

TITLE 13

WILDLIFE CONSERVATION CODE

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SOUTHERN UTE INDIAN TRIBAL CODE

TITLE 13

SOUTHERN UTE INDIAN TRIBAL WILDLIFE CONSERVATION CODE

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TITLE 13

SOUTHERN UTE INDIAN TRIBAL CODE

SOUTHERN UTE INDIAN TRIBAL WILDLIFE CONSERVATION CODE

ARTICLE 1.

DEFINITIONS, ORGANIZATION, REGULATIONS

13-1-101. General

(1) Legislative Declaration. The Southern Ute Indian Tribe finds and declares that it is the policy of this Tribe:

(a) To manage all wildlife for human enjoyment and welfare, for scientific purposes and to insure the perpetuation of wildlife.

(b) That species of wildlife indigenous to the Southern Ute Indian Reservation are the property of the Tribe and should be accorded protection in order to maintain and enhance their numbers. All matters relating to the conservation, regulation, control and management of the wildlife resources of the Reservation are subject to the jurisdiction of the Tribe.

(c) That tribal members and non-tribal members have historically been accorded different rights within the Reservation. It is recognized that members of the Tribe have a preferred right and interest in and to the wildlife resources of the Reservation, and that the Tribe has a legitimate right to establish the rules and standards to govern the action of members and non-members of the Tribe on the subject of wildlife regulation. The Tribal Council shall have the authority to adopt any regulation for the implementation of the policies of this Tribal Wildlife Conservation Code, and to alter or amend such regulations as conditions indicate.

(d) All wildlife now or hereafter found within the Reservation not held by private ownership lawfully acquired are hereby declared to be the property of the Tribe, and the right, title, interest or property therein cannot be acquired or transferred or possession thereof had and maintained except as expressly provided herein. The Tribe's management responsibility for such wildlife, however, may be dependent on agreements with other governmental agencies and private landowners.

(e) That neither the Tribe, nor its members, officers, or employees are responsible for damages to persons or property caused by wildlife. In its discretion, however, the Tribe may establish programs to mitigate such damages.

(f) It is the policy of the Tribe to preserve respect for life in all forms and to perpetuate this attitude, both in the traditional manners of hunting fish and game and the

approach to conservation of these most precious resources.

13-1-102. Definitions.

(1) “Adult” means a person eighteen (18) years old or older who has not been adjudicated mentally incompetent.

(2) “Aquatic wildlife” means any species of fish, crustaceans, aquatic insects, or amphibians.

(3) “Bag limit” means the maximum number of wildlife which may be lawfully taken or possessed by any one person in any one day.

(4) “Big game animals” means all animals with subsistence or sport hunting qualities, including but not limited to elk, deer, pronghorn antelope, moose, bighorn sheep, mountain lion, wild turkey and any other species of animals that may be introduced or transplanted onto the Reservation for hunting, or which are classified as big game by the Management Division.

(5) “Carcass” means the dead body of any animal or parts of it.

(6) “Chumming” means placing fish, parts of fish, or other material upon which fish might feed in the waters of the Southern Ute Indian Reservation for the purpose of attracting fish to a particular area in order that they may be taken, but such term shall not include angling or fishing.

(7) “Closed area” means an area of land where hunting, trapping or fishing for certain species of wildlife is prohibited.

(8) “Closed season” means that period of time during which the taking of any wildlife is prohibited.

(9) “Culturally Sensitive Species” means those varied species of wildlife which are considered to be highly significant from a Ute Indian cultural standpoint and which may be taken only with special authorization granted by the Management Division and Tribal Council, including but not limited to black bear, buffalo, bald and golden eagles, redtail hawk, peregrine falcon, river otter, American badger, and long-tail weasel.

(10) “Enforcement Division” means the Southern Ute Natural Resources Enforcement Division.

(11) “Enforcement Division Head” means the division head of the Southern Ute Natural Resources Enforcement Division or a person with administrative or supervisory authority over the Enforcement Division.

(12) “Firearms” means pistols, revolvers, rifles, shotguns and any other device that is capable of being used as a weapon because it expels a projectile by some means of force.

