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## **TITLE XVI**

### **SOUTHERN UTE INDIAN TRIBAL CODE**

#### **ARTICLE I. GENERAL PROVISIONS**

##### **Section 1. LEGISLATIVE DECLARATION.**

The Southern Ute Indian Tribal Council declares that it is in the best interest of the Southern Ute Indian Tribe that alcoholic beverages and fermented malt beverages shall be sold within the exterior boundaries of the Southern Ute Indian Reservation only by persons licensed as provided in Title XVI. The Tribal Council further declares that it is lawful to sell alcoholic beverages and fermented malt beverages within the exterior boundaries of the Southern Ute Indian Reservation subject to the provisions of this Title. This title shall be deemed an exercise of the police powers of the Southern Ute Indian Tribal Council for the protection of the peace, safety, property, health and general welfare of the Southern Ute Indian Tribe.

##### **Section 2. DEFINITIONS**

As used in this title, unless the context otherwise requires:

A. "Adult" means a person lawfully permitted to purchase alcoholic beverages or alcoholic liquors.

B. "Alcoholic beverages" or "alcoholic liquors" means malt, vinous, or spirituous liquors.

C. "Fermented malt beverage" means any beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops, or any similar product or any combination thereof in water containing not less than one-half of one percent and not more than three and two-tenths percent alcohol by weight.

D. "Hotel" means any establishment with five or more sleeping rooms for the accommodation of guests and having restaurant facilities.

E. "License" means to grant a licensee to sell alcoholic beverages as provided by this title.

F. "Licensed premises" means the premises specified in an application for a license under this title which are owned or in possession of the licensee within which such licensee is authorized to sell, dispense, or serve alcoholic beverages in accordance with the provisions of this title.

G. "Location" means a particular parcel of land that may be identified by an address or by other descriptive means.

H. "Malt liquors" includes beer and shall be construed to mean any beverage obtained

by the alcoholic fermentation of any infusion or decoction of barley, malt, hops, or any other similar product, or any combination thereof in water containing more than three and two-tenths percent of alcohol by weight.

I. "Meal" means a quantity of food of such nature as ordinarily consumed by an individual at regular intervals for the purpose of sustenance in any facility where meals are regularly served at tables or lunch counters, or in any guest room of a hotel where the guest has meals served.

J. "Neighborhood" means that geographic area determined at the discretion of the Tribal Council to be affected by a license as proposed to be issued under this Title.

K. (1) "Optional premises" means:

(a) The premises specified in an application for a hotel and restaurant license under this title with related outdoor sports and recreational sports and recreational facilities for guests or the general public located on or adjacent to the hotel or restaurant within which such licensee is authorized to sell or serve alcoholic beverages in accordance with the provisions of this title and at the discretion of the Tribal Council; or

(b) The premises specified in an application for an optional premises license located on an applicant's outdoor sports and recreational facility.

(2) For purposes of subsection (K), "outdoor sports and recreational facility means a facility which charges a fee for the use of such facility.

L. "Person" means a natural person, partnership, association, company, corporation, or organization or a manager, agent, servant, officer, or employee of any of them.

M. "Premises" means a distinct and definite location which may include a building, a part of a building, a room, or any other definite contiguous area.

N. "Restaurant" means an establishment, which is not a hotel as defined in subsection (D) of this section, provided with special space, sanitary kitchen and dining room equipment, and persons to prepare, cook, and serve meals, where, in consideration of payment, meals, drinks, tobaccos, and candies are furnished to guests and in which nothing is sold excepting food, drinks, tobaccos and candies. Any establishment connected with any business wherein any business is conducted, excepting the sale of food, drinks, tobaccos, candies, or hotel business, is declared not to be a restaurant. Nothing in this subsection (N) shall be construed to prohibit the use in a restaurant of orchestras, singers, floor shows, coin-operated music machines, and amusement devices which pay nothing of value and cannot by adjustment be made to pay anything of value or other forms of entertainment commonly provided in restaurants.

O. "Retail liquor store" means an establishment engaged only in the sale of malt, vinous, and spirituous liquors and soft drinks and mixers, all in sealed containers for consumption off the premises, and in the sale of tobaccos, tobacco products, smokers' supplies, and non-food items related to the consumption of such beverages.

P. "Sealed containers" means any container or receptacle used for holding liquor, which container or receptacle is corked or sealed with any stub, stopper, or cap.

Q. "Sell" or "sale" means any of the following: To exchange, barter, or traffic in; to solicit or receive an order for except through a licensee licensed under this title; to keep or expose for sale; to serve with meals; to deliver for value or in any way other than gratuitously; to peddle or to possess with intent to sell; to possess or transport in contravention of this title; to traffic in for any consideration promised or obtained, directly or indirectly.

R. "Spirituous liquors" means any alcoholic beverage obtained by distillation, mixed with water and other substances in solution, and includes among other things brandy, rum, whiskey, gin, and every liquid or solid, patented or not, containing at least one-half of one percent alcohol. Any liquid or solid containing beer or wine in combination with any other liquor shall not be construed to be malt or vinous but shall be construed to be spirituous liquor.

S. "Tavern" means an establishment serving malt, vinous, and spirituous liquors in which the principal business is the sale of such beverages at retail for consumption on the premises and where sandwiches and light snacks are available for consumption on the premises.

T. "Tribal Council" means the Tribal Council of the Southern Ute Indian Tribe or such Tribal Council's delegate.

U. "Vinous liquors" means wine and fortified wines which contain not less than one-half of one percent and not more than twenty-one percent of alcohol by volume and shall be construed to mean alcoholic beverage obtained by the fermentation of the natural sugar contents of fruits or other agricultural products containing sugar.

### Section 3. LICENSING AUTHORITY OF SOUTHERN UTE INDIAN TRIBAL COUNCIL

A. For the purpose of regulating and controlling the licensing of the distribution and sale of alcoholic beverages and fermented malt beverages, the Tribal Council shall be empowered to:

(1) Grant or refuse licenses for the sale of alcoholic beverages and fermented malt beverages, as provided by this title, and suspend or revoke such licenses upon a violation of this title or any other rule or regulation adopted pursuant to this title;

(2) Make such general rules and regulations and special rulings and findings as are necessary for the proper regulation and control of the distribution and sale of alcoholic beverages and fermented malt beverages and the enforcement of this title and alter,

amend, repeal, and publish the same from time to time;

(3) Hear and determine at public hearing all complaints against any licensee and administer oaths and issue subpoenas to require the presence of persons and production of papers, books, and records necessary to the determination of any hearing so held;

(4) Keep complete records of all acts and transactions of the Tribal Council regarding alcoholic beverage licensees and fermented malt beverages licensees, which records, except confidential reports obtained from the licensee showing the sales volume or quantity of liquor sold or customers served, shall be open for inspection by the public.

(5) Suspend or revoke any license issued upon any violation by the licensee or by any agent, servant, or employee of such licensee of any provision of this title, or of any rule or regulation of the Tribal Council made pursuant to this title, or of any term, condition, or provision of the license issued by the Tribal Council upon its own motion or upon complaint, after investigation and public hearing, at which the licensee shall be afforded an opportunity to be heard;

Not by way of limitation, the rules and regulations made pursuant to paragraph (2) of this section may cover the following subjects: Compliance with or enforcement or violation of any law, provision of this title, rule, or regulation issued pursuant to this title; specifications of duties of officers and employees of the Tribe regarding licensing; instructions for local law enforcement officers; all forms necessary or convenient in the administration of this title, inspections, investigations, searches, seizures, and such activities as may become necessary; limitation of the number of licensees as to any area or vicinity; misrepresentation and unfair practices; unfair competition; control of signs and other displays on licensed premises; identification of licensees and their employees; transportation; health and sanitary requirements; standards of cleanliness, orderliness, and decency; sampling and analysis of products; standards of purity and labeling; records to be kept by licensees and availability thereof; and any other matters deemed necessary for the fair, impartial, stringent, and comprehensive administration of this title, but nothing in this title shall be construed as delegating to the Tribal Council the power to fix prices. All rules shall be reasonable and just.

B. In any hearing held by the Tribal Council pursuant to this title, no person may refuse upon the request of the Tribal Council to testify or provide other information on the ground of self-incrimination; but no testimony or other information relating to this title produced in said hearing or any information directly or indirectly derived from such testimony or other information may be used against such person in any criminal prosecution based on a violation of this title except a prosecution for perjury. Continued refusal to testify or provide other information shall constitute grounds for suspension or revocation of the license granted pursuant to this title.

#### Section 4. DUTIES OF INSPECTORS AND POLICE OFFICERS

A. The inspectors of the Tribal Council, while actually engaged in performing their duties

and while acting under proper orders or regulations issued by the Tribal Council, shall have and exercise all the powers vested in peace officers. In the exercise of their duties, such inspectors shall have the power to arrest. Such inspectors shall also have the authority to issue summons for violations of the provisions of this title.

B. It is the duty of all tribal police to enforce the provisions of this article and the rules and regulations made pursuant to this title and to arrest and complain against any person violating any of the provisions of this title or rules and regulations made pursuant to this title.

## **Section 5. EXEMPTIONS**

A. The provisions of this title shall not apply to the sale or distribution of sacramental wines sold and used for religious purposes.

B. (1) Any provision of this title to the contrary notwithstanding, when permitted by federal law and rules and regulations promulgated pursuant thereto, a head of a family may produce for family use and not for sale of such amount of malt or vinous liquor as is exempt from the federal excise tax on such liquors when produced by a head of a family for family use and not for sale.

(2) The production of malt or vinous liquors under the circumstances set forth in this subsection (B) shall be in strict conformity with federal laws and rules and regulations issued pursuant thereto.

(3) The producer of malt or vinous liquors pursuant to the provisions of this subsection (B) shall not be required to obtain any license provided by this title.

