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Ordinance No. _____

MAY - 1 2013

AN ORDINANCE OF AMEND TITLE 1, CHAPTER 2,
OF THE LAW AND ORDER CODE OF THE UTE INDIAN TRIBE

AGENCY

Superintendent

WHEREAS: The Tribal Business Committee ("Business Committee") of the Ute Indian Tribe of the Uintah and Ouray Reservation ("Tribe") is empowered by Article VI, Section 1(f), (k) and (l) of the Constitution and By-Laws of the Tribe to regulate the economic affairs of the Tribe, to provide for the maintenance of law and order and the administration of justice, and to safeguard and promote the peace, safety, morals and general welfare of the tribal membership; and

WHEREAS: The Business Committee adopted Title 1, Chapter 2 of the Law and Order Code to delineate the Tribe's jurisdictional authority and to insure maximum protection for the Tribe, its members, and other residents of the Reservation; and

WHEREAS: Since Title 1, Chapter 2 was last amended in 1987 through Ordinance No. 87-04, the U.S. Tenth Circuit Court of Appeals issued its ruling on the jurisdictional boundaries of the Uintah Valley Reservation and the Uncompahgre Reservations in *Ute Indian Tribe v. State of Utah*, 114 F.3d 1513, 1519 (10th Cir. 1997); and

WHEREAS: Since the 1987 amendment to Title 1, Chapter 2, lands known as the Naval Oil Shale Reserve-2 lands ("NOSR-2 lands") were returned to the Tribe through an Act of Congress on October 30, 2000 (114 Stat. 1654); and

WHEREAS: Since the amendment to Title 1, Chapter 2 in 1987, the United States Supreme Court has issued various rulings defining the extent of Indian tribes' regulatory and adjudicatory jurisdiction; and

WHEREAS: Since the amendment to Title 1, Chapter 2 in 1987, questions have arisen relating to the Ute Tribe's jurisdictional authority over the Tribe's water, air, environment and other natural resources, as well as questions relating to the Tribe's jurisdictional authority over various categories of non-members; and

WHEREAS: The Business Committee directed the Tribe's General Counsel to amend Title 1, Chapter 2 of the Law and Order Code to insure that the sovereignty of the Tribe is defined consistent with existing law and to insure maximum protection for the Tribe, its members, and other residents of the Reservation; and

WHEREAS: The Business Committee has reviewed the proposed Amendments attached hereto and has determined that it is in the best interests of the Tribe to adopt the Amendments.

LAW AND ORDER CODE

TITLE I, UTE INDIAN LAW AND ORDER CODE, AMENDED AND RESTATED

BE IN ENTACED BY THE UINTAH AND OURAY TRIBAL BUSINESS COMMITTEE OF THE UTE INDIAN TRIBE by virtue of its inherent authority as a sovereign Indian tribe to regulate the use and disposition of property of the Uintah and Ouray Reservation and to control the conduct of persons thereon, such authority being recognized and confirmed by the Act of Congress of June 18, 1934, 48 Stat. 984, and pursuant to the powers of the Tribal Business Committee, as enumerated in the Constitution of the Ute Indian Tribe at Article VI, Section (1) to safeguard and promote the peace, safety, morals and general welfare of the Tribe by regulating the use and disposition of property of the Reservation, that it hereby amends the Ute Indian Law and Order Code, said Ute Indian Law and Order Code attached hereto and to appear as Title I of the Ute Law and Order Code.

The Law and Order Code of the Ute Indian Tribe of the Uintah and Ouray Reservation

PREAMBLE

This Law and Order Code for the Ute Indian Tribe of the Uintah and Ouray Reservation is established for the purposes of strengthening Tribal self-government, providing for the judicial needs of the Reservation, and thereby assuring the maintenance of law and order on the Reservation.

TITLE I - GENERAL PROVISIONS

CHAPTER 1. PRELIMINARY PROVISIONS

§1-1-1. Constitutional Authority.