- (13) “Fishing” means to take or attempt to take aquatic wildlife.
- (14) “Fur-bearers” means those species of wildlife with dense fur having commercial value, including but not limited to bobcat, red fox, gray fox, kit fox, beaver, marten, mink, ringtail and all other species of fur-bearers that may be introduced or transplanted onto the Reservation or are classified as Fur-bearers by the Management Division.
- (15) “Game birds” means those species of wild birds with subsistence or sport hunting qualities, including but not limited to blue grouse, ringneck pheasant, quail, partridge, pigeons, doves, and any other species of game bird that may be introduced or transplanted onto the Reservation for hunting or which are classified as game birds by the Management Division.
- (16) “Guide” means to lead, direct, show or point out wildlife, or hunting, fishing or trapping areas to any person for compensation or other benefit.
- (17) “Harass” means to unlawfully endanger, worry, impede, annoy, pursue, disturb, molest, rally, concentrate, harry, chase, drive, herd or torment.
- (18) “Hunting” means to take or attempt to take any wildlife by any means.
- (19) “Immediate family” means a person’s spouse, children, children in-law, brother, sister, parent, grandparent and/or grandchild.
- (20) “Legal hunting and fishing hours” means one-half hour before sunrise until one-half hour after sunset unless otherwise provided by wildlife regulations.
- (21) “Management Division” means the Southern Ute Division of Wildlife Resource Management.
- (22) “Management Division Head” means the Division Head of the Southern Ute Division of Wildlife Resource Management.
- (23) “Management units” means those areas defined as management units in the Tribe’s Natural Resources Management Plan.
- (24) “Motor vehicle” means any self-propelled vehicle and any vehicle propelled or drawn by a self-propelled vehicle, wherever operated, including, without limitation, an all-terrain-vehicle (ATV) and snowmobile.
- (25) “Non-tribal member” includes all persons who are not enrolled members of the Southern Ute Indian Tribe.
- (26) “Officer” means a commissioned member of the Southern Ute Natural Resources Enforcement Division or other commissioned peace officer of the Tribe.

(27) “Open season” means that period of time during which the taking of wildlife by legal means is permitted by the Management Division. All times and dates of open season shall be considered inclusive.

(28) “Outfit” means to provide, for compensation, equipment or supplies, or both, intended for temporary use by hunters, fishermen or trappers.

(29) “Outfitter” or “guide” means a person who advertises or holds himself out to the public for hire or is employed or accepts compensation for providing facilities, equipment or services for hunting activities, including but not limited to transportation of individuals, equipment, supplies, or wildlife by means of vehicle, vessel, or pack animal, facilities including but not limited to tents, cabins, camp gear, food, or similar supplies, equipment, or accommodations, and guiding, leading, packing, protecting, supervising, instructing, or training persons or groups of persons in the take or attempted take of wildlife; provided, however, that an outfitter or a guide does not include a person who only cooks, cuts wood or performs other comparable or incidental duties not directly related to hunting activities.

(30) “Permit” is the primary document granting authority to engage in activities covered by this Code and includes a license, tag, or other document provided for by this Code or rules or wildlife regulations and issued or required by the Management Division authorizing the hunting, fishing, trapping, taking, transportation, or possession of wildlife or other activity for which express authorization is required by this Code.

(31) “Person” means an individual, association, partnership or corporation, including any agent of the foregoing.

(32) “Possession” means actual or constructive possession.

(33) “Possession limit” means the maximum number of wildlife that may be possessed by any one person at any one time.

(34) “Private property” means lands within the Southern Ute Indian Reservation that are not owned by the Tribe or by the United States of America in trust for the benefit of the Tribe (e.g., land owned in fee simple by tribal members or non-Indians, allotted lands that are owned in trust by the United States for the benefit of individual Indians, and National Forest System lands).

(35) “Public road” means the traveled portion and the shoulders on each side of any road established for public travel by a county, city, state, federal or tribal government, and includes all structures within the right of way of any such road.

(36) “Regulated species” means those species of wildlife the taking of which is regulated by the Southern Ute Division of Wildlife Resource Management pursuant to this Code and regulations promulgated hereunder including, for example, big game animals such as elk, deer, and mountain lions, or fur-bearers such as badgers, gray fox, and beaver, game birds such as ducks,

geese, and wild turkey, small game animals such as cottontail rabbits and squirrels, and sport fish such as all species of trout, salmon, and catfish.

(37) “Refuge” means any parcel of land designated by this Code or regulation adopted pursuant to this Code where certain wildlife shall be protected as designated by regulation from hunting, trapping or fishing activities.

(38) “Reservation” means the Southern Ute Indian Reservation, the exterior boundaries of which are defined in the Act of May 21, 1984, Pub. L. No. 98-290, 98 Stat. 201, 202.

(39) “Small game animals” means those mammals including but not limited to cottontail rabbit, snowshoe hare, squirrels and all other species of small mammals having sport hunting qualities that may occur on, be introduced to, or transplanted onto the Reservation for hunting or which are classified as small game animals by the Management Division.

(40) “Tag” means a card, label or other identification device issued by the Management Division for attachment to the carcass of any wildlife as evidence of legal taking and custody.

(41) “Take” means to fish, angle, hunt, pursue, catch, capture, net, trap, kill or possess any wildlife or any other attempts to commit any of these acts.

(42) “Trapping” means taking or attempting to take any wildlife by means of any trap, snare, deadfall or other device commonly used to capture wildlife, whether or not such acts result in the taking of wildlife.

(43) “Tribal Council” means the Southern Ute Indian Tribal Council .

(44) “Tribal Court” means the Southern Ute Indian Tribal Court.

(45) “Tribal member” means a person who is an enrolled member of the Southern Ute Indian Tribe.

(46) “Tribe” means the Southern Ute Indian Tribe.