## **Section 6. JURISDICTION**

The provisions of this title apply to any relevant act or transaction within the exterior boundaries of the Southern Ute Indian Reservation except to the extent that the exercise of that jurisdiction is prohibited by federal law.

# **ARTICLE II. RETAIL SALES OF ALCOHOLIC BEVERAGES**

## **Section 1. LICENSING - GENERAL PROVISIONS**

A. Before granting any license, the Tribal Council shall consider, except where this article specifically provides otherwise, the reasonable requirements of the neighborhood, the desires of the adult inhabitants as evidenced by petitions, remonstrances, or otherwise, and all other reasonable restrictions which are or may be placed upon the neighborhood by the Tribal Council.

B. The Tribal Council shall not consider an application for any license to sell alcoholic

beverages at retail if, within the two years before the date of the application, the Tribal Council has denied an application at the same location for the reason that the reasonable requirements of the neighborhood or the desires of the inhabitants were satisfied by the existing outlets.

C. The Tribal Council shall not consider an application to sell alcoholic beverages until it is established that the applicant is, or will be, entitled to possession of the premises for which application is made under a lease, rental agreement, or other arrangement for possession of the premises, or by virtue of ownership thereof.

D. The Tribal Council shall not consider an application to sell alcoholic beverages for a location in an area where the sale of alcoholic beverages as contemplated is not permitted under the applicable zoning laws.

E. No licenses shall be refused arbitrarily or without good cause, and any such refusal may be reviewed upon application for judicial review to the Tribal Court.

F. All licenses granted pursuant to this article shall be good for one year from the date of issuance unless revoked or suspended pursuant to section 12 of this article.

G. Ninety days prior to the expiration date of an existing license, the Tribal Council shall notify the licensee of such expiration date by first class mail at the business' last known address. Application for the renewal of an existing license shall be made to the Tribal Council not less than forty-five days prior to the date of expiration.

No application for renewal of a license shall be accepted by the Tribal Council after the date of expiration. The Tribal Council may, for good cause, waive the time requirements set forth in this subsection. The Tribal Council may cause a hearing on the application for renewal to be held. No renewal hearing provided for by this paragraph shall be held by the Tribal Court until a notice of hearing has been conspicuously posted on the licensed premises for a period of ten days prior to the hearing and notice of the hearing has been provided the applicant at least ten days prior to the hearing. The Tribal Council may refuse to renew any license for good cause, subject to judicial review. Any renewal hearing held by the Tribal Council shall be pursuant to section 3 of this article.

H. Each license issued under this article is separate and distinct, and it is unlawful for any person to exercise any of the privileges granted under any license other than that which he holds or for any license to allow any other person to exercise such privileges granted under this license. A separate license shall be issued for each specific business or business entity and each geographical location, and in said license the particular liquors which the applicant is authorized to sell shall be named and described. For purposes of the section, a resort complex with common ownership, a hotel and restaurant licensee with optional premises, and an optional premise licensee for optional premises located on an outdoor sports and recreational facility shall be considered a single business and location. At all times a licensee shall possess and maintain possession of the premise for which the license is issued by ownership, lease, rental, or other



arrangement for possession of such premises.

I. All licenses granted and issued pursuant to this article shall specify the date of issuance, the character and kind of license, the date of its expiration, the name of the licensee, and the place where the license is to be exercised.

J. Licenses granted and issued pursuant to this article shall at all times be conspicuously placed in the licensed premises where the said license is exercised and used.

K. If the place where the license is to be exercised is changed, a permit for this change must be obtained from the Tribal Council and conspicuously placed at all times in the place of business of the licensee.

L. (1) No license granted under the provisions of this article shall be transferable except as provided in this subsection (L), but this shall not prevent a change of location as provided in section 12(B)(6) of this article.

(2) When a license has been issued to a husband and wife, or to general or limited partners, the death of a spouse or partner shall not require the surviving spouse or partner to obtain a new license. All rights and privileges granted under the original license shall continue in full force and effect as to such survivors for the balance of the license period.

(3) For any other transfer of ownership, application shall be made to the Tribal Council on forms prepared and furnished by the Tribal Council. In determining whether to permit a transfer of ownership, the Tribal Council shall consider the requirements of section 5 of this article. The Tribal Council may cause a hearing on the application for transfer of ownership to be held. No hearing provided for by this paragraph shall be held by the Tribal Council until a notice of hearing has been conspicuously posted on the licensed premises for a period of ten days and notice of the hearing has been provided the applicant at least ten days prior to the hearing. Any transfer of ownership hearing by the Tribal Council shall be pursuant to section 3 of this article.

M. A licensee shall report each transfer or change of financial interest in the license to the Tribal Council within thirty days after the transfer or change. A report shall be required for transfers of capital stock of a public corporation; except that a report shall not be required for transfers of such stock totalling less than ten percent in any one year, but any transfer of a controlling interest shall be reported, regardless of size. It is unlawful for the licensee to fail to report a transfer as required by this subsection. Failure to report a transfer shall be grounds for suspension or revocation of the license.

N. Each licensee holding a tavern license or racetrack license shall manage such premise himself or employ a separate and distinct manager on the premises and shall report the name of the manager to the Tribal Council. Such licensee shall report any change in managers to the Tribal Council within thirty days after the change. It is unlawful for the licensee to fail to report

the name of or any change in managers as required by this subsection (N). Such failure to report shall be grounds for suspension of the license.

O. Licensees at facilities owned by the Tribe shall be regulated pursuant to guidelines established by the Tribal Council. In the absence of such guidelines, the provisions of this article shall apply to licensees at facilities owned by the Tribe.

P. In computing any period of time prescribed by this article, the date of the act, event, or default from which the designated period of time begins to run shall not be included. Saturdays, Sundays, and legal holidays shall be counted as any other day.

## Section 2. APPLICATION TO TRIBAL COUNCIL FOR LICENSE

A. Applications for licenses under the provisions of this article shall be made to the Tribal Council on forms prepared and furnished by the Tribal Council and shall set forth such information as the Tribal Council may require to enable the Tribal Council to determine whether a license should be granted. Such information shall include the name and address of the applicant, and if a partnership, also the names and addresses of all the partners, and if a corporation, association, or other organization, also the names and addresses of the president, vice-president, secretary, and managing officer together with all the other information deemed necessary by the Tribal Council. Each application shall be verified by the oath or affirmation of such person or persons as the Tribal Council may prescribe.

B. Each application for a license filed with the Tribal Council shall be accompanied by an application fee in an amount determined by the Tribal Council to cover actual and necessary expenses subject to the following limitations:

- (1) For a new license, not to exceed four hundred fifty dollars;
- (2) For a transfer of location or ownership, not to exceed two hundred dollars.
- (3) For a renewal of license, not to exceed fifty dollars.

These fees are separate and distinct from the fee charged in section 11 of this article.

C. The applicant shall file at the time of application plans and specifications for the interior of the building if the building to be occupied is in existence at the time. If the building is not in existence, the applicant shall file a plot plan and a detailed sketch for the interior and submit an architect's drawing of the building to be constructed. In its discretion, the Tribal Council may impose additional requirements necessary for the approval of the application.

## Section 3. PUBLIC NOTICE - POSTING AND PUBLICATION

A. Upon receipt of an application, except an application for renewal or for transfer of

ownership, the Tribal Council shall schedule a public hearing upon the application not less than thirty days from the date of the application and shall post and publish the public notice thereof not less than ten days prior to such hearing. Public notice shall be given by the posting of a sign in a conspicuous place on the premises for which application has been made and by publication in a newspaper of general circulation on the reservation.

B. Notice given by posting shall include a sign of suitable material, not less than twenty-two inches wide and twenty-six inches high, composed of letters not less than one inch in height and stating the type of license applied for, the date of the application, the date of the hearing, and the name and address of the applicant, and such other information as may be required to fully apprise the public of the nature of the application. If the applicant is a partnership, the sign shall contain the names and addresses of all partners, and if the applicant is a corporation, association, or other organization, the sign shall contain the names and addresses of the president, vice president, secretary, and manager or other managing officers.

C. Notice given by publication shall contain the same information as that required for signs.

D. If the building in which the liquor is to be sold is in existence at the time of the application, any sign posted as required in subsections (A) and (B) of this section shall be placed so as to be conspicuous and plainly visible to the general public. If the building is not constructed at the time of the application, the applicant shall post the premises upon which the building is to be constructed in such a manner that the notice shall be conspicuous and plainly visible to the general public.

E. (1) At the public hearing held pursuant to this section, any party in interest shall be allowed to present evidence and to cross examine witnesses.

(2) As used in this subsection (E), "party in interest" means any of the following:

(a) The applicant;

(b) An adult resident of the neighborhood under consideration;

(c) The owner or manager of a business located in the neighborhood under consideration;

(d) The principal or representative of any school located within five hundred feet of the premises for which the license is under consideration.

(3) The Tribal Council, in its discretion, may limit the presentation of evidence and cross-examination so as to prevent repetitive and cumulative evidence or examination.

(4) Nothing in this subsection (E) shall be construed to prevent a representative

of an organized neighborhood group which encompasses part or all of the neighborhood under consideration from presenting evidence subject to this section. Such representative shall reside within the neighborhood group's geographic boundaries and shall be a member of the neighborhood group. Such representative shall not be entitled to cross-examine witnesses or seek judicial review of the Tribal Council's decision.

#### Section 4. RESULTS OF INVESTIGATION - DECISION OF AUTHORITIES

A. Not less than five days prior to the date of hearing, the Tribal Council shall make known its findings based on its investigation in writing to the applicant and other interested parties. The Tribal Council has authority to refuse to issue any license for good cause, subject to judicial review.