This Law and Order Code is adopted pursuant to the authority vested in the Tribal Business Committee under Article VI of the Constitution of the Ute Indian Tribe of the Uintah and Ouray Reservation.

§1-1-2. Name of Code.

This Law and Order Code shall be known as The Law and Order Code of the Ute Indian Tribe of the Uintah and Ouray Reservation and may be referred to as the Ute Law and Order Code, or Law and Order Code, and may be abbreviated as the U.L.O.C. Sub-codes and rules included herein may be cited by the name given in the sub-code or rule heading.

§1-1-3. Prior Inconsistent Ordinances Repealed.

Any and all ordinances of the Tribal Business Committee which conflict in any way with the provisions of this Law and Order Code are hereby repealed to the extent that they are inconsistent with or conflict with, or are contrary to the spirit and/or purpose of this Law and Order Code.

§1-1-4. C.F.R. No Longer Applicable.

Any and all provisions of the Code of Federal Regulations, Title 25, Part II, as presently constituted or hereafter constituted which deal with subjects covered in this Law and Order Code or are otherwise inconsistent with or in conflict with the provisions of this Law and Order Code or the purpose and/or spirit of this Law and Order Code are declared to be no longer applicable to the Uintah and Ouray Reservation.

§1-1-5. Amendment of Law and Order Code.

This Law and Order Code may be amended, additions made hereto, or deletions made herefrom in the manner provided for the adoption of tribal ordinances. Amendments and additions to this Law and Order Code shall become a part thereof for all purposes and shall be codified and incorporated herein in a manner consistent with the numbering and organization hereof.

CHAPTER 2. JURISDICTION

§1-2-1. Jurisdiction - Tribal Policy.

It is hereby declared as a matter of Tribal policy and legislative determination, that the public interest and the interests of the Ute Indian Tribe demand that the Tribe provide itself, its members, and other persons living within the territorial jurisdiction of the Tribe as set forth in Article I of the Constitution of the Ute Indian Tribe with an effective means of redress in both civil and criminal cases against members and non-Tribal members who through either their residence, presence, business dealings, other actions or failures to act, or other significant minimum contacts with this Reservation and/or its residents commit criminal offenses against the Tribe or incur civil obligations to persons or entities entitled to the tribe's protection. This action is deemed necessary as a result of the confusion and conflicts caused by the increased contact and interaction between the Tribe, its members, and other residents of the Reservation and other persons and entities over which the Tribe has not previously elected to exercise jurisdiction. The

jurisdictional provisions of this Law and Order Code, to insure maximum protection for the Tribe, its members and other residents of the Reservation, should be applied equally to all persons, members and non-members alike.

§1-2-2. Territorial Jurisdiction.

(1) The territorial jurisdiction of the Ute Indian Tribe shall extend to Ute Indian Country which is defined as:

(a) all Indian trust lands and non-trust lands within the Uintah Valley Reservation established by the Executive Order of October 3, 1861, except for lands that passed from trust to fee status under the 1902-1905 allotment legislation as determined by the U.S. Tenth Circuit Court of Appeals in *Ute Indian Tribe v. State of Utah*, 114 F.3d 1513 (10th Cir. 1997);

(b) all land within the exterior boundary of the Uncompahgre Reservation as established by the Executive Order of January 5, 1882;

(c) all lands conveyed to the Tribe under the acts of Congress of March 11, 1948 (62 Stat. 72), and October 30, 2000 (114 Stat. 1654);

(d) all land owned in fee by the Ute Tribe;

(e) all rights-of-way and roads within the Tribe's territorial jurisdiction;

(f) the air within and airspace above the Tribe's territorial jurisdiction;

(g) all minerals and mineral interests owned by or held in trust for the Ute Tribe, and all waters, water storage facilities and irrigation works owned by or held in trust for the Ute Tribe and Ute Indian allottees, including the Midview Reservoir and the property appurtenant to the Midview Reservoir; and

(h) all property, minerals and natural resource interests that may hereafter be added to the Tribe's reservations, owned in fee, or held in trust for the Tribe under any law of the United States or otherwise.