(47) “Unregulated wildlife” means those species of wildlife whose take by tribal members is not regulated by the Management Division including, but not limited to, coyote, skunk, prairie dog, common crow, rattlesnake, muskrat, common carp, white sucker, black bullhead, and green sunfish.

(48) “Validation tag” means the tag which may be required to transport wildlife off the Reservation and which is attached to a carcass by an officer or the Management Division.

(49) “Waterfowl” means those species of wild water birds with subsistence or sport hunting qualities, including but not limited to all ducks and geese and any other species of waterfowl that may be introduced or transplanted onto the Reservation for hunting or which are classified as

waterfowl by the Management Division.

(50) “Wildlife” means any form of animal life generally living wild in a state of nature, including all wild mammals, birds, fish, reptiles, crustaceans, and amphibians and their nests, eggs and spawn, except those species of animals that are considered domesticated.

13-1-103. The Southern Ute Division of Wildlife Resource Management. There is hereby created within the Southern Ute Department of Natural Resources, the Southern Ute Division of Wildlife Resource Management. The Management Division shall be primarily responsible for the day-to-day management of the Tribe’s wildlife. Duties of the Management Division shall include, but not be limited to, planning and implementing biological evaluations, habitat protection and enhancement activities, issuing permits for tribal member and non-tribal member hunting and fishing programs, wildlife rearing and propagation programs, administration of other wildlife management-related programs, and the implementation of cooperative management agreements with owners of private property, states, and the federal government.

13-1-104. The Southern Ute Natural Resources Enforcement Division. There is hereby created within the Southern Ute Department of Justice and Regulatory, the Southern Ute Natural Resources Enforcement Division. Duties of the Enforcement Division are:

(1) Within the Southern Ute Department of Justice and Regulatory, the Enforcement Division and its agents shall have primary responsibility for enforcing the provisions of this Code.

(2) Duly commissioned peace officers of the Tribe are authorized to enforce the provisions of this Code.

(3) Officers shall have the power and authority of peace officers for the purpose of enforcing the provisions of this Code and any other regulations issued hereunder, including the authority to make arrests and to conduct searches and seizures as provided in the Tribal Code.

13-1-105. Conflict of Interest. Because of the conflicting financial and law enforcement interests that otherwise would exist, the employees of the Management Division and Southern Ute Rangers are prohibited from guiding and outfitting any hunter, fisherman, or trapper on the Reservation. This prohibition, however, shall not apply to employees of the Management Division or Southern Ute Rangers who provide guiding and outfitting services on the Reservation, as part of their assigned duties, to third parties who have contracted with the Tribe for such services.

13-1-106. Fish and Wildlife Regulations.

(1) Annually or at other times as needed, the Tribal Council shall adopt wildlife regulations.

(2) The wildlife regulations shall not be passed without recommendations from the Management Division Head. A regulation, when adopted, shall have the force of law on the Reservation.

(3) The regulations shall include the following:

(a) Determination of the length of the seasons for taking any wildlife in a specific locality or within the entire Reservation when it is ascertained that such seasons are necessary to properly maintain wildlife management and control;

(b) Closing or opening lakes, streams and refuges to angling, trapping or hunting; regulating every species and controlling every means by which wildlife may be taken; and taking such other actions which in the judgment of the Tribal Council will best perpetuate and control any species of wildlife; as well as regulating the transportation and storage of all wildlife or parts thereof within the Reservation and such shipment or transportation off the Reservation;

(c) Determination of bag and possession limits;

(d) Determination of territorial limits for the taking of all species of wildlife;

(e) Determination of the manner and means (i.e., permits or restrictions) of taking or transporting any species of wildlife, including prescribing types of baits, lures, tackle, equipment, traps, firearms and other weapons, tagging of wildlife or parts thereof, or any other means or device for taking such wildlife;

(f) Determination of permitting criteria and rules and regulations for the guiding and outfitting of hunters, fishermen or trappers;

(g) Establishment of refuges or sanctuaries for wildlife. When private property is to be included within a refuge, written consent of the owner must be obtained first. All boundary lines shall be posted at the usual place of ingress with signs notifying the public of the ownership of land by the Tribe and its status as a refuge;

(h) Determination of access to management units within the Reservation;

(i) Establishment of methods and stations for checking hunters, fishermen, or trappers into and/or out of designated areas, prescribing safety or fire control measures and other regulations as may be deemed necessary in the interests of wildlife habitat or wildlife management and the safety and welfare of the Tribe and those participating in hunting and fishing on tribal lands;

(j) Establishment of fees for permits, tags and special hunting seasons;

(k) Determination of the number of permits to be issued for all activities for which express authorization is required by this Code.

(l) Establishment of the schedule of civil penalties and permit denial/suspension/revocation points to be imposed for violations of the civil offenses of this Code.

(m) Determination of all other regulations reasonably necessary for conservation and management of wildlife and for realizations of the policies set forth in this Code.

13-1-107. Publication of Fish and Wildlife Regulations. Thirty (30) days prior to their effective date, wildlife regulations adopted by the Tribal Council shall be published at least once in a newspaper of general circulation on the Reservation and shall be posted in at least three (3) public places on the Reservation.