B. Before entering any decision approving or denying the application, the Tribal Council shall consider, except where this article specifically provides otherwise, the facts and evidence adduced as a result of its investigation, as well as any other facts, the reasonable requirements of the neighborhood for the type of license for which application has been made, the desires of the adult inhabitants, the number, type, and availability of liquor outlets located in or near the neighborhood under consideration, and any other pertinent matters affecting the qualifications of the applicant for the conduct of the type of business proposed. In investigating the qualifications of the applicant or a licensee, the Tribal Council may have access to criminal history record information furnished by a criminal justice agency subject to any restrictions imposed by such agency. In the event the Tribal Council takes into consideration information concerning the applicant's criminal history record, the Tribal Council shall also consider any information provided by the applicant regarding such criminal history record, including but not limited to evidence of rehabilitation, character references, and educational achievements, especially those items pertaining to the period of time between the applicant's last criminal conviction and the consideration of his application for a license. Additionally, a representative of the Tribal Council may visit and inspect the property in which the applicant proposes to conduct such business.

C. Any decision of the Tribal Council approving or denying an application shall be in writing stating the reasons therefor, within thirty days after the date of the public hearing, and a copy of such decision shall be sent by certified mail to the applicant at the address shown in the application.

D. No license shall be issued by the Tribal Council after approval of an application until the building in which the business is to be conducted is ready for occupancy with such furniture, fixtures, and equipment in place as is necessary to comply with the provisions of this article, and then only after inspection of the premises has been made by the licensing authority to determine that the applicant has complied with the architect's drawing and the plot plan and detailed sketch for the interior of the building submitted with the application.

## **Section 5. PERSONS PROHIBITED AS LICENSEES**

**A. No license provided by this article shall be issued to or held by:**

- (1) Any person until the annual fee therefor has been paid;**
- (2) Any person who is not of good moral character;**
- (3) Any corporation, any of whose officers, directors, or stockholders holding over ten percent of the outstanding and issued capital stock thereof are not of good moral character;**
- (4) Any partnership, association, or company, any of whose officers, or any of whose members holding more than ten percent interest therein, are not of good moral character;**
- (5) Any person employing, assisted by, or financed in whole or in part by any other person who is not of good character and reputation satisfactory to the Tribal Council;**
- (6) Any sheriff, deputy sheriff, police officer, prosecuting officer, or any of its inspectors or employees;**
- (7) Any person unless he is with respect to his character, record, and reputation satisfactory to the Tribal Council.**

**B. No license provided for by this article shall be issued to or held by any person who will operate any place where liquor is sold or is to be sold by the drink within five hundred feet from any public or parochial school or the principal campus of any college, university; except that this provision shall not apply to a liquor license in effect and actively doing business before said principal campus was constructed.**

## **Section 6. REFUSAL OF LICENSE**

**The Tribal Council shall refuse to grant a license if the premises on which the applicant proposes to conduct its business do not meet the requirements of this article, or if the character of the applicant or its officers or directors is such that violations of this article would be likely to result if a license were granted, or if in its opinion licenses already granted for the particular locality are adequate for the reasonable needs of the community.**

## **Section 7. JUDICIAL REVIEW**

**Any person applying to the Tribal Court for a review of any Tribal Council decision shall apply for review within thirty days after the date of decision and shall be required to pay the cost**

of preparing a transcript of proceedings before the Tribal Council when such a transcript is demanded by the person taking the appeal or when such a transcript is furnished by the Tribal Council pursuant to court order. The Tribal Court shall determine by clear and convincing evidence whether said refusal was arbitrary and without good cause, and, if so finding, said court shall order the Tribal Council to issue said license.

#### Section 8. RECORDS - INSPECTION

Each licensee shall keep a complete set of books of account, invoices, copies of orders, shipping instructions, bills of lading, weigh bills, correspondence, and all other records necessary to show fully the business transactions of such licensee, all of which shall be open at all times during business hours for the inspection and examination of the duly authorized representative of the Tribal Council. The Tribal Council may require any licensee to furnish such information as it considers necessary for the proper administration of this article, and may require an audit to be made of such books of account and records on such occasions as it may consider necessary by an auditor to be selected by said Tribal Council who shall likewise have access to all books and records of such licensee, and the expense thereof shall be paid by said licensee.

#### Section 9. SUSPENSION AND REVOCATION

A. In addition to other penalties prescribed by this article, the Tribal Council has the power, on its own motion or on complaint, after investigation and public hearing at which the licensee shall be afforded an opportunity to be heard, to suspend or revoke any license for any violation by the licensee or by any of the agents, servants, or employees of such licensee of the provisions of this article, or of any of the rules or regulations authorized pursuant to this article, or of any the terms, conditions, or provisions of the license issued by such authority. Conviction of a violation of this article or any of the rules and regulations authorized and adopted pursuant to this article shall be grounds for, but shall be required prior to, such a suspension or revocation.

In addition, the Tribal Council, in its discretion, may revoke or elect not to renew a retail license if it determines that the licensed location has been inactive, without good cause, for at least one year or, in the case of a retail license approved for a facility which has not been constructed, such facility has not been constructed and placed in operation within two years of approval of the license application or construction of the facility has not commenced within one year of such approval.

B. Notice of suspension or revocation, as well as any required notice of a hearing, shall be given by mailing the same in writing by registered mail, return receipt requested, to the licensee at the address contained in such license. Any license may be temporarily suspended by the Tribal Council without notice pending any prosecution, investigation, or public hearing.

C. Nothing in this article shall prevent summary suspension of such license for a period not exceeding fifteen days. No suspension under this section shall be for a period longer than six months.



D. Whenever any license is suspended or revoked, no part of the fee paid therefor shall be returned or refunded to the holder of such license.

## Section 10. CLASSES OF LICENSE

A. The licenses to be granted and issued by the Tribal Council pursuant to this article shall be as follows:

(1) Retail Liquor Store License. A retail liquor store license shall be issued to persons selling alcoholic beverages in sealed containers not be consumed at the place where sold. Alcoholic beverages in sealed containers shall not be sold at retail other than in retail liquor stores. In addition, retail liquor stores may sell non-food items related to the consumption of such liquors. Nothing in this section shall prohibit a retail liquor store licensee, at the option of the licensee, from displaying promotional material furnished by a manufacturer or wholesaler, which material permits a customer to purchase other items from a third person if the retail liquor store licensee does not receive payment from the third person and if the ordering of the additional merchandise is done by the customer directly from the third person.

(2) Hotel and Restaurant License.

(a) A hotel and restaurant license shall be issued to persons selling malt, vinous, and spirituous liquors in the place where such liquors are to be consumed subject to the following restrictions:

(i) Restaurants shall sell malt, vinous, and spirituous liquors as provided in this section only to customers of such restaurant and only if meals are actually and regularly served and provide not less than twenty-five percent of the gross income of the business of the licensed premises.

(ii) Hotels shall sell malt, vinous, and spirituous liquors as provided in this section only to customers of said hotel and, except in hotel rooms, only on the licensed premises where meals are actually and regularly served and provided not less than twenty-five percent of the gross restaurant income of the business of the licensed premises.

(b) Notwithstanding any provision of this article to the contrary, a hotel, licensed pursuant to this article may furnish and deliver complimentary alcoholic beverages in sealed containers for the convenience of its guests.

(c) It is the intent of this section to require hotel and restaurant licenses to maintain a bona fide restaurant business and not a mere pretext of such for obtaining a hotel and restaurant license.

(d) Each hotel and restaurant license shall be granted for specific premises, and optional premises approved by the Tribal Council, and issued in the name of the owner or lessee of the business.

(e) Each hotel and restaurant licensee shall himself manage or have a separate and distinct manager and shall register the manager of each liquor-licensed premises with the Tribal Council. No person shall be a registered manager for more than one hotel and restaurant license.

(f) The registered manager for each hotel and restaurant license or the hotel and restaurant licensee shall purchase alcoholic beverages for one licensed premises only, and such purchases shall be separate and distinct from purchases for any other hotel and restaurant license.

(g) When a person ceases to be a registered manager of a hotel and restaurant license, for whatever reason, the hotel and restaurant licensee shall notify the licensing authorities within five days and shall designate a new registered manager within thirty days.

(h) The Tribal Council may refuse to accept any person as a registered manager unless he is satisfactory to the Tribal Council as to his character, record, and reputation. In determining a registered manager's character, record, and reputation, the Tribal Council may have access to criminal history record information furnished by an appropriate criminal justice agency subject to any restrictions imposed by such agency.

(3) Tavern License. A tavern license shall be issued to persons selling malt, vinous, or spirituous liquors by the drink only to customers for consumption on the premises, and such licensee shall have available for consumption on the premises during business hours sandwiches and light snacks, but he need not have meals available for consumption.

(4) Racetrack License. A racetrack licensee may sell malt, vinous, and spirituous liquors by the drink for consumption on the licensed premises only to customers of such racetrack and shall serve food as well as such liquors.

(5) Optional Premises License. An optional premises license shall be granted for optional premises approved by the Tribal Council to persons selling malt, vinous, and spirituous liquors by the drink only to customers for consumption on the optional premises and for storing malt, vinous, and spirituous liquors in a secure area on or off the optional premises for future use on the optional premises.



