extent in excess of 50 percent (50%) shall not be replaced except by a billboard which conforms to the provisions of this section.
3. Except as otherwise provided, nonconforming billboards shall be made to conform within one (1) year to these provisions or shall be removed.
4. Notwithstanding provisions of this section, the owner of a nonconforming billboard shall make application to the WDE for a use permit to extend use of such billboard. Before a special use permit is issued, the applicant for the permit shall submit to the Director a drawn to scale plan of the billboard proposed to be erected including the total surface area of each face, proposed advertising copy for each face plus information necessary to determine exact location and height above ground level of each billboard.

18-70-60 Enforcement Authority and Penalties

1. It is the duty of the Director or his authorized representative to enforce all of the provisions of this section.
2. It is unlawful for any person to interfere with the Director or his authorized representative in the performance of his duties.
3. Any person, firm or corporation convicted of willfully violating any of the provisions of this section shall be punished by a fine not to exceed Five Thousand Dollars (\$5,000).
4. The Tribal Council determines that the public peace, safety, morals, health and welfare require that all billboards and advertising structures heretofore constructed, or erected, are subject to the provisions of this section and that all signs and advertising structures which shall not so conform and comply and all signs which shall hereafter be constructed or erected in violation of the provisions of this section are declared a public nuisance to be removed.

18-70-70 Permit Required

Application for billboard permits shall be made upon forms provided by the Washoe Tribe and shall contain or have attached the following information and material:

1. Name, address and telephone numbers of the applicant;
2. Name, address and telephone numbers of the billboard contractor, if any;
3. Site location of the Washoe property upon which the billboard is to be erected, together with a statement showing street frontage of such property;
4. A copy of the drawn-to-scale plan showing the design and size of each face, structural details including the calculations and colors and proposed advertising copy in addition to information necessary to determine exact location and height above ground level of each billboard; and
5. Any other information the WDE shall require to show full compliance with this section.

18-70-90 Permit Review

1. The Director shall check the application, plans and specifications for billboard permits.
2. If the Director determines from the application or from the inspection of the premises that billboards or other advertising structures exist on the

premises, no permit shall be issued for any new billboard which would increase the density of billboards beyond the allowable limits of this section.

3. If the Director determines from the application and accompanying materials that a proposed billboard is of an objectionable nature or for other reasons undesirable, he may reject the application; or in the alternative, he may make recommendations that would bring the billboard into compliance.

18-70-100 Permit Issuance & Fee Schedule

1. If the WDE is satisfied that the work described in an application and the plans and specifications filed therewith conform to the requirements of this section and that the permit fee has been paid, a permit shall be issued to the applicant.
2. A fee shall be paid to the Washoe Tribe for each issuance of a permit and for its annual renewal.
3. The Director shall prepare a schedule of fees for billboard advertisers that shall be subject to adjustment when economic circumstances deem it necessary.

18-70-110 Inspection

1. Every billboard erected on Tribal lands shall be subject to inspection by the Director or his authorized representative to assure compliance with all provisions of this section.
2. Signs incorporating electrical wiring shall be subject to inspection and approval of wiring and electrical fixtures by an inspector designated by the WDE before the sign may be connected to the electrical power source.

18-70-120 Official Traffic and Safety Signs

Nothing herein contained shall prevent the erection, construction and maintenance of official traffic, safety, fire and police signs, signals, devices and markings, nor the posting of notices required by Law.

18-100 CHILD CARE FACILITIES

18-100-10 “Child Care Facility” Defined

A child care facility for the purposes of this Code is an establishment located on Tribal or allotment lands providing care to five or more children under the age of 18 years for the purpose of receiving compensation. A child care facility does not

include the home of a relative, Indian custodian or care provided on a temporary basis by a friend or a neighbor.

18-100-20 Tribal Agency Designated for Administration

Any person or entity wishing to operate a child care facility on Tribal lands must obtain a license from the Tribe. The Washoe Development Enterprise will issue a child care facility license upon the recommendation of the Washoe Department of Social Services. The Department of Social Services will administer and perform facility inspections.

18-100-30 Requirements for Child Care Licensing

Any person or entity wishing to operate a child care facility on Tribal lands must satisfy the following requirements:

1. Possess Certification of CPR and basic First Aid training. If an applicant has not completed this training, he or she may present proof of enrollment in a First Aid class.
2. Possess a current Washoe Development Enterprise Business License.

Current operators of licensed child care shall have a 6 month grace period in which to satisfy the above requirements.

18-100-40 Licensing of Any Child Care Facility

Each license issued by the Washoe Development Enterprise shall contain the following information:

1. The name of the person or entity operating the facility;
2. The location of the facility and the persons authorized to operate the program, including employees; and
3. The maximum number of children to whom the facility will furnish child care services.

18-100-50 Inspections of Child Care Facilities; Investigation into Criminal Record

1. The Director of the Department of Social Services or any person designated by the Director may enter and inspect the facility premises at any time to ensure compliance with the provisions of this Code. Every applicant for a child care facility license shall have the facility inspected by the local fire marshal and submit the marshal's report to the Washoe Development Enterprise. The costs of such inspection will be borne by the applicant.
2. The applicant must also provide Washoe Development Enterprise with written authorization to inspect the applicant's and facility employees' criminal histories, if any.