13-1-108. Emergency Regulations.

(1) If it is determined that an emergency situation exists, the Tribal Council may, upon recommendation of the Management Division Head, adopt emergency regulations to protect the health, safety and public welfare of the Tribe or its wildlife.

(2) The emergency regulations are effective without publication, although every reasonable effort shall be made to notify all concerned of the existence of emergency regulations.

(3) Unless extended by the Tribal Council, no emergency regulation shall be effective for a period longer than ninety (90) days from the date of passage.

ARTICLE 2.

PERMIT REQUIREMENTS

13-2-101. Hunting, Fishing and Trapping Permit Requirements for Tribal Members.

(1) Tribal members shall be required to have a valid Southern Ute Indian tribal member hunting, fishing or trapping permit in their possession to hunt, fish or trap for regulated species.

(2) Tribal members may take any unregulated species at any time and without a permit.

(3) Any tribal member may designate any other tribal member to hunt for him,¹ i. e., as his surrogate, provided the designated hunter is not subject to permit suspension or revocation, by requesting the Management Division to place the designated hunter's name on the Southern Ute Indian Tribe hunting permit. A tribal member elder, single females, or physically handicapped tribal member may designate the Management Division to hunt for them. The surrogate hunter arrangement is authorized as a convenience to tribal members and shall not serve as a means of deriving financial profit or commercial benefit for either the surrogate hunter or the tribal member

¹Pursuant to Title 1, Article 1, Section 120, INTERPRETATION OF STATUTES, page 4, whenever the masculine gender is used in a statute, it may also be read to include the feminine.

who engages his services. The designated hunter must carry the permittee's hunting permit on his person at all times while hunting, and must abide by the regulations of the Management Division and by the Code. The permittee may not be held responsible for any wrong committed by the surrogate hunter. A surrogate hunter may take only female big game animals. Wildlife taken by the surrogate hunter while hunting in behalf of a permittee shall be the sole property of the permittee.

(4) Tribal members under the age of twelve (12) years are not eligible for a hunting permit and tribal members under the age of eighteen (18) years may hunt regulated species only when accompanied by an adult.

(5) A Southern Ute Indian tribal membership card shall serve as identification of a person's tribal membership and should be carried at all times by tribal members while hunting, fishing or trapping.

13-2-102. Hunting, Fishing and Trapping Permit Requirements for Nonmembers of the Tribe.

(1) While hunting, fishing or trapping any regulated species, all non-tribal members are required to have in their possession a Southern Ute Indian nonmember hunting, fishing or trapping permit.

(2) Non-tribal members shall not take any unregulated species on tribal lands without receiving prior Tribal Council permission.

(3) Any non-tribal member of the immediate family of a tribal member who is hunting may accompany such tribal member but may not hunt or carry weapons while doing so.

13-2-103. Hunter Safety Training Course.

(1) No person under the age of twenty-one (21) years shall be allowed to hunt or obtain a hunting permit unless he has successfully completed an approved hunter safety training course and proof of completion must be carried by the person while hunting or obtaining a hunting permit.

(2) Approved hunter safety training courses include hunter safety training courses provided by the Enforcement Division, the Management Division, or any state or national rifle association-approved course.

13-2-104. Sale of Permits and Tags.

(1) The Tribal Council shall direct the manner by which permits and tags may be sold. The Council may require the bonding of permit agents.

(2) The Management Division shall administer the sale of permits and tags, and it may appoint permit agents authorized to sell permits and tags.

13-2-105. Denial, Suspension and Revocation of Permit Privileges.

(1) The Management Division has the authority to deny an application for a permit and to revoke or suspend a permit, for a period of time not to exceed five (5) years, if it is determined that a person has:

- (a) committed violations of this Code totaling 25 or more points in any consecutive five-year period;
- (b) been convicted of a state, federal, or tribal wildlife violation;
- (c) misrepresented the person's qualifications in applying for a permit; or
- (d) engaged in unprofessional or unethical conduct.

(2) Notice of any denial, suspension or revocation shall be sent to the person by certified mail, return receipt requested, to the last-known address of such person and to permit agents and other persons who should be notified of such action. notice of the right to appeal to the three person appeal committee shall be included with the Notice of denial, suspension or revocation.

(3) Any person whose permit privileges have been suspended or revoked shall not be entitled to exercise the benefits conferred by any permit issued pursuant to this Title until the suspension or revocation has expired and any person whose application has been denied shall not be entitled to apply for another permit until after the expiration of the applicable season.

13-2-106. Administrative Appeal.

(1) A person, whose permit privileges have been suspended, may institute a review of such action by a three member appeal committee by sending a written notice to the Management Division Head, within thirty (30) days of the denial, suspension, or revocation.

(2) The three person appeal committee shall be appointed by the Tribal Council on an as-needed basis, and composed of the following:

- (a) Two persons who are permitted tribal member hunters or fishermen who have accumulated no permit denial/suspension/revocation points during the last five years.
- (b) A person who has experience in the conduct of administrative hearings.