## **Section 11. LICENSE FEES**

**A. The following license fees shall be paid to the Finance Officer of the Southern Ute Indian Tribe annually in advance:**

- (1) For each retail liquor store license, two hundred fifty dollars;**
- (2) For each hotel and restaurant license, three hundred fifty dollars;**
- (3) For each tavern license, three hundred twenty-five dollars;**
- (4) For each racetrack license, two hundred fifty dollars.**
- (5) For each optional premises license, three hundred twenty-five dollars**

## **Section 12. UNLAWFUL ACTS**

**A. It is unlawful for any person:**

- (1) To sell, serve, give away, dispose of, exchange, or deliver, or to permit the sale, serving, giving, or procuring of any alcoholic beverages to or for any person under the age of twenty-one years, to a visibly intoxicated person, or to a known habitual drunkard.**
- (2) To obtain or attempt to obtain any alcoholic beverage by misrepresentation of age or by any other method in any place where alcoholic beverages are sold if such person is under twenty-one years of age;**
- (3) To have in his possession alcoholic beverages in any store, in any public place including public streets, alleys, roads, or highways, or upon property owned by the Tribe or any subdivision thereof, or inside vehicles while upon any streets, alleys, roads, or highways declared to be public by any law of the state of Colorado and/or the Southern Ute Indian Tribe if such person is under twenty-one years of age;**
- (4) To knowingly, or under conditions which an average parent or guardian should have knowledge of, or permit any person under twenty-one years of age, of whom he may be a parent or guardian, to violate the provisions of paragraph (2) or (3) of this subsection (A);**
- (5) To buy any alcoholic beverage from any person not licensed to sell at retail as provided by this article except as otherwise provided in this article;**
- (6) To sell at retail any alcoholic beverages in sealed containers without holding a retail liquor store license;**

(7) To manufacture, sell, or possess for sale any alcoholic beverage unless such person is licensed to do so and any license issued to him pursuant to this article is in full force and effect; except that when permitted by federal law or regulation, an adult may manufacture, without a license, the amount permitted thereby for personal or family use;

(8) To consume alcoholic beverages in any public place except on any licensed premises permitted under this article to sell such liquor by the drink for consumption thereon; to consume any alcoholic beverage upon any premises licensed to sell liquor for consumption on the licensed premises, the sale of which is not authorized by the Tribal Council; to consume alcoholic beverages at any time on such premises other than such liquor as is purchased from such establishment; or to consume alcoholic beverages in any public room on such premises during such hours as the sale of such liquor is prohibited under this article;

(9) To regularly provide premises, or any portion thereof, together with soft drinks or other mix, ice, glasses, or containers at a direct or indirect cost or charge to any person who brings alcoholic beverages upon such premises for the purpose of consuming such alcoholic beverages on said premises during the hours in which the sale of alcoholic beverages is prohibited or to consume alcoholic beverages upon premises operated in the manner described in this paragraph (9);

(10) With knowledge, to permit or fail to prevent the use of his identification, including a driver's license, by a person who is under twenty-one years of age, for the unlawful purchase of any alcoholic beverages.

B. It is unlawful for any person licensed pursuant to this article:

(1) (a) To sell alcoholic beverages to any person under the age of twenty-one years, to an habitual drunkard, or to a visibly intoxicated person, or to permit any malt or vinous liquors to be sold or dispensed by a person under eighteen years of age, or spirituous liquors to be sold or dispensed by a person under twenty-one years of age, or to permit any such person to participate in the sale or dispensing thereof. If a person who, in fact, is not twenty-one years of age exhibits a fraudulent proof of age, any action relying on such fraudulent proof of age shall not constitute grounds for the revocation or suspension of any license issued under this article.

(b) (i) If a licensee or his employee has reasonable cause to believe that a person is under twenty-one years of age and is exhibiting fraudulent proof of age in an attempt to obtain any alcoholic beverage, as defined in this article, the licensee or employee shall confiscate such fraudulent proof of age, if possible, and shall, within twenty-four hours after the confiscation, turn it over to the tribal police. The failure to confiscate such fraudulent proof of age or to turn it over to the tribal police within

twenty-four hours after the confiscation shall not constitute a criminal offense, notwithstanding Section 14 of this article.

(ii) If a licensee or his employee believes that a person is under twenty-one years of age and is exhibiting fraudulent proof of age in an attempt to obtain any alcoholic beverage, as defined in this article, the licensee or his employee or any peace or police officer, acting in good faith and upon probable cause based upon reasonable grounds therefor, may detain and question such person in a reasonable manner for the purpose of ascertaining whether the person is guilty of any unlawful act under this section. Such questioning of a person by a licensee or his employee or a peace or police officer does not render the licensee, his employee, or a peace or police officer civilly or criminally liable for slander, false arrest, false imprisonment, malicious prosecution, or unlawful detention.

(c) Each licensee shall display a printed card, pursuant to paragraph (7) of this subsection (B), which contains a notice of the provisions of this paragraph (1).

(d) Any licensee or his employee acting in good faith in accordance with the provisions of this paragraph (1) shall be immune from any liability, civil or criminal; except that a licensee or employer acting willfully or wantonly shall not be immune from liability pursuant to this paragraph (1).

(2) To sell, serve, or distribute any alcoholic beverage on any Tribal Council election day, referendum day, or any primary or general election day (as defined by Colorado State law), during polling hours or at any specially designated time when the Tribal Council prohibits the selling, serving and distributing of alcoholic beverages.

(3) To sell, serve, or distribute any alcoholic beverages at any time other than the following.

(a) For consumption on the premises, on any Tuesday through Saturday and on any Monday which falls on a January 1, beginning each day at 12 midnight until 2 a.m. and from 7 a.m. until 12 p.m.;

(b) For consumption on the premises, on Sundays and Christmas, beginning at 12 midnight until 2 a.m. and from 8 a.m. until 8 p.m.;

(c) For consumption on the premises, on any Monday which does not fall on a January 1 and on any day after Christmas, beginning at 7 a.m. until 12 midnight.

(d) In sealed containers, on Monday through Saturday, beginning at 8 a.m.

until 12 midnight each day, but no alcoholic beverage shall be sold, served, or distributed in a sealed container on any such weekday which is also Christmas.

(4) To offer for sale or solicit any order for vinous or spirituous liquors in person at retail except within the licensed premises;

(5) To have in possession or upon the licensed premises any alcoholic beverages, the sale of which is not permitted by said license;

(6) (a) To sell at retail alcoholic beverages except in the permanent location specifically designated in the license for such sale, or in such place to which a licensee may desire to move his permanent location. Such licensee may move his permanent location to any other place on the Southern Ute Indian Reservation, but it shall be unlawful to sell any malt, vinous, or spirituous liquor at any such place until permission to do so is granted by the Tribal Council.

(b) In permitting such change of location, the Tribal Council shall consider the reasonable requirements of the neighborhood in which the applicant seeks to change his location, the desires of the adult inhabitants as evidenced by petitions, remonstrances, or otherwise, and all reasonable restrictions which are or may be placed upon the new location by the Tribal Council. If the Tribal Council permits such change, they shall issue such permit without charge.

(7) The fail to display at all times in a prominent place on premises licensed for retail sale a printed card with a minimum height of fourteen inches and a width of eleven inches with each letter to be a minimum of one-half inch in height, which shall read as follows:

#### **WARNING**

**IT IS ILLEGAL TO SELL ALCOHOLIC BEVERAGES TO ANY PERSON UNDER TWENTY-ONE YEARS OF AGE, AND IT IS ILLEGAL FOR ANY PERSON UNDER TWENTY-ONE YEARS OF AGE TO POSSESS OR TO ATTEMPT TO PURCHASE THE SAME.**

**IDENTIFICATION CARDS WHICH APPEAR TO BE FRAUDULENT WHEN PRESENTED BY PURCHASERS MAY BE CONFISCATED BY THE ESTABLISHMENT AND TURNED OVER TO A LAW ENFORCEMENT AGENCY.**

**IT IS ILLEGAL IF YOU ARE TWENTY-ONE YEARS OF AGE OR OLDER FOR YOU TO PURCHASE ALCOHOLIC BEVERAGES FOR A PERSON UNDER TWENTY-ONE YEARS OF AGE.**

**FINES AND IMPRISONMENT MAY BE IMPOSED BY THE TRIBAL COURT**

## FOR VIOLATION OF THESE PROVISIONS.

(8) To sell alcoholic beverages in a place where the same are to be consumed, unless such a place is a hotel, restaurant, tavern, or racetrack or optional premises;

(9) To display or cause to be displayed, on the licensed premises, any exterior sign advertising any particular brand of malt liquors unless the particular brand so designated in the sign is dispensed on draught or in sealed containers within the licensed premises wherein the sign is displayed;

(10) To have on the licensed premises, if licensed as a retail liquor store any container which shows evidence of having once been opened or which contains a volume of liquor less than that specified on the label of such container; except that a person holding a retail liquor store license may have upon the licensed premises malt, vinous, or spirituous liquors in open containers, if such open containers are samples brought on the premises and under the control of a wholesaler;

(11) To employ or permit, if such person is licensed to sell alcoholic beverages for on-premises consumption or is the agent or manager of said licensee, any employee, waiter, waitress, entertainer, host, hostess, or agent of said licensee to solicit from patrons in any manner for himself or herself or for any other employee, the purchase of any alcoholic beverage or any other thing of value.

## Section 13. UNLAWFUL FINANCIAL ASSISTANCE

A. It is unlawful for any person licensed to sell at retail pursuant to this article to receive and obtain from any manufacturer, wholesaler or importer of alcoholic beverages, directly or indirectly, any financial assistance or any equipment, fixtures, chattels, or furnishings used in the storing, handling, serving, or dispensing of food or alcoholic beverages within the premises or from asking for any structural alterations or improvements in or on the building on which such premises are located. This subsection (A) shall not apply to signs or displays within such premises or to advertising materials which are intended primarily to advertise the product of the wholesaler or manufacturer and which have only negligible value in themselves or to the inspection and servicing of malt or vinous liquor dispensing equipment to the extent necessary for the maintenance of reasonable standards of purity, cleanliness, and health.

B. (1) It is unlawful for any person or corporation holding any license pursuant to this article or any person who is a stockholder, director, or officer of any corporation holding a license pursuant to this article to be a stockholder, director, or officer or to be interested, directly or indirectly, in any person or corporation that lends money to any person or corporation licensed pursuant to this article, but this subsection (B) shall not apply to banks, savings and loan associations, or industrial banks supervised and regulated by an agency of the state or federal government, or to FHA-approved mortgagees, or to stockholders, directors, or officers thereof; and it is unlawful for any person or

corporation licensed pursuant to this article, or any stockholder, director, or officer of such corporation, to make any loan or be interested, directly or indirectly, in any loan to any other person licensed pursuant to the provisions of this article; except that paragraph (1) shall not apply to any financial institution which comes into possession of a licensed premises by virtue of a foreclosure or deed in lieu of foreclosure if such financial institution does not retain such premises for longer than one year or for such time exceeding one year as provided in paragraph (2) of this subsection (B).