(2) The jurisdiction of the Courts of the Ute Indian Tribe shall extend beyond the territorial limitation set forth next above, to effectuate the jurisdictional provisions set forth below, to the greatest extent permissible by law.

§1-2-3. Personal Jurisdiction and Long Arm Civil Jurisdiction.

(1) As used in these jurisdictional provisions, the word “person” shall include any individual, executor, administrator, trustee or other personal representative, or a corporation, partnership, association or any other legal or commercial entity, whether or not a member of, or domiciled within, the Uintah and Ouray Reservation, and whether or not organized under the laws of the Ute Tribe. The term includes all persons, natural or fictitious, of any kind.

(2) Subject to any contrary provisions, exceptions or limitations contained in either federal law, the Tribal Constitution, or as expressly stated elsewhere in this Law and Order Code, the Courts of the Ute Indian Tribe shall have civil and criminal jurisdiction over the following persons:

A. Any person residing, domiciled, employed, located or present within the Tribe’s territorial jurisdiction, including any child or individual specified under Section 4-3-1(2)(3) and (4), Title IV – Ute Indian Juvenile Code, of the Ute Law and Order Code for:

- i) Any civil cause of action; or
- ii) Any charge of criminal offense prohibited by this Code or other ordinance of the Tribe when the offense is alleged to have occurred within the Tribe’s territorial jurisdiction; or
- iii) Proceedings before the Ute Tribal Juvenile Court.

B. Any person who assumes tribal relations with a member of the Ute Tribe through marriage, cohabitation, adoption, guardianship, or other similar familial and/or enduring relationship with the Tribe or its individual tribal members, for any civil cause of action or charge of criminal offense for any act expressly prohibited by this Code or other ordinance of the Tribe arising out of, or related to, such familial and/or enduring relationship.

C. Any person who transacts, conducts, or performs any business or activity within the Tribe’s territorial jurisdiction, either in person or by an agent or representative, including the supply of services or things into the Tribe’s territorial jurisdiction, or contracting to insure any person, property or risk located inside the Tribe’s territorial jurisdiction, for any civil cause of action or charge of criminal offense for any act expressly prohibited by this Code or other ordinance of the Tribe arising from such business or activity.

D. Any person who owns an interest in, uses, or possesses any property within the Tribe’s territorial jurisdiction, including the actual occupancy or lease of trust land, allotted land, fee land, or any other property within the Tribe’s territorial jurisdiction, for any civil cause of action or charge of criminal offense prohibited by this Code or other ordinance of the Tribe arising from such ownership, use or possession.

E. Any person who by any act or omission causes a tortious injury to the Tribe, tribal members, or to any trust land, allotted land, fee land, or any other property within the

Tribe's territorial jurisdiction, either in person or by an agent or representative, for any civil cause of action arising from such act or conduct.

F. Any person who directly or indirectly causes an environmental hazard or degradation of the air, waters, flora, fauna, cultural artifact or other resources within the Tribe's territorial jurisdiction, for any civil cause of action or charge of criminal offense prohibited by this Code or other ordinance of the Tribe arising from or related to such environmental hazard or degradation.

G. Any action or inaction outside the Tribe's territorial jurisdiction which causes actual injury or damage inside the Tribe's territorial jurisdiction, where such injury or damage was reasonably foreseeable.

H. Any person who commits a criminal offense prohibited by this Code or other ordinance of the Tribe, by his own conduct or the conduct of another for which he is legally accountable, if:

- i) The conduct occurs either wholly or partly within the Tribe's territorial jurisdiction; or
- ii) The conduct which occurs outside the Tribe's territorial jurisdiction constitutes an attempt, solicitation, or conspiracy to commit an offense within the Tribe's territorial jurisdiction, and an act in furtherance of the attempt or conspiracy occurs within the Tribe's territorial jurisdiction; or
- iii) The conduct which occurs within the Tribe's territorial jurisdiction constitutes an attempt, solicitation, or conspiracy to commit in another jurisdiction an offense prohibited by this Code or ordinances of the Tribe and such other jurisdiction.