(3) The hearing of the three member appeal committee must be held at a time and place convenient to the committee and the aggrieved person, but in no event shall the hearing be held more than twenty (20) working days following receipt of the appeal. The committee shall issue all decisions in writing within ten (10) working days of the hearing. The appeal committee shall have the authority to shorten the suspension or revocation period.

13-2-107. Judicial Review. Within thirty days of a final action of the three member appeal committee, any person aggrieved by such action may file a petition for judicial review in the Southern Ute Indian Tribal Court. The review shall be on the record without taking additional evidence. If the court finds that the three member appeal committee or Management Division exceeded its constitutional or statutory authority, made an erroneous interpretation of the law, acted in an arbitrary and capricious manner, or made a determination which is unsupported by the evidence in the record, the court may reverse the committee's decision. Otherwise, the decision of the committee shall be affirmed.

ARTICLE 3.

OFFENSES

13-3-101. Disobeying a Natural Resources Enforcement Officer. It is unlawful for any person to fail to obey a lawful order given by an officer while in the course of performing his duties.

13-3-102. Failing to Provide Sex Identification of Carcass of Wildlife. It is unlawful for a person to have in his possession or to transport the carcass of any regulated species or any considerable portion of such carcass unless the carcass is accompanied by naturally attached evidence of the animal's sex sufficient to enable the sex to be readily determined by ordinary inspection. For purposes of this section, the evidence of the animal's sex may include but not be limited to the following: head, testicle, udder (bag), feathered wing, reproductive organs, or beard.

13-3-103. Failing to Tag Wildlife Properly.

(1) It is unlawful for any person to fail to tag wildlife properly, when required by this Code or regulation. Whenever any person shall take any wildlife which must be tagged, the person shall:

- (a) Immediately sign appropriate tag when animal is killed;
- (b) Mark the month and date on the tag;
- (c) Mark the sex of the animal on the tag;
- (d) Securely attach tag to the carcass only when:
 - (i) Carcass is placed into, or transported for removal from the location of the take by motor vehicle, horseback, or other methods; or when
 - (ii) Carcass is in camp, at a residence or at another place of storage.

Any wildlife that is properly tagged is the sole property of the permittee as specified in this Code. Whenever the tag is separated from the permit, the permit is then void and may not be used again for hunting.

(2) It is unlawful for any person to transport off the Reservation any wildlife without first obtaining a validation tag, when required, from either the Management Division or Enforcement Division.

13-3-104. Failing to Wear Daylight or Fluorescent Orange Garments. During the hunting season, when required by regulation, it is unlawful to hunt with a firearm unless the person hunting or guiding is wearing a head covering and an outer garment above the waistline, both of solid daylight fluorescent orange color, totaling five hundred (500) square inches or more of clothing.

13-3-105. Guiding or Outfitting Offenses. It is unlawful for any person to guide or outfit any hunter, fisherman or trapper:

- (1) Without written authorization from the Management Division;
- (2) In violation of the wildlife regulations applicable to guiding and outfitting;
- (3) In a closed area;
- (4) During a closed season;
- (5) On private property, or land designated for use by a tribal member, without written permission of the owner or person in charge of such private property or tribally assigned property;
- (6) While hunting, fishing or trapping for himself or any other person, or
- (7) Who does not possess a permit for the activities involved.

13-3-106. Hunting or Fishing Outside Legal Hours. It is unlawful to hunt wildlife or fish other than during legal hunting and fishing hours. Unless otherwise provided under this Code or wildlife regulations, legal hunting and fishing hours shall be from one-half hour before sunrise until one-half hour after sunset.

13-3-107. Hunting, Fishing or Trapping During Closed Season. It is unlawful for any person to hunt, fish or trap during a closed season.

13-3-108. Hunting, Fishing or Trapping in a Closed Area. It is unlawful for any person to hunt, fish or trap in a closed area.

13-3-109. Hunting or Trapping on Private Property or Tribal Land Assignment Without Permission. It is unlawful for any person to hunt or trap on private property or a tribal land assignment unless such person first obtains written permission from the owner or person in charge of such private property or tribal land assignment.

13-3-110. Accessing a Stream for Fishing and Fishing Outside Designated Access and Fishing Easements. It is unlawful for any person to fish on private property unless such person first obtains written permission from the owner or person in charge of such private property. It is unlawful for any non-tribal member to cross unassigned tribal land or a tribal land assignment to access a stream for fishing except through designated access easements, and it is unlawful for any non-tribal member to fish on unassigned tribal land or a tribal land assignment except within designated stream fishing easements. Unless otherwise allowed by the tribal member assignee, it is unlawful for any person who is a tribal member to cross a tribal land assignment to access a stream for fishing except through designated access easements and it is unlawful for any tribal member to fish on a tribal land assignment except within a designated stream fishing easement.