(2) In the case of a financial institution which comes into possession of a licensed premises by virtue of a foreclosure or deed in lieu of foreclosure, the Tribal Council may grant a transfer of ownership for such license for a period of one year and, upon notice and hearing, renewal of such license may be granted. This paragraph (2) shall apply in the case of every foreclosure or deed in lieu of foreclosure in which disposition of the license has not otherwise been made by the Tribal Council.

C. It is unlawful for any owner, part owner, shareholder, stockholder, or person interested, directly or indirectly, in any retail business or establishment of a person licensed to sell at retail pursuant to the provisions of this article to enter into any agreement with any person or party to receive, possess, or accept any money, fixtures, supplies, or things of value from any person or party, whereby a person licensed to sell at retail pursuant to this article may be influenced or caused, directly or indirectly, to buy, sell, dispense, or handle the product of any manufacturer of alcoholic beverages. This subsection (C) shall not apply to displays within such premises.

D. Any transaction, agreement, or arrangement prohibited by the provisions of this section, if made and entered into by and between the persons and parties described and referred to in this section, is unlawful, illegal, invalid, and void, and any obligation or liability arising out of such transaction, agreement or arrangement shall be unenforceable in any court of this state by or against any such persons and parties entering into such transaction, agreement, or arrangement.

E. It is unlawful for any owner, part owner, shareholder, or person interested directly or indirectly in any retail liquor store, retail license, or retail dispensary of any kind licensed pursuant to this article except that it is not unlawful for any owner, part owner, shareholder, or person interested directly or indirectly in any hotel and restaurant license to conduct, own either in whole or in part, or be directly or indirectly interested in any other hotel and restaurant license or establishment. The Tribal Council shall require a complete disclosure of all persons having a direct or indirect financial interest, and the extent of such interest, in each hotel and restaurant license issued under this article. A willful failure to report and disclose the financial interests of all persons having a direct or indirect financial interest in a hotel and restaurant license shall be grounds for suspension or revocation of such license by the Tribal Council. The invalidity of any provision of this paragraph (E) concerning interest in more than one hotel and restaurant license shall invalidate all interests in more than one hotel and restaurant license, and such invalidity shall make any such interest unlawful financial assistance as described by this

paragraph (E).

F. This section is intended to prohibit and prevent the control of the outlets for the sale of alcoholic beverages by any person or parties other than the persons licensed pursuant to the provisions of this article.

#### **Section 14. VIOLATIONS AND PENALTY**

A. Except as otherwise provided in this section, any person violating any of the provisions of this article or any of the rules and regulations authorized and adopted pursuant to this article or any amendments or additions thereto is guilty of a liquor violation of the criminal code of the Southern Ute Indian Tribal Code and, upon conviction thereof, shall be punished by a fine of not more than five thousand dollars or by imprisonment, for not more than one year, or by both such fine and imprisonment, for each offense; and, upon conviction thereof, any license granted and issued pursuant to the provisions of this article to said person so convicted may be revoked, and no such license shall thereafter be granted or issued to said person so convicted; and the court may decree that no license for the sale of alcoholic beverages shall ever thereafter be issued to any such person convicted of such violation.

B. The penalties provided in this section shall not be affected by the penalties provided in any other section of this article but shall be construed to be in addition to any other penalties.

### **ARTICLE III. RETAIL SALES OF FERMENTED MALT BEVERAGES**

#### **Section 1. LICENSING - GENERAL PROVISIONS**

A. All licenses granted pursuant to this article shall be nontransferable and good for one year from the date of issuance unless revoked and shall be granted by the Tribal Council upon receipt of an application upon a form provided for said purpose by said Tribal Council, accompanied by a remittance for the full amount of the license fee payable to the Tribe.

B. All licenses granted and issued pursuant to this article are separate and distinct from any licenses to be granted and issued pursuant to any other part of this Ordinance.

C. All licenses granted and issued pursuant to this article shall specify the date of issuance, the character and kind of license, the date of its expiration, the name of the licensee, and the place where the license is to be exercised.

D. Licenses granted and issued pursuant to this article shall at all times be conspicuously placed in the licensed premises where the said license is exercised and used.

E. If the place where the license is to be exercised is changed, a permit for this change must be obtained from the Tribal Council and conspicuously placed at all times in the place of business of the licensee.

F. (1) No licenses shall be refused arbitrarily or without good cause, and any such refusal may be reviewed upon application for judicial review to the Tribal Court.

(2) The Tribal Council, in its discretion, may revoke or elect not to renew a retail license if it determines that the licensed location has been inactive, without good cause, for at least one year or, in the case of a retail license approved for a facility which has not been constructed, such facility has not been constructed and placed in operation within two years of approval of the license application or construction of the facility has not commenced within one year of such approval.

G. The Tribal Council shall not consider an application for any license to sell fermented malt beverages at retail if, within one year next preceding the date of the application, the Tribal Council has denied an application at the same location for the reason that the reasonable requirements of the neighborhood or the desires of the inhabitants were satisfied by the existing outlets.

H. In computing any period of time prescribed by this article, the day of the act, event, or default from which the designated period of time begins to run shall not be included. Saturdays, Sundays, and legal holidays shall be counted as any other day.

I. Application for the renewal of an existing license shall be made to the Tribal Council not less than forty-five days prior to the date of expiration. The Tribal Council may, for good cause, waive the time requirements set forth in this subsection I.

J. Licensees at facilities owned by the Tribe shall be regulated pursuant to guidelines established by the Tribal Council. However, fermented malt beverages and alcoholic beverages may not be served on the same premises at the same time. In the absence of such guidelines, the provisions of this article shall apply to licensees at facilities owned by the Tribe.

K. A licensee shall report each transfer or change of financial interest in the license to the Tribal Council within thirty days after the transfer or change. A report shall be required for transfers of capital stock of a public corporation; except that a report shall not be required for transfers of such stock totalling less than ten percent in any one year, but any transfer of a controlling interest shall be reported, regardless of size. It is unlawful for the licensee to fail to report a transfer as required by this subsection K. Failure to report a transfer shall be grounds for suspension or revocation of the license.

L. Each retail licensee who is licensed to sell for consumption on the premises or for consumption both on and off the premises shall manage such premises himself or employ a separate and distinct manager on the premises and shall report the name of such manager to the Tribal Council. Such licensee shall report any change in managers to the Tribal Council within thirty days after the change. It is unlawful for the licensee to fail to report the name of or any change in managers required by this subsection L. Such failure to report shall be ground for suspension of the license.



## **Section 2. LICENSE - APPLICATION - HEARINGS - FEES**

**A. The Tribal Council shall issue only the following classes of licenses under this article:**

- (1) Sales for consumption off the premises of the licensee;**
- (2) Sales for consumption on the premises of the licensee;**
- (3) Sales for consumption both on and off the premises of the licensee**

**B. (1) Application to sell fermented malt beverages at retail may be made to the Tribal Council prior to the construction of the building in which such beverages are to be sold. If, at the time an application to sell fermented malt beverages at retail is made to the Tribal Council, the building in which the beverages are to be sold has not been constructed, the following procedure shall be followed:**

**(a) The applicant shall file at the time of an application a plot plan and a detailed sketch for the interior of the building to be occupied and a drawing of the building to be constructed. In its discretion, the Tribal Council may impose additional requirements necessary for approval of the application.**

**(b) The premises upon which the building is to be constructed shall be posted by the applicant in such a manner that the notice is conspicuous and plainly visible to the public.**

**(2) No license shall be issued by the Tribal Council after approval of the application until the building in which the business is to be conducted is ready for occupancy, with such furniture, fixtures, and equipment in place as are necessary to comply with the provisions of this article, and then only after inspection of the premises has been made by the Tribal Council to determine that the applicant has complied with drawings and the plot plan and detailed sketch for the interior of the building submitted with the application.**

**C. Upon receipt of a complete application, except an application for renewal or for transfer of ownership, the Tribal Council shall schedule a public hearing upon the application not less than thirty days from the date of the application and shall post and publish the public notice thereof not less than ten days prior to such hearing. Public notice shall be given by the posting of a sign in a conspicuous place on the premises for which application has been made and by publication in a newspaper of general circulation.**

**D. (1) At the public hearing conducted by the Tribal Council on an application to sell fermented malt beverages, any party in interest shall be allowed to present evidence and to cross-examine witnesses.**

(2) "Party in interest," as used in this subsection D, means any of the following: The applicant; an adult resident of the neighborhood under consideration; the owner or manager of a business located in the neighborhood under consideration; or the principal or representative of any school located within five hundred feet of the premises for which the license is under consideration.

(3) The Tribal Council may, in its discretion, limit the presentation of evidence and cross-examination so as to prevent repetitive and cumulative evidence or examination.

E. The Tribal Council shall collect an annual license fee of fifty dollars.

F. Each application for a license filed with the Tribal Council shall be accompanied by an application fee in an amount determined by the Tribal Council to cover actual and necessary expenses subject to the following limitations:

(1) For a new license, not to exceed four hundred fifty dollars;

(2) For a transfer of location or ownership, not to exceed two hundred fifty dollars each;

(3) For a renewal of license, not to exceed fifty dollars. These fees are separate and distinct from the annual license fee set out in subsection E above.

### Section 3. QUALIFICATION AND CONDITIONS FOR LICENSE

A. A license shall be granted to any person, partnership, association, organization, or corporation desiring to sell any fermented malt beverage meeting the following qualifications and conditions:

(1) The licensee, if a corporation, shall be incorporated pursuant to the laws of the state of Colorado or duly qualified to do business in the state of Colorado.