(3) None of the foregoing bases of jurisdiction is exclusive, and jurisdiction over a person may be established upon any one or more of them as applicable.

(4) Implied Consent. Any person entering the territorial jurisdiction of the Ute Tribe as defined in Section 1-2-2 shall be automatically subject to the jurisdiction of the Courts of the Ute Indian Tribe.

(5) The Courts of the Ute Indian Tribe shall not have jurisdiction to hear claims against the Ute Indian Tribe of the Uintah and Ouray Reservation, the Tribal Business Committee of the Uintah and Ouray Reservation, or any Tribal officers or employees in their official capacities, except that the Ute Indian Tribal Court shall have jurisdiction to hear actions brought by the Ute Indian Tribe against the bonds of officers or employees and actions against officers or employees for restitution of Tribal money, property or services wrongfully converted to their personal benefit.

(6) The Courts of the Ute Indian Tribe shall not have jurisdiction to hear claims against the United States Government or the State of Utah and its political subdivisions, or any of their officers or employees in their official capacities, except as otherwise provided by law.

§1-2-4. Jurisdiction Over Property.

Subject to any contrary provisions, exceptions, or limitations contained in either federal laws and regulations, the Tribe Constitution, or as expressly stated elsewhere in this Law and Order Code, the Courts of the Ute Indian Tribe shall have jurisdiction over any real or personal property located within the Tribe's territorial jurisdiction to determine the ownership thereof or rights therein or to determine the application of such property to the satisfaction of a claim for which the owner of the property may be liable.

§1-2-5. General Subject Matter Jurisdiction; Limitations.

Subject to any contrary provisions, exceptions, or limitations contained in either federal law, or the Tribal Constitution, the Courts of the Ute Indian Tribe shall have jurisdiction over all civil causes of action, and over all criminal offenses prohibited by this Code except the Courts of the Ute Indian Tribe shall not assume jurisdiction over any civil or criminal matter which does not involve either the Tribe, its officers, agents, employees, property or enterprises, or a member of the Tribe, or a member of a federally recognized tribe, if some other forum exists for the handling of the matter and if the matter is not one in which the rights of the Tribe or its members may be directly or indirectly affected.

§1-2-6. Concurrent Jurisdiction.

The jurisdiction invoked by this Code over any person, cause of action, or subject shall be concurrent with any valid jurisdiction over the same of the courts of the United States, any state, or any political subdivision thereof; provided, however, this Code does not recognize, grant, or cede jurisdiction to any other political or governmental entity in which jurisdiction does not otherwise exist in law.

§1-2-7. Exclusive Original Jurisdiction

The Courts of the Ute Indian Tribe shall have exclusive jurisdiction to construe and enforce provisions of the Constitution, Bylaws, and Ordinances of the Ute Tribe, to deal with alleged violations of the Indian Civil Rights Act of 1968 (ICRA), 25 U.S.C. §§ 1301-1303, and to enforce the ICRA where tribal agencies or officers act outside the scope of their authority. Such jurisdiction shall exist for the purposes of granting declaratory and injunctive relief.

§1-2-8 Tribal Immunity

Except as provided under Ordinance No. 87-04, the Ute Indian Tribe, its Business Committee, its agencies, departments, chartered organizations, corporations or entities of any kind, and its officers, employees, agents, contractors, and attorneys, in the performance of their duties, shall be immune from suit, except where the immunity of the Tribe or its officers, agents and employees is expressly, specifically and unequivocally waived in accordance with tribal law.

§1-2-9 Severability

If any portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed to be separate, distinct, and independent from the remaining portion of this procedure, which shall not be affected by the judicial decision and shall remain in effect.