13-3-111. Hunting, Fishing or Trapping Without Required Permit or Tag. It is unlawful for any person to hunt, fish or trap without having first obtained all appropriate permits or tags, and/or to hunt, fish or trap without having such a permit or tag on one's person.

13-3-112. Harassing Wildlife. It is unlawful for any person to harass any wildlife.

13-3-113. Making a False Statement in Obtaining a Permit. It is unlawful for any person to knowingly swear to or affirm any false statement while applying for any type of hunting, fishing or trapping permit or tag.

13-3-114. Altering a Permit. It is unlawful for any person to alter, copy, transfer, sell, loan, or assign his permit to another person.

13-3-115. Permitting Unauthorized Non-Tribal Member on Reservation. It is unlawful for any tribal member who is hunting, fishing or trapping to allow or permit or invite any non-tribal member to enter, hunt, fish or trap upon lands of the Tribe unless the non-tribal member is properly permitted to hunt, fish or trap for the same kind of wildlife or unless the non-tribal member has proper authorization issued by the Tribe. In addition to any civil penalties that may be imposed, the non-tribal member who violates this section shall be considered trespassing without permission of the Tribe and shall be prosecuted according to provisions of the Southern Ute Indian Tribal Code or state law or federal law, whichever has proper jurisdiction over the non-tribal member.

13-3-116. Illegal Introduction or Export of Wildlife. It is unlawful for anyone to introduce, plant, place or attempt to plant or place any type of wildlife on the Reservation without the authorization of the Tribal Council or the Management Division or to export wildlife off the Reservation without the authorization of the Management Division.

13-3-117. Purchasing, Selling, Bartering, Trading or Exchanging Wildlife for Profit.

(a) It is unlawful for any person to hunt, fish, take wildlife or parts thereof or attempt to hunt, fish or take wildlife or parts thereof for the purpose of selling, bartering, trading or otherwise exchanging for profit to himself or others unless authorized by wildlife regulation.

(b) It is unlawful for any person to offer to, or to, sell, barter, trade or otherwise exchange

for profit to himself or others any wildlife or parts thereof while within the exterior boundaries of the Reservation.

(c) Nothing in this section shall be construed to prohibit the purchase, sale, barter or trade of non-edible portions of any legally taken wildlife.

13-3-118. Refusing to Allow Inspection. It is unlawful for any person to refuse to allow inspection of wildlife or his permit by any authorized officer, or agent of the Management Division. It is also unlawful for any person to fail to present wildlife to the Management Division when required to do so by wildlife regulations.

13-3-119. Failure to Stop at a Check Station. It is unlawful for any person to fail to stop at a check station established by the Management Division or Enforcement Division.

13-3-120. Spotlighting. It is unlawful for any person or group of persons, unless authorized by the Management Division or Enforcement Division, to throw or cast rays of light from a spotlight or other artificial light into any area where wildlife may be or reasonably be expected to be while having in their possession, or under their control, or in the possession of another nearby, a firearm or other device whereby any wildlife could be taken with the aid of such artificial light. Nothing in this section shall prevent a livestock owner, or his duly authorized agent, from protecting livestock.

13-3-121. Taking Wildlife Other Than by Methods Prescribed. It shall be unlawful to hunt, fish or trap using any method which is not authorized by the wildlife regulations or this Code.

13-3-122. Unlawful Taking or Possession of Wildlife. It is unlawful for any person to take, attempt to take, or possess any wildlife or part thereof, whether or not such wildlife is alive or dead, unless permitted by this Code or wildlife regulations. Any person who violates this section, depending upon the wildlife involved, shall be subject to a civil penalty in the amount set in the schedule of civil penalties adopted by the Tribal Council.

13-3-123. Using a Dog to Take Wildlife. It is unlawful for any person to use a dog in taking or attempting to take wildlife, except as authorized by the Management Division.

13-3-124. Using a Permit or Tag Not Issued to a Party. It is unlawful for any person other than the party to whom a permit or tag is issued to use the permit or tag unless the person is a surrogate hunter as provided for in this Code.

13-3-125. Using a Motor Vehicle or Aircraft for the Purpose of Hunting. It is unlawful for any person to harass or take wildlife from or with any motor vehicle or aircraft or use any aircraft to locate wildlife as an aid in harassing or taking, unless expressly authorized by the Management Division.

13-3-126. Shooting From a Motor Vehicle. It is unlawful for any person to shoot any type of firearm from a motor vehicle to take wildlife.

13-3-127. Using Illegal Firearms or Ammunition. It is unlawful to hunt wildlife except with the following specified firearms and ammunition:

(1) Big game:

(a) Shotguns of 20 gauge or larger firing a single slug;

(b) Any bow at least 40 pounds draw with which the user can cast a hunting arrow for a distance of at least 130 yards. Arrows must have a broadhead with an outside diameter of at least 7/8 of an inch and no less than two steel cutting edges. Each cutting edge must be in the same plane throughout the length of the cutting surface. Unless specifically approved by the Management Division, crossbows are illegal;

(c) Muzzle-loading rifles with a single barrel of at least .40 calibre for deer, and .50 calibre for elk;

(d) .357 magnum or larger handguns with barrel length 6 inches or more, using .357 magnum or larger caliber ammunition with a soft nose or hollow point bullets;

(e) Center-fire rifles or center-fire handguns chambered for a center-fired cartridge, a minimum of .23 calibre. No fully automatic firearm may be used. All bullets must be soft nose or hollow pointed and not weigh more than 350 grains.