(2) The licensee shall be of good character and reputation. No license shall be issued to or held by any corporation any of whose officers, directors, or stockholders hold over ten percent of the outstanding and issued stock thereof unless such director, officer, or stockholder is of good moral character and reputation. In investigating the character of an applicant or a licensee, the Tribal Council may have access to criminal history record information furnished by a criminal justice agency subject to any restrictions imposed by such agency. In the event the Tribal Council takes into consideration information concerning the applicant's criminal history record, the Tribal Council shall also consider any information provided by the applicant regarding such criminal history record, including but not limited to evidence of rehabilitation, character references, and educational achievements, especially those items pertaining to the period of time between the applicant's last criminal conviction and the consideration of his application for a

license. As used in this paragraph (2) , "criminal justice agency" means any federal, state, municipal or tribal court or any governmental agency or subunit of such agency which performs the administration of criminal justice pursuant to a statute or executive order and which allocates a substantial part of its annual budget to the administration of criminal justice.

B. In considering the issuance of licenses, the Tribal Council shall consider the reasonable requirements of the neighborhood and the desires of the adult inhabitants as evidenced by petitions, remonstrances, or otherwise.

#### Section 4. SUSPENSION AND REVOCATION - FINES

A. The Tribal Council may on its own motion or on complaint, after investigation and public hearing at which the licensee shall be afforded an opportunity to be heard, suspend or revoke any license issued by the Tribal Council for any violation by the licensee or by any of the agents, servants, or employees of such licensee of the provisions of this article, or of any of the rules or regulations authorized pursuant to this article, or of any of the terms, conditions or provisions of the license issued by the Tribal Council. Conviction of a violation of this article or any of the rules and regulations authorized and adopted pursuant to this article shall be grounds for, but shall not be required prior to, such a suspension or revocation.

B. Notice of suspension or revocation, as well as any required notice of a hearing, shall be given by mailing the same in writing by registered mail, return receipt requested, to the licensee at the address contained in such license. Any license may be temporarily suspended by the Tribal Council without notice pending any prosecution, investigation, or public hearing.

C. Nothing in this article shall prevent summary suspension of such license for a period not exceeding fifteen days. No suspension under this section shall be for a period longer than six months.

D. Whenever any license is suspended or revoked, no part of the fee paid thereof shall be returned or refunded to the holder of such license.

#### Section 5. UNLAWFUL ACTS

A. It is unlawful for any person:

(1) To sell fermented malt beverages to any person under the age of twenty-one years or between the hours of 12 midnight and 5 a.m. or to any person at times such sales are prohibited under special order of the Tribal Court.

(2) (a) To sell, serve, give away, dispose of, exchange, or deliver, or to permit the sale, serving, giving, or procuring of, any fermented malt beverage to or for any person under the age of twenty-one years, to a visibly intoxicated person, or

to a known habitual drunkard. If a person who, in fact, is not twenty-one years of age exhibits a fraudulent proof of age, any action relying on such fraudulent proof of age shall not constitute grounds for the revocation or suspension of any license issued pursuant to the provisions of this article.

(b) (i) If a licensee or his employee has reasonable cause to believe that a person is under twenty-one years of age and is exhibiting fraudulent proof of age in an attempt to obtain any fermented malt beverage, the licensee or employee shall confiscate such fraudulent proof of age, if possible, and shall, within twenty-four hours after the confiscation, turn it over to the tribal police. The failure to confiscate such fraudulent proof of age or to turn it over to the tribal police within twenty-four hours after the confiscation shall not constitute a criminal offense, notwithstanding Section 8.A of this article.

(ii) If a licensee or his employee believes that a person is under twenty-one years of age and is exhibiting fraudulent proof of age in an attempt to obtain any fermented malt beverage, the licensee or his employee or any peace or police officer, acting in good faith and upon probable cause based upon reasonable grounds therefore, may detain and question such person in a reasonable manner for the purpose of ascertaining whether the person is guilty of any unlawful act under this section. Such questioning of a person by a licensee or his employee or a peace or police officer does not render the licensee, his employee, or a peace or police officer civilly or criminally liable for slander, false arrest, false imprisonment, malicious prosecution, or unlawful detention.

(iii) Any licensee or his employee acting in good faith in accordance with the provisions of this paragraph (2) shall be immune from any liability, civil or criminal; except that a licensee or employee acting willfully or wantonly shall not be immune from liability pursuant to this paragraph (2).

(3) To obtain or attempt to obtain any fermented malt beverage by misrepresentation of age or by any other method in any place where fermented malt beverages are sold if such person is under twenty-one years of age.

(4) To have in his possession fermented malt beverages in any store, in any public place including public streets, alleys, roads, or highways, upon property owned by the Tribe, upon property held in trust for the Tribe, or inside vehicles while upon the public streets, alleys, roads, or highways if such person is under twenty-one years of age.

(5) To permit any person under twenty-one years of age of whom he may be a parent or guardian to violate the provisions of paragraph (1) or (2) of this subsection A

if said parent or guardian knows or reasonably should know of such violation.

(6) To manufacture, sell, or possess for sale any fermented malt beverage unless such person is licensed to do so pursuant to this article and any license issued to him pursuant to this article is in full force and effect; except that, when permitted by federal law or regulation, an adult may manufacture, without a license, the amount permitted thereby for personal or family use.

(7) With knowledge, to permit or fail to prevent the use of his identification, including a driver's license, by a person who is under twenty- one years of age for the unlawful purchase of any fermented malt beverage.

B. It is unlawful for any person licensed pursuant to this article:

(1) To give away fermented malt beverages for the purpose of influencing the sale of any particular kind, make, or brand of any malt beverage and to furnish or supply any commodity or article at less than its market price for said purpose, except advertising material and signs.

(2) (a) On or after July 30, 1987, but prior to three years from said date, to fail to display at all times in a prominent place on premises licensed for retail sale a printed card with a minimum height of fourteen inches and width of eleven inches with each letter to be a minimum of one-half inch in height, which shall read as follows:

#### WARNING

IT IS ILLEGAL TO SELL 3.2 BEER TO ANY PERSON UNDER THE LEGAL DRINKING AGE, AND IT IS ILLEGAL FOR ANY PERSON UNDER THE LEGAL DRINKING AGE TO POSSESS OR TO ATTEMPT TO PURCHASE THE SAME.

IDENTIFICATION CARDS WHICH APPEAR TO BE FRAUDULENT WHEN PRESENTED BY PURCHASERS MAY BE CONFISCATED BY THE ESTABLISHMENT AND TURNED OVER TO A LAW ENFORCEMENT AGENCY.

IT IS ILLEGAL IF YOU ARE THE LEGAL DRINKING AGE OR OLDER FOR YOU TO PURCHASE 3.2 BEER FOR A PERSON UNDER THE LEGAL DRINKING AGE.

FINES AND IMPRISONMENT MAY BE IMPOSED BY THE COURTS FOR VIOLATION OF THESE PROVISIONS.

(b) On or after three years from July 30, 1987, to fail to display at all times in a prominent place on premises for retail sale a printed card with a

minimum height of fourteen inches and a width of eleven inches with each letter to be a minimum of on-half inch in height, which shall read as follows:

### WARNING

IT IS ILLEGAL TO SELL 3.2 BEER TO ANY PERSON UNDER TWENTY-ONE YEARS OF AGE, AND IT IS ILLEGAL FOR ANY PERSON UNDER TWENTY-ONE YEARS OF AGE TO POSSESS OR TO ATTEMPT TO PURCHASE THE SAME.

IDENTIFICATION CARDS WHICH APPEAR TO BE FRAUDULENT WHEN PRESENTED BY PURCHASERS MAY BE CONFISCATED BY THE ESTABLISHMENT AND TURNED OVER TO A LAW ENFORCEMENT AGENCY.

IT IS ILLEGAL IF YOU ARE TWENTY-ONE YEARS OF AGE OR OLDER FOR YOU TO PURCHASE 3.2 BEER FOR A PERSON UNDER TWENTY-ONE YEARS OF AGE.

FINES AND IMPRISONMENT MAY BE IMPOSED BY THE COURTS FOR VIOLATION OF THESE PROVISIONS.

(3) To permit any fermented malt beverages to be sold or dispensed by any person under the age of eighteen years.

C. It is unlawful for any manufacturer or wholesaler to sell, deliver, or cause to be delivered to any retail licensee any beverage containing alcohol in excess of three and two-tenths percent by weight, or for any retailer to sell, possess, or permit the consumption on the premises of any of the beverages containing alcohol in excess of three and two-tenths percent by weight, or for any retail licensee to hold or operate under any license for the sale of any beverages containing alcohol in excess of three and two-tenths percent by weight for the same premises. Any violation by any licensee of the provisions of this subsection C shall immediately cause the cancellation of the license granted under this article.

D. (1) Notwithstanding the increase in the legal drinking age from eighteen years of age to twenty-one years of age as contained in this section, any person who is eighteen years of age or older on July 29, 1987, may continue to purchase, possess, and consume any fermented malt beverage without violating the provisions in this section. It is likewise lawful for any person to sell, serve, give away, dispose of, exchange, or deliver, or to permit the sale, serving, giving, or procuring of, any fermented malt beverage to or for any person eighteen years of age or older on July 29, 1987.

(2) This subsection D is repealed, effective three years from July 30, 1987.

## **Section 6. FEDERAL MANDATE - EFFECT ON LAW**

If the Congress of the United States repeals the mandate established by the "Surface Transportation Assistance Act of 1982" relating to the national uniform drinking age of twenty-one, as found in section 6 of Public Law 98-363, or the United States Supreme Court declares the provisions to be unconstitutional or otherwise invalid, the pertinent age in section 8 shall be nineteen years of age.