§1-2-10 Prior Inconsistent Codes and Ordinances Repealed

Any and all codes and ordinances of the Ute Indian Tribe other than Ordinance No. 87-04 adopted prior to or which conflicts in any way with the provisions of this Ordinance are hereby repealed.

CHAPTER 3. ESTABLISHMENT OF COURTS; JUDGES AND OTHER COURT PERSONNEL

§1-3-1. Courts Established.

(1) There is hereby established a Ute Indian Appellate Court, which may be referred to as the Appellate Court, to handle all appeals from the Tribal Juvenile Court and Tribal Court as provided elsewhere in this Law and Order Code. The Appellate Court shall consist of three justices.

(2) There is hereby established a Ute Indian Tribal Court, which may be referred to as the Tribal Court, to handle all matters of a judicial nature not specifically placed within the jurisdiction of some other judicial forum. The Ute Indian Tribal Court shall be a court of general civil and criminal jurisdiction and shall hear appeals from all Tribal administrative bodies.

(3) There is hereby established a Ute Indian Tribal Juvenile Court, which may be referred to as the Tribal Juvenile Court, to handle all matters set forth in the Juvenile Code contained in this Law and Order Code.

§1-3-2. Judges.

(1) There shall be appointed:

- (a) Three Appellate Court Justices for the Appellate Court;
 - (b) One Chief Judge and as many associate Judges as the Business Committee sees fit for the Tribal Court; and
 - (c) One Juvenile Court Judge and as many associate Judges as the Business Committee may see fit for the Juvenile Court.
- (2) Criminal cases involving Class A Offenses shall only be heard by a neutral judge that is admitted to practice before the Supreme Court of any state of the United States.
- (3) The appointment, qualifications terms of office, and compensation to be received by such judges shall be determined by the Business Committee, provided, however, that a judge once appointed shall not have his compensation decreased during his term of office, and provided further that no judge shall be suspended or removed from office prior to the expiration of his term except as provided hereinafter.
- (4) Judges may be appointed to successive terms of office.

§1-3-3. Removal of Judges.

Any judge may be removed from office prior to the expiration of his term of office by the affirmative vote of four members of the Business Committee only upon the grounds of neglect of duty or gross misconduct, and only after the holding of a public hearing at which the judge, after being given not less than five days notice, is given an opportunity to answer all charges and present evidence in his own defense.

§1-3-4. Powers and Duties of Judges.

- (1) Judges shall administer justice and discharge all duties imposed upon them by law and shall hear and decide matters of a judicial nature and enter judgments and orders disposing of such matters. In the absence of the Court Clerk, a Judge may perform the clerk's duties in addition to his own and may receive cash bail or bonds whenever a clerk or other authorized person is not available.
- (2) The Chief Judge shall be responsible for the administration of all courts, except the Tribal Juvenile Court which shall be administered by the Juvenile Court Judge, and shall supervise all probation and parole officers. In addition, the Chief Judge shall be responsible for the assignment of cases and the management of the Court's calendar and business. The Chief Judge shall designate an Associate Judge to act as Chief Judge in his absence.

(3) All judges of the Courts of the Ute Indian Tribe shall conform their conduct to the Code of Judicial Conduct as adopted by the American Bar Association.

(4) Every judicial officer has power to:

(a) preserve and enforce order in his immediate presence, and in proceedings before him, when he is engaged in the performance of his official duty;

(b) compel obedience to his lawful orders;

(c) compel the attendance of persons to testify in a proceeding before him as provided bylaw;

(d) administer oaths to persons in proceedings before him and in any other case where such shall be necessary in the exercise of his powers and duties;

(e) punish for contempt to assure the effectual exercise of these powers.

§1-3-5. Disqualification of Judges.

(1) A Judge shall disqualify himself from hearing any matter in which he has a direct interest or in which any party to the matter is a relative by blood, in the fourth degree (first cousins), or where he feels that he will not be able to render a just decision.