(2) Turkey: Except as otherwise provided in the wildlife regulations, turkeys may be hunted with shotguns except .410 gauge; bow and arrow; rifles and handguns, center-fired cartridges only; and muzzle-loading rifles and handguns.

(3) Waterfowl: Any shotgun 10 gauge or smaller and not capable of holding more than 3 shotshells in the chamber and magazine combined. Shotshells must not contain lead pellets.

(4) Small game: Any rimfire or center-fire rifle or handgun, any shotgun, and any bow and arrow other than a crossbow.

(5) Unregulated species: No firearm restrictions.

13-3-128. Using Nets, Trotlines or Traps. It is unlawful for any person except those specifically authorized by the Management Division to set or use any trap, net, trotline or other such device to take any wildlife on the Reservation.

13-3-129. Baiting Wildlife. It is unlawful to take or attempt to take wildlife by chumming or over ground baited with any material distributed there to attract the wildlife, unless expressly authorized by the Management Division.

13-3-130. Using Wildlife as Bait. It is unlawful to use wildlife as bait unless otherwise

provided under this Code or by wildlife regulations.

13-3-131. Wastage of Wildlife Meat. It is unlawful for any person to abandon any edible portion of wildlife or permit it to go to waste.

13-3-132. Wounding of Animals. It is unlawful for any person who wounds or may have wounded wildlife to fail to go to the place where the animal sustained or may have sustained a wound and make a reasonable attempt to track the animal suspected of being injured and to reduce it to possession if possible.

13-3-133. Crossing a Closed Road. It is unlawful for any person to use a motor vehicle on any road that has been closed to motor vehicle traffic.

13-3-134. Driving Off Established Roads. It is unlawful to drive off of established roads while hunting or fishing.

13-3-135. Exceeding Bag or Possession Limits. It is unlawful to take or possess wildlife in excess of the number permitted by wildlife regulations.

13-3-136. Taking Undersized Fish. It is unlawful to take fish under the legal size limit as described in wildlife regulations.

13-3-137. Use of Calling Devices. It is unlawful to use any recorded calling device in taking wildlife, except unregulated species.

13-3-138. Shooting from the Road. It is unlawful for any person to shoot any type of firearm from or across or onto any maintained public road on the Reservation. "Road" shall mean the area extending 50 feet on either side of the center line of the roadway.

13-3-139. Obtaining Permit When Already Revoked. It is unlawful to obtain any fishing, hunting, or trapping permit during a period for which a permit has been revoked.

13-3-140. Failure to Comply with a Permit. It is unlawful for any person to fail to comply with the terms of a permit.

13-3-141. Hunting or Possessing a Firearm While Under the Influence of, or While Ability Is Impaired by, Alcohol or Drugs. It is unlawful for any person to hunt or to possess any firearm on the Reservation while under the influence of, or while such person's ability to hunt or to possess a firearm safely is impaired by, intoxicating liquor or the consumption of alcohol or by the use of drugs. The provisions of the Southern Ute Tribal Code, Title 14 (TRAFFIC CODE), shall be used as guidelines for enforcement of this section.

13-3-142. Impersonating a Law Enforcement Officer. It shall be unlawful for any unauthorized person to falsely represent himself to be an officer of the Tribe.

13-3-143. Possessing a Loaded Firearm in a Motor Vehicle. It is unlawful for any person, except those authorized by law or by the Tribe ' s Department of Justice and Regulatory, Enforcement Division, or Management Division, to carry or possess any firearm other than a pistol or revolver in or on any motor vehicle, unless such firearm is unloaded. For purposes of this section, a rifle or shotgun shall be considered unloaded if it is unloaded in the chamber; a muzzle-loader shall be considered unloaded if it is not primed, and, for such purpose "primed" means having a percussion cap on the nipple, a primer in the breech, or flint in the striker and powder in the flash pan; and a bow shall be considered unloaded if an arrow is not nocked on the string.

13-3-144. Refusing to Allow Inspection of Firearm. It is unlawful for any person in possession or in control of a firearm(s) in a motor vehicle to refuse to allow any officer to inspect the firearm(s) to determine if it is unloaded.

13-3-145. Willful Destruction of Wildlife. It is unlawful for any person to take or kill any wildlife and abandon the carcass, or to take or kill any wildlife for the head, claws, teeth, hide, antlers, horns, tusks, or organs with the intent of abandoning the carcass, or to mutilate any wildlife while it is still alive.

13-3-146. Intentional Interference with Lawful Activities. It is unlawful for any person to willfully prevent or interfere with the lawful participation of any individual in the activity of hunting, trapping, or fishing.