## **Section 7. UNLAWFUL FINANCIAL INTEREST**

A. It is unlawful for any wholesaler or manufacturer to furnish, supply, or loan in any manner, directly or indirectly, to any retail licensee licensed pursuant to this article any financial assistance or any equipment, fixtures, chattels, or furnishings used in the storing, handling, serving, or dispensing of food or fermented malt beverages within the premises or for making any structural alterations or improvements in or on the building on which such premises are located; but this section shall not apply to signs or displays within such premises.

B. It is unlawful for any retail licensee licensed pursuant to this article to receive and obtain from any wholesaler or manufacturer, directly or indirectly, any financial assistance, or any equipment, chattels, or furnishings used in the storing, handling, serving, or dispensing of food or fermented malt beverages within the premises, or to ask for any structural alterations or improvements in or on the building on which such premises are located; but this section shall not apply to signs or signs or displays within such premises, or to advertising materials which are intended primarily to advertise the product of the wholesaler or manufacturer and which have only negligible value in themselves, or to the inspection and servicing of malt beverage dispensing equipment to the extent necessary for the maintenance of reasonable standards of purity, cleanliness, and health.

C. It is unlawful for any person of a corporation holding any license pursuant to this article, or any person who is a stockholder, director, or officer of any corporation holding a license pursuant to this article, to be a stockholder, director, or officer or to be interested, directly or indirectly, in any person or corporation that lends money to any person or corporation licensed pursuant to this article, but this subsection C shall not apply to banks, savings and loan associations, or industrial banks supervised and regulated by an agency of the state or federal government or to FHA-approved mortgages, or to officers, directors, or stockholders thereof; and it is unlawful for any person or corporation licensed pursuant to this title, or any stockholder, director, or officer of such corporation, to make any loan or be interested, directly or indirectly, in any loan to any other licensee under this article.

D. It is unlawful for any owner, part owner, shareholder, stockholder, or person interested, directly or indirectly, in any retail business or establishment of a retail licensee licensed pursuant to this article to enter into any agreement with any person or party to receive, possess, or accept any money, fixtures, supplies, or things of value from any person or party whomsoever, whereby a retail licensee licensed pursuant to this article may be influenced or

caused directly or indirectly to buy, sell, dispense, or handle the product of any manufacturer of fermented malt beverages; but this section shall not apply to displays within such premises.

E. Any transaction, agreement, arrangement prohibited by this article, if made and entered into by and between the persons and parties described and referred to in this article, shall be unlawful and void, and any obligation or liability arising out of such transaction, agreement, or arrangement shall be unenforceable in tribal court by or against any such persons and parties entering into such transaction, agreement, or arrangement.

F. The purpose and intent of the provisions of this section is to prohibit and prevent the control of the retail outlets for the sale of fermented malt beverages by any persons or parties other than the retail licensee licensed pursuant to the provisions of this article.

#### **Section 8. VIOLATION - PENALTY**

Any person violating any of the provisions of this article or any of the rules and regulations authorized and adopted pursuant to this article or any amendments or additions thereto is guilty of a liquor violation of the Criminal Code of the Southern Ute Indian Tribal Code and, upon conviction thereof, shall be punished by a fine of not more than five thousand dollars for each offense, or by imprisonment for not more than one year, or by both such fine and imprisonment; and, upon conviction thereof, any license granted and issued pursuant to the provisions of this article to said person so convicted may be revoked, and no such license shall thereafter be granted or issued to said person so convicted.

#### **Section 9. LAWFUL ACTS**

It is lawful for a person under eighteen years of age who is under the supervision of a person on the premises over eighteen years of age to be employed in a place of business where fermented malt beverages are sold at retail in containers for off-premises consumption. During the normal course of such employment, any person under eighteen may handle and otherwise act with respect to fermented malt beverages in the same manner as he does with other items sold at retail; except that no person under eighteen shall sell or dispense fermented malt beverages, check age identification, or make deliveries beyond the customary parking area for the customers of the retail outlet. This section shall not be construed to permit the violation of any other provisions of this section under circumstances not specified in this section.

#### **Section 10. JUDICIAL REVIEW**

Any person applying to the tribal courts for a review of the Tribal Council's decision shall apply for review within thirty days after the date of decision and shall be required to pay the cost of preparing a transcript of proceedings before the Tribal Council when such a transcript is demanded by the person taking the appeal or when such a transcript is furnished by the Tribal Council pursuant to court order. Such court shall determine by a clear and convincing evidence whether said refusal was arbitrary and without good cause, and, if so finding, said court shall



order the Tribal Council to issue said license.

## **ARTICLE IV. SPECIAL EVENT LICENSE**

### **Section 1. SPECIAL EVENT LICENSES AUTHORIZED**

The Tribal Council may issue a special event license for the sale, by the drink only, of fermented malt beverages, or alcoholic beverages to organizations and political candidates qualifying under this article, subject to the applicable provisions of Article I, Article II, and Article III of this Title and to the limitations imposed by this Article IV.

### **Section 2. QUALIFICATIONS OF ORGANIZATIONS FOR LICENSES**

A. (1) A special event license issued under this article may be issued to an organization, which has been incorporated under the laws of the state of Colorado for purposes of a social, fraternal, patriotic, political, or athletic nature, and not for pecuniary gain, or which is a regularly chartered branch, lodge, or chapter of a national organization or society organized for such purposes and being non-profit in nature, or which is a regularly established religious or philanthropic institution, to any political candidate who has filed the necessary reports and statements with the secretary of state of Colorado, and to any organization or tribal political candidate determined by the Tribal Council to meet the same general guidelines as above.

(2) A special event license may be issued to any facility owned by the Tribe at which productions or performances of an artistic or cultural nature are presented for use at such facilities or at recreation facilities owned by the Tribe, subject to the provisions of this article.

### **Section 3. GROUNDS FOR ISSUANCE OF SPECIAL EVENT LICENSES**

A. A special event license may be issued only upon a satisfactory showing by an organization or a qualified political candidate that other existing facilities are not available or are inadequate for the needs of the organization or political candidate and:

(1) Existing licensed facilities are inadequate for the purposes of serving members or guests of the organization or political candidate and that additional facilities are necessary by reason of the nature of the special event being scheduled; or

(2) The organization or political candidate is temporarily occupying premises other than the regular premises of such organization or candidate during such special events and that members of the general public will be served during such special events.

B. A special event license may be issued under this section notwithstanding the fact that the special event is to be held on premises licensed under the provisions of Article I or Article

III of this title. The holder of a special event license issued pursuant to this subsection (B) shall be responsible for any violation of Article II or Article III of this title.

C. Nothing in this article shall be construed to prohibit the sale or dispensing of fermented malt beverages or alcoholic beverages on any closed street, highway, or public byway for which a special event license has been issued.

#### **Section 4. FEES FOR SPECIAL EVENT LICENSES**

A. Special event license fees are:

(1) Fifty dollars per day for an alcoholic beverage license.

(2) Twenty-five dollars per day for a fermented malt beverage license.

B. All such fees are payable in advance to the Finance Officer of the Southern Ute Indian Tribe, and the Tribe Council may require any applicant to post a performance bond to assure compliance with the provisions of this article.

#### **Section 5. RESTRICTIONS RELATED TO SPECIAL EVENT LICENSES**

A. Each special license shall be issued for a specific location and is not valid for any other location.

B. A special event license authorizes sale of the beverage or the liquors specified only during the following hours:

(1) Between the hours of seven a.m. of the day specified in an alcoholic beverage license and until two a.m. of the day immediately following.

(2) Between the hours of seven a.m. of the day specified in a fermented malt beverage license and until midnight of the same day.

C. A special event license may not be issued to any organization for more than ten days in one calendar year. This provision does not apply to tribally owned facilities.

D. No issuance of a special event license shall have the effect of requiring the Tribal Council to issue such a license upon any subsequent application by an organization.

E. Sandwiches or other food snacks shall be available during all hours of service of alcoholic beverages, but prepared meals need not be served. This provision does not apply to tribally owned facilities.

## **Section 6. GROUND FOR DENIAL OF SPECIAL EVENT LICENSES**

A. The Tribal Council may deny the issuance of a special event license upon the grounds that such issuance would be injurious to the public welfare by reason of the nature of the special event, its location within the reservation, or the failure of the applicant in a past special event to conduct such event in compliance with applicable laws and regulations.

B. Public notice of the proposed license and of the procedure for protesting issuance of the license shall be conspicuously posted at the proposed location for at least ten days before approval of the license by the Tribal Council.

## **Section 7. APPLICATIONS FOR SPECIAL EVENT LICENSES**

A. Applications for a special event license shall be made with the Tribal Council on forms provided by the Tribal Council and shall be verified by oath or affirmation of an officer of the organization or of the political candidate making application.

B. In addition to the fees provided in section 4 of this article, applications shall be accompanied by such fee as the Tribal Council may fix, not to exceed twenty-five dollars, for both investigation and issuance of license.

C. The Tribal Council shall cause a hearing to be held if, after investigation and upon review of the contents of any protest filed by affected persons, sufficient grounds appear to exist for denial of a license. Any protest shall be filed by affected persons within ten days after the date of notice pursuant to section 6 of this article. Any hearing required by this subsection (C) or any hearing held at the discretion of the Tribal Council shall be held at least ten days after the initial posting of the notice, and notice thereof shall be provided the applicant and any person who has filed a protest.

## **Section 8. EXEMPTIONS**

An organization otherwise qualifying under section 2 of this article shall be exempt from the provisions of this part and shall be deemed to be dispensing gratuitously and not to be selling fermented malt beverages or malt, spirituous, or vinous liquors when it serves, by the drink, fermented malt beverages or malt, spirituous, or vinous liquors to its members and their guests at a private function held by such organization or unlicensed premises so long as an admission or other charge, if any, required to be paid or given by any such member as a condition to entry or participation in the event is uniform as to all without regard to whether or not a member or such member's guest consumes or does not consume such beverages or liquors.