(2) Any party to a legal proceeding may request a change of assignment of judges to hear the proceeding by filing a written Affidavit of Prejudice giving sufficient, reasonable grounds why the judge assigned should not hear the case. Such affidavit shall be presented to the Judge assigned to hear the case who shall rule on the sufficiency of the affidavit, and, if sufficient, either disqualify himself or turn the affidavit over to the Chief Judge or some other judge for a decision as to whether a different Judge should be assigned.

§1-3-6. [Reserved]

§1-3-7. Oath of Office of Judge.

(1) Every Judge prior to taking office or acting in such office shall take the following oath or affirmation:

I, _____, do solemnly swear (affirm) that I will support and defend the laws and the Constitution of the United States; that I will support, defend and uphold the Constitution, Bylaws and Treaties of the Ute Indian Tribe and support and defend the best interests of the Ute Indian Tribe; that I will support, uphold, and enforce the Law and Order Code of the Ute Indian Tribe and the resolutions and ordinances duly passed by the Business Committee of the Ute Indian Tribe, and that I will faithfully and impartially discharge the duties of my office to the best of my ability.

(2) Said oath may be administered by a member of the Business Committee or a Judge of the Court.

§1-3-8. Clerk of Court.

(1) There shall be a clerk of the Tribal Juvenile Court and a Clerk of the Tribal Court who shall also serve as the Clerk of the Tribal Appellate Court. Additional assistant clerks may be appointed by the Business Committee if such is deemed necessary.

(2) The appointment, qualifications, terms of office and compensation of Clerks shall be determined by the Business Committee.

§1-3-9. Duties of Clerks.

It shall be the duty of the Clerks of the Tribal Courts to supervise and keep all records, files, dockets or other records required to be kept by this Law and Order Code, by rule of the Court, Tribal resolution or as otherwise established, and further to keep a written record of all proceedings of the Court, to administer oaths, to collect and account for all fines, bail or bond money, fees or other charges which cause money to come to the Court, to deposit and account for all such moneys in the manner prescribed by the Business Committee, and to disburse such money as authorized by law. The Clerks shall further assist the Court in any way required to facilitate the performance of its duties, to aid the police or private citizens in their dealings with the Court, and may render advice and assistance to individual members of the Tribe or their counsel in the drafting of documents incidental to proceedings in the Courts.

§1-3-10. Oath of Clerks.

(1) Every Clerk shall take the following oath upon assuming office:

I, _____, having been appointed Clerk of the Ute Indian Tribal (Juvenile) Court, do solemnly swear (affirm) that I will truly, faithfully, honestly and impartially discharge all of the duties of my office to the best of my ability and understanding.

(2) Such oath shall be administered by a Judge of the Tribal Court.

§1-3-11. Court Administrator.

The Business Committee may, at such time as it appears reasonably necessary for the efficient functioning of the Court, appoint a Court Administrator whose job it will be to aid the Chief Judge in administering the courts, the scheduling of cases and processing of papers for scheduled cases, and do such other things as the Business Committee or Chief Judge directs to assure the orderly and efficient operation of all Tribal Courts.

§1-3-12. Probation and Parole Officers.

(1) The Business Committee shall appoint one or more persons to be Probation and Parole Officers and shall determine the qualifications, terms of employment and compensation of such officers.

(2) Probation and Parole Officers, subject to the supervision of the Chief Judge, shall have the responsibility of assuring the faithful performance of probation or parole agreements by persons subject thereto, counseling such persons and their families, preparing presentence or other reports as requested by a Tribal Judge, and doing such other things as may be directed by a Tribal Judge or otherwise required by law.

(3) A Probation and Parole Officer shall have the authority of a police officer to make arrests for violation of probation or parole agreements.

§1-3-13. Bonding of Court Personnel.

(1) All Judges and Clerks shall be bonded, at the tribe's expense, in amounts determined by the Business Committee, to secure the honest performance of their duties.

(2) The Business Committee may provide for the bonding at Tribal expense, of jailers of the Tribal jail for the specific and limited purpose of receiving cash bails and bonds to secure the release of persons incarcerated in the tribal jail.