18-100-60 License Renewal; Non-Transferable

Any licensed child care facility must renew its license on an annual basis with the Washoe Development Enterprise. A child care facility license provided to an applicant is not transferable to another person or entity. If a child care facility is sold to another entity or person, a new license must be obtained.

18-100-70 Buildings and Grounds

Each child care facility must provide:

1. At least 35 square feet of indoor space for each child, exclusive of bathrooms, stairs and storage;
2. At least 35 square feet of outdoor play space for each child;
3. Clean bedding if children will be napping;
4. Bathrooms for boys and girls separate from adult bathrooms;
5. Play areas that are free of safety hazards, debris and trash and that are enclosed to prevent children from leaving the area of supervision;
6. Outdoor play areas with adequate structures to provide shade for the children;
7. An environment free from dangerous plants or animals and protected from any bodies of water, including irrigation canals; and
8. Any playground equipment to be securely anchored and in good repair.

18-100-80 Health Standards

In order to obtain and maintain a child care facility license, a licensee must ensure that his/her facility meets proper health standards, including safe drinking water, proper ventilation, hot and cold running water, an adequate heating source, indoor plumbing facilities and fire safety precautions.

18-100-90 Fire Safety

1. The child care facility shall hold a fire drill with the children in its care once a month.
2. An appropriate plan for evacuation in case of a fire shall be posted in a public place in the facility, with at least one copy of the plan posted at a level allowing children to view.
3. In order to obtain and maintain a child care facility license, the licensee must have the facility inspected by the fire marshal and submit the inspection report to the Washoe Development Enterprise.

18-100-100 Insurance

1. Each child care licensee shall maintain an insurance policy which protects it from liability against third persons. A certificate of insurance must indemnify and hold harmless the Tribe, and be presented to Washoe Development Enterprise upon applying for or renewing a child care facility license. SIIS insurance shall be obtained by the operator if employees are hired.
2. If transportation is provided by the facility, each driver must have a valid driver's license and be protected by an automobile insurance policy. If transportation is provided, certificates of insurance for automobile policies are also required to be presented to the Washoe Development Enterprise.

18-100-110 Vaccinations/Immunizations; Exemptions for Religious or Medical Reasons

1. A child may not be admitted to any child care facility on Tribal lands without a certificate from either the Tribal Health Clinic or other medical provider that the child has been immunized and received required boosters for the following diseases:
 - (a) Diphtheria
 - (b) Tetanus
 - (c) Rubella
 - (d) Rubeola
 - (e) Poliomyelitis
2. If a medical condition of the child will not permit immunization and a written statement to that fact signed by a physician is presented to the child care facility, the facility may accept that child without meeting the immunization requirements. If a religious belief of the child's parents or Indian custodian prohibits the immunization, and a written statement signed by the child's parents or Indian custodian to that fact is presented to the facility, the facility may accept the child without meeting the immunization requirements.

18-100-120 Denial/Suspension/Revocation of License; Notice and Hearing

1. The Washoe Development Enterprise shall deny or suspend a child care facility license for any violation of the provisions of this Code, or for conviction in Tribal, state or federal court of any of the following crimes by the applicant or an employee of the licensee:
 - (a) Child abuse or neglect
 - (b) Sexual assault against a minor
 - (c) Rape
 - (d) Murder or manslaughter
 - (e) Arson
2. The Department of Social Services will provide the licensee with a written notice 15 days prior to the suspension of a child care facility license. The licensee may request in writing an informal hearing before the Department

of Social Services to explain the alleged misconduct and request that the license be reinstated. The Department of Social Services will provide a written decision to the licensee 15 days after the informal hearing.

18-100-130 Injunctive Relief

1. The Tribe of Washoe Development Enterprise may bring an action to stop any person or entity from operating a child care facility without a valid license or after such license has been revoked or suspended. It is sufficient for the Tribe to allege that the licensee did operate the facility without a license on a certain date and in a certain place.
2. If the Tribal Court finds that the person or entity operating a child care facility did so without a valid license, that person or entity shall be enjoined from further operation of the facility, and be responsible for the Plaintiff's costs and attorney's fees in maintaining the action.

18-100-140 Penalty for Operating Facility without a Valid License

Any person or entity operating a child care facility on Tribal lands without a valid child care facility license is guilty of a Class D criminal offense.

18-100-150 Date Becomes Effective; Already Existing Child Care Facilities; Tribal Immunity for Failure to Comply

1. If there are already existing child care facilities operating on Tribal land the date this Code becomes effective, they shall be granted a provisional license for a period of six (6) at which point the facility will be reviewed and given an additional six (6) months to comply with this Code, if necessary, before being granted a final license. The operator must obtain a valid license in accordance with this Code within the six (6) month period, or the provisional license will be revoked and they will not be permitted to operate the facility on Tribal and allotted lands.
2. The Tribe shall not be liable to any third party for the operator's failure to comply with the requirements of this Code. The Tribe shall not be liability to any third party for the accidents or injuries to a child at a child care facility. Nothing herein is intended as an express or implied waiver of the Tribe's sovereign immunity from suit.

18-100-160 Opportunity to Cure

For any violation of this Code, the Washoe Development Enterprise may grant up to a 30 day extension period for the operator to cure the violation before suspending or revoking a license or taking other action. The extension period begins to run on the day that the Washoe Development Enterprise sends written notice of the violation.