**In accordance with Resolution No. 2014-215, S.U.I.T.C. Title 16 (Liquor Code), Article 2 section 7 and Article 3 section 10 have been revised. The revised provisions now read as follows:**

**Article II. Retail Sales of Alcoholic Beverages, Section 7 – Judicial Review**

Any person applying for a review of the Tribal Council's decision shall apply to the Administrative Appeals and Hearings Office for review within thirty days after the date of decision and shall be required to pay the cost of preparing a transcript of proceedings before the Tribal Council when such a transcript is demanded by the person taking the appeal. The Administrative Appeals and Hearings Office shall determine by clear and convincing evidence whether said refusal was arbitrary and without good cause, and, if so finding, said Office shall order the Tribal Council to issue said license. The decision of the Administrative Appeals and Hearings Office may be appealed to the Southern Ute Indian Tribal Court in accordance with Title I, Article 5 of this Code.

**Article III. Retail Sales of Fermented Malt Beverages, Section 10 – Judicial Review**

Any person applying for a review of the Tribal Council's decision shall apply to the Administrative Appeals and Hearings Office for review within thirty days after the date of decision and shall be required to pay the cost of preparing a transcript of proceedings before the Tribal Council when such a transcript is demanded by the person taking the appeal. The Administrative Appeals and Hearings Office shall determine by clear and convincing evidence whether said refusal was arbitrary and without good cause, and, if so finding, said Office shall order the Tribal Council to issue said license. The decision of the Administrative Appeals and Hearings Office may be appealed to the Southern Ute Indian Tribal Court in accordance with Title I, Article 5 of this Code.



**Southern Ute Indian Tribal Code, Title 16, Liquor Code, Article 2 section 7 and Article 3 section 10**

**Article II. Retail Sales of Alcoholic Beverages, Section 7 – Judicial Review**

Any person applying ~~to the tribal courts~~ for a review of the Tribal Council's decision shall apply to the Administrative Appeals and Hearings Office for review within thirty days after the date of decision and shall be required to pay the cost of preparing a transcript ~~offer~~ proceedings before the Tribal Council when such a transcript is demanded by the person taking the appeal ~~or when such a transcript is furnished by the Tribal Council pursuant to court order~~. The Administrative Appeals and Hearings Office shall determine by a clear and convincing evidence whether said refusal was arbitrary and without good cause, and, if so finding, said ~~Office court~~ shall order the Tribal Council to issue said license. The decision of the Administrative Appeals and Hearings Office may be appealed to the Southern Ute Indian Tribal Court in accordance with Title I, Article 5 of this Code.

**Article III. Retail Sales of Fermented Malt Beverages, Section 10 - Judicial Review**

Any person applying ~~to the tribal courts~~ for a review of the Tribal Council's decision shall apply to the Administrative Appeals and Hearings Office for review within thirty days after the date of decision and shall be required to pay the cost of preparing a transcript of proceedings before the Tribal Council when such a transcript is demanded by the person taking the appeal ~~or when such a transcript is furnished by the Tribal Council pursuant to court order~~. The Administrative Appeals and Hearings Office ~~Such court~~ shall determine by a clear and convincing evidence whether said refusal was arbitrary and without good cause, and, if so finding, said ~~Office court~~ shall order the Tribal Council to issue said license. The decision of the Administrative Appeals and Hearings Office may be appealed to the Southern Ute Indian Tribal Court in accordance with Title I, Article 5 of this Code.







United States Department of the Interior  
BUREAU OF INDIAN AFFAIRS  
Southern Ute Agency  
P.O. Box 315  
Ignacio, Colorado 81137



DEC 12 2014

IN REPLY REFER TO:  
Office of the Superintendent

Honorable Melvin J. Baker  
Acting Chairman, Southern Ute Tribe  
P.O. Box 737  
Ignacio, Colorado 81137

Dear Acting Chairman Baker:

This office is in receipt of Southern Ute Tribal Council Resolution No. 2014-215 which approves revisions to replace and incorporate tribunals to be consistent with the Tribe's Administrative Appeals and Hearings Code (Enacted and Approved 08/04/2014) for the following:

- Southern Ute Indian Tribal Code, Title 1, Article 4, Collection of Debts Owed to the Southern Ute Indian Tribe and Protection of Financial Resources, sections 108, 109, 110 and 111;
- Southern Ute Indian Tribal Code, Title 6, Children's Code, Article 3, Sections 104, 105, 106, 107 and 108;
- Southern Ute Indian Tribal Code, Title 10, Exclusion and removal Code, sections 103, 104, 105 and 106;
- Southern Ute Indian Tribal Code, Title 12, range Code, sections 105, 106, and 107;
- Southern Ute Indian Tribal Code, Title 16, Liquor Code, Article 2 section 7 and Article 3 section 10;
- Southern Ute Indian Tribal Code, Title 21, Severance Tax Code, Article 1 section 102 and Article 2 section 112;
- Permanent Fund Personnel Policy No. III.G., Grievance & Appeal;
- Tribal Health Department Clinical Staff By-Laws, Subarticle II; 2140.

Upon a review of the proposed revisions, I hereby approve such in accordance with the authority vested in me.

*Phyllis Banerjee*  
Superintendent

cc: Lorelyn Hall, SUIT, Legal Department

**RESOLUTION  
OF THE  
SOUTHERN UTE INDIAN TRIBAL COUNCIL  
November 4, 2014**

**WHEREAS**, authority is vested in the Southern Ute Indian Tribal Council by the Constitution adopted by the Southern Ute Indian Tribe, and approved November 4, 1936, and amended October 1, 1975, and August 27, 1991, to act for the Southern Ute Indian Tribe; and

**WHEREAS**, pursuant to Article VII, Section 1(e) of the Constitution, the Tribal Council has the power to enact ordinances and codes to protect the peace, safety, property, health and general welfare of the members of the Southern Ute Indian Tribe; and

**WHEREAS**, Tribal Council desired to establish an independent body to serve as a fair and impartial forum for hearing cases arising under applicable tribal codes, policies, ordinances, and procedures and therefore enacted the Administrative Appeals and Hearings Office Code, which established the Tribe's Administrative Appeals and Hearings Office; and

**WHEREAS**, prior to the establishment of the Administrative Appeals and Hearings Office, certain Tribal Code provisions and tribal policies, ordinances, and procedures required ad hoc or standing committees to act as tribunals to conduct administrative hearings to address matters that arose under those codes, policies, ordinances, and procedures; and

**WHEREAS**, the Administrative Appeals and Hearings Office will not conduct all tribal hearings and appeals, but will conduct just those hearings and appeals that arise under the tribal codes, policies, ordinances, and procedures identified in the Code; and

**WHEREAS**, the Administrative Appeals and Hearings Office will replace the tribunals currently provided for in those identified codes, policies, ordinances, and procedures and will supersede the conflicting provisions of those identified codes, policies, ordinances, and procedures; and

**WHEREAS**, notwithstanding the supersession clause in the Administrative Appeals and Hearings Office Code, the identified codes, policies, ordinances, and procedures have been revised where necessary to make explicit the role of the Administrative Appeals and Hearings Office; and

**WHEREAS**, the Southern Ute Indian Tribal Council has reviewed the proposed revisions to those affected codes, policies, ordinances, and procedures.

**NOW, THEREFORE BE IT RESOLVED**, that the Southern Ute Indian Tribal Council hereby approves the proposed revisions to the following affected codes, policies, ordinances, and procedures, as shown on Exhibit 1, attached hereto:

**RESOLUTION NO. 2014-215**

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**November 4, 2014**

- Southern Ute Indian Tribal Code, Title 1, Article 4, Collection of Debts Owed to the Southern Ute Indian Tribe and Protection of Financial Resources, sections 108, 109, 110, and 111;
- Southern Ute Indian Tribal Code, Title 6, Children's Code, Article 3, sections 104, 105, 106, 107, and 108;
- Southern Ute Indian Tribal Code, Title 10, Exclusion and Removal Code, sections 103, 104, 105, and 106;
- Southern Ute Indian Tribal Code, Title 12, Range Code, sections 105, 106, and 107;
- Southern Ute Indian Tribal Code, Title 16, Liquor Code, Article 2 section 7 and Article 3 section 10;
- Southern Ute Indian Tribal Code, Title 21, Severance Tax Code, Article 1 section 102 and Article 2 section 112;
- Permanent Fund Personnel Policy No. III.G., Grievance & Appeal;
- Tribal Health Department Clinical Staff By-laws, Subarticle II; 2140.

**BE IT FURTHER RESOLVED**, that the Southern Ute Indian Tribal Council's approval of the affected codes is subject to approval of those codes by the Bureau of Indian Affairs.

**BE IT FURTHER RESOLVED**, that the Tribe's Department of Tribal Information Services is hereby directed to distribute the revised codes to all code holders.

**BE IT FURTHER RESOLVED**, that the Chairman of the Southern Ute Indian Tribal Council or, in his absence, the Vice Chairman, or, in the absence of both the Chairman and the Vice Chairman, a duly appointed Acting Chairman is hereby authorized to sign the necessary documents and take all necessary actions to carry out the intentions of this resolution.

This resolution was duly adopted on the 4<sup>th</sup> day of November, 2014.



Mr. Clement J. Frost, Chairman  
Southern Ute Indian Tribal Council

**RESOLUTION NO. 2014-215**

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**November 4, 2014**

**C E R T I F I C A T I O N**

This is to certify that there were ( 5 ) of the regularly elected Southern Ute Indian Tribal Council members present at the above meeting, at which ( 4 ) voted for, and ( 0 ) against, it being a quorum and the above resolution was passed, the Chairman not being permitted to vote in this instance due to a Constitutional provision.

  
\_\_\_\_\_  
Ms. Josephine Jack, Recording Secretary  
Southern Ute Indian Tribal Council