

**REMOVAL PROCEDURES ORDINANCE  
OF THE  
SOUTHERN UTE INDIAN TRIBE**

**Ordinance No. 96-01**

**Section 1. Purpose.** The purpose of this Ordinance is to establish procedures for the Tribal Council to follow in exercising the power of removal of a member of the Tribal Council as set forth in Article V, Section 1, of the Tribal Constitution.

**Section 2. Findings.** The process of removal is an internal procedure of the Tribal Council needed to ensure that its members conduct themselves in accordance with their duties and their oath of office in a manner that preserves the dignity and integrity of the Southern Ute Indian Tribe. Accordingly, substantial discretion and flexibility should be maintained under the removal procedures of the Tribal Council to ensure that removal is available to serve as an effective deterrent to misconduct, while at the same time providing a fair mechanism for the presentation of a defense to charges supporting removal.

**Section 3. Procedures.** The Tribal Council may employ such procedures deemed appropriate by a majority of its members in the course of conducting an investigative and disciplinary proceeding under Article V, Section 1, of the Tribal Constitution, so long as such procedures, at a minimum, provide:

- (A) The Tribal Council member against whom removal charges have been submitted shall have the right to legal representation at the hearing at which the charges are to be considered.
- (B) The Tribal Council may designate a representative of its choice to present testimony or other evidence in support of the charges against the Tribal Council member.
- (C) The Tribal Council member against whom removal charges have been submitted, or his legal representative, shall have the right to introduce testimony or other evidence in defense to the charges.
- (D) Testimony and other evidence presented at a removal hearing shall be relevant to the charges contained in the written statement required under Article V, Section 1, of the Tribal Constitution.
- (E) Prior to the convening of a hearing to consider the removal charges, the designated representative of the Tribal Council, and the Tribal Council member against whom such charges are pending, shall prepare and exchange a written

designation of testimony and other evidence intended to be introduced at the hearing, together with an explanation of the purpose and subject matter of such testimony and other evidence. A copy of such designations shall also be presented to the Tribal Chairman, who shall preside over such proceeding, unless the Tribal Chairman is the subject of the removal action, in which event, the Vice-Chairman shall preside. In the event that the Tribal Chairman or the Vice-Chairman is unable to preside over the proceeding, another member of the Tribal Council selected by a majority of its members shall be the presiding officer. The precise timing or scheduling of submittal of such written designations may be established by the Tribal Council in the statement of charges, or by such other method that provides a fair opportunity for review to the Tribal Council's designated representative and Tribal Council member who is subject to the removal proceeding.

- (F) Unless the intended testimony is deemed to be irrelevant to the removal charges by the Tribal Chairman, or the presiding officer, the Tribal Chairman shall seek to obtain the production of requested witnesses or testimony at the removal proceeding. Where attendance of a witness cannot be obtained, written or recorded testimony of such a witness may be considered by the Tribal Council. Any such testimony shall be accompanied by the sworn oath of the testifying party as to the truthfulness of such testimony.
- (G) To the extent practicable, the Tribal Council member against whom removal charges have been brought shall have the opportunity to question witnesses against him as to their testimony, and the Tribal Council's designated representative shall have the opportunity to question witnesses as to testimony presented in defense of the removal charges. The Tribal Council members, shall, in their discretion, give appropriate weight to testimony or evidence presented where no opportunity for cross-examination is provided.
- (H) The Tribal Council, in its discretion, and as determined by a majority of its members, may permit or deny attendance of any persons at the removal hearing. In considering whether or not to maintain an open or closed hearing, the Tribal Council may consider the nature of the charges, the likelihood of obtaining the attendance of witnesses, or the extent to which the setting of the hearing will permit or detract from the ability of the Tribal Council to obtain reliable evidence and render a fair decision on the substance of the charges.
- (I) During the removal hearing, any member of the Tribal Council may ask questions of witnesses; provided, however, that the Tribal Chairman or the presiding officer, either upon his own volition, or based upon objection, may deny or limit questions that are not likely, when answered, to provide relevant information to the removal charges.

- (J) The Tribal Council member against whom removal charges have been brought and the designated representative of the Tribal Council shall be provided an opportunity to address the Tribal Council at the conclusion of the hearing as to the removal charges and the testimony or evidence supporting or against removal.
- (K) The Tribal Council may convene or deliberate at the conclusion of the removal hearing, in the absence of the Tribal Council member against whom removal charges have been brought, and his legal counsel, if any, and in the absence of the designated hearing representative of the Tribal Council, to consider whether or not to proceed with removal.
- (L) No Tribal Council member shall be removed from office under this procedure, unless an affirmative vote of not less than 4 members of the Tribal Council is obtained. A decision to remove a Tribal Council member shall be memorialized in a written resolution, adopted by no less than 4 members of the Tribal Council, which resolution shall set forth the nature of the charges supporting removal and the findings with regard to the evidence supporting removal.

**Section 4. Additional Procedures.** The Tribal Council may adopt procedures in addition to those set forth herein in furtherance of conducting a fair removal process, provided that any such additional procedures shall not be inconsistent with the Tribal Constitution and shall be provided to any Tribal Council member subject to removal charges within a reasonable time prior to conducting a removal hearing.

**Section 5. Alternatives to Removal.** Nothing contained in this Ordinance is intended to preclude the Tribal Council from taking such internal disciplinary action as the Tribal Council deems appropriate, consistent with the Tribal Constitution, to admonish a member of the Tribal Council for misconduct or to prevent the misconduct of a member of the Tribal Council, including either a private or public censure.

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**History and Amendments<sup>1</sup>**

Ordinance No. 96-01 adopted by Tribal Council on June 18, 1996.

Resolution No. 2021-151 repealed and replaced Ordinance No. 96-01 with a reformatted Ordinance No. 96-01 – Removal Procedures Ordinance – for online publication. The 2021-151 reformatted version contained only minor technical corrections, no substantive revisions.

Resolution No. 2023-079 authorized on-line publication of the 2021-151 reformatted Ordinance No. 96-01 – Removal Procedures Ordinance and provided an effective date of May 25, 2023.

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<sup>1</sup> This page does not constitute an official part of any code. Information contained on this page is solely for informational and historical purposes and is from sources deemed reliable.