13-3-147. Omnibus Provision. It shall be unlawful to commit any act declared to be unlawful by a regulation of the Tribal Council or to violate the provision of proclamations or wildlife regulations.

ARTICLE 4.

PENALTIES AND PROCEDURES

13-4-101. Civil Penalties. Any person who shall hunt, trap or fish on the Reservation shall obtain all required permits or tags and shall be deemed to have given his consent to jurisdiction in the Tribal Court for any action brought as a result of an offense under this Code and to enforcement of this Title as provided herein. Any person who violates a provision of this Title shall be liable, after a hearing before the Tribal Court, for civil penalties in the amount set in the schedule of civil penalties and permit denial/suspension/revocation points adopted by the Tribal Council and for any other damages as determined by the Tribal Court. Reasonable punitive damages may be awarded where there has been a willful and knowing violation.

13-4-102. Civil Penalty Assessment. The Tribal Council may adopt a schedule of civil penalties to be imposed for violations of the civil offenses of this Title. At the time that any person is cited for violating any provision of this Title, the citing officer may give the alleged offender an opportunity to voluntarily pay the civil penalty in the form of a penalty assessment, within ten days to the Tribal Court, Justice Building, P. O. Box 737, Ignacio, Colorado 81137. If the penalty assessment is not paid, the citation becomes by law a summons and complaint and requires an

appearance in the Tribal Court at the place, date and time indicated on the citation form. Damages for those violations for which a civil penalty is not listed in the schedule of civil penalties shall be determined by the Tribal Court.

13-4-103. Criminal Penalties. In addition to the civil penalties described above, any Indian who violates a provision of this Title, upon conviction thereof, shall be subject to a sentence of not more than the maximum length of imprisonment or maximum fine, or both, allowed pursuant to the Indian Civil Rights Act, 25 U.S.C. ' ' 1301 et seq., which presently is one year imprisonment or \$5,000. The civil penalties listed in the schedule of civil penalties and permit denial/suspension/revocation points adopted by the Tribal Council may serve as a guideline for the calculation of a criminal fine to be imposed for a violation of a provision of this Title. If a person is cited for violating provisions of this Title, the accused person shall not be taken into custody if the person voluntarily signs a promise printed on the citation issued for the offense that he will appear before the Tribal Court at the time and place indicated on the citation, and if in the judgment of the officer no arrest is necessary to protect the peace and safety of the Reservation.

13-4-104. Statute of Limitations. Notwithstanding any other statute of limitations, all actions for damages and all prosecutions for violations of this Title, shall be commenced within five years after the date of the commission of the offense, and not thereafter.

ARTICLE 5.

EVIDENCE AND ADDITIONAL PENALTIES

13-5-101. Possession as Presumptive Evidence. The possession of wildlife shall be presumptive evidence that the person having such possession is engaged, or has been engaged, in hunting, fishing, or trapping.

13-5-102. Additional Penalties. Any person who violates a provision of this Title shall be subject to the assessment of permit denial/suspension/revocation points in the amount set in the schedule of civil penalties and permit denial/suspension/revocation points adopted by the Tribal Council. In addition to the civil penalties, fines, and other penalties provided for by this Title, violations of the provisions of this Title may be punishable, in accordance with this Code, by revocation of the offender's fishing and hunting or other permits, confiscation and forfeiture of equipment used in committing a violation of this Code, and prosecution under applicable criminal laws in tribal, federal, or state court.

13-5-103. Seizure. At the time an arrest is made and/or a citation is issued for violation of this Code, the officer may seize any equipment used in the taking of wildlife or otherwise involved in the commission of the violation for which the arrest was made or citation was given and shall give the person from whom such things were taken an itemized receipt for all such seized items. All wildlife allegedly taken or possessed illegally may be seized by the officer and forfeited to the Tribe without liability to the Tribe.

13-5-104. Forfeiture. When an offender is found to have violated this Code, the Tribal

Court, in addition to imposing other penalties, may order the forfeiture to the Tribe of all or part of the seized items owned by the offender. If the seized items are not owned by the offender, the Court may order a preliminary forfeiture, order notice be given to the owners of the seized property, and provide an opportunity for a hearing before ordering the forfeiture to the Tribe of the seized items. At such hearing, the burden shall be on the owners of the seized items to prove they did not participate in, or have knowledge of or consent to the illegal use of the seized items.

13-5-105. Disposal of Confiscated Items. Not less than once each year the Enforcement Division Head or his designated representative, after approval by the Tribal Council, shall conduct a sale of all confiscated items not appropriated for the official use of the Tribe. Such sales shall be by auction held after not less than one week's notice to the general public by a publication in a newspaper of general circulation within the Reservation and by notice of the auction to be placed in at least three public places, and the proceeds therefrom will be disposed of in the manner specified by the Tribal Council.

ARTICLE 6.

SHORT TITLE

13-6-101. Short Title. This Title of the Southern Ute Indian Tribal Code shall be known as the Southern Ute Indian Tribal Wildlife Conservation Code.