§1-3-14. Courts of Record.

(1) The Tribal, Appellate, and Juvenile courts are hereby declared to be Courts of Record and the Clerk thereof shall certify under seal as to the accuracy and validity of the files and records of all proceedings before the Courts.

(2) The Clerks shall take, preserve and certify under seal as to the accuracy of a verbatim record of the proceedings before the Courts. Such record shall be taken and recorded by a stenographic,

electronic, mechanical, or other recording means of devices approved by the Chief Judge of the Court as a trustworthy means of creating a permanent verbatim record of all proceedings.

(3) The Chief Judge shall, by rule, prescribe the length of time such verbatim transcripts shall be preserved by the Clerk.

(4) It shall be a Class C criminal offense for the Clerks to knowingly make or keep a false file, record or certificate or to alter, amend or destroy any file, record or transcript without lawful authority.

CHAPTER 4. CONTEMPTS

§1-4-1. Acts or Failures to Act Which Constitute Contempt of Court.

The following acts or failures to act may serve as the basis for finding an individual or other entity in contempt of court:

- (1) Disorderly, contemptuous, or insulting behavior toward a Judge while holding Court, which tends to interrupt the course of the proceedings or undermine the dignity of the Court.
- (2) A breach of the peace, or loud or boisterous conduct which tends to interrupt the course of a judicial proceeding.
- (3) Misbehavior in office, or other willful neglect or violation of duty as a counselor, attorney, or other spokesman, or a clerk, court administrator, police officer or other person appointed, elected, or hired to perform a representative, judicial or ministerial service in connection with the operation of the Court.
- (4) Deceit, or abuse of process or proceedings of the Court by a party or counselor to a judicial proceeding.
- (5) Disobedience to a lawful judgment, order or process of the Court.
- (6) Assuming to be an officer, spokesman or other official of the Court and acting as such without authority.
- (7) Rescuing or taking any person or property from the Court or an officer acting under Court order, contrary to the order of the Court.
- (8) Unlawfully detaining or otherwise interfering with a witness or party to an action while such person is going to or from a Court proceeding or attending Court.
- (9) Disobedience of a subpoena duly served, or refusing to be sworn or answer as a witness.

(10) Any other interference with the process, proceedings, or dignity of the Court or a Judge of the Court while in the performance of his official duties.

§1-4-2. Civil Contempt.

(1) A civil contempt is prosecuted to preserve, protect, enforce or restore the duly adjudicated rights of a party to a civil action against one under legal obligation to do or refrain from doing something as a result of a judicial decree or order.

(2) Relief in a civil contempt proceeding may be coercive or compensatory in nature as to the complaining party and may include a fine payable to the Court or to the complaining party or imprisonment of the party in contempt to secure compliance, or both.

§1-4-3. Criminal Contempt.

(1) Conduct which is directed at, or is detrimental to, the dignity and authority of the Court is a criminal contempt.

(2) Criminal contempt is an offense which may be punishable, at the discretion of the Court based on the nature of the conduct in question, with a fine of up to \$500.00 and/or up to six (6) months in jail.

§1-4-4. Contempt Procedure.

(1) A direct contempt is one committed in the presence of the Court or so near thereto as to be disruptive of the Court proceedings, and such may be adjudged and punished summarily.

(2) All other contempts shall be determined at a hearing at which the person accused of contempt is given notice and an opportunity to be heard.

CHAPTER 5. COUNSELORS AND PROFESSIONAL ATTORNEYS

§1-5-1. Lay Counsel.

(1) Any person appearing as a party in any judicial proceeding before a Court of the Ute Indian Tribe shall have the right to be represented by a lay counselor (not a professional attorney) and to have such person assist in the preparation and presentation of his case.

(2) The Ute Indian Tribe shall have no obligation to provide or pay for such lay counselors and such obligation shall rest entirely with the person desiring such a counselor.

(3) Any person appearing as a lay counselor shall be subject to the same ethical obligations of honesty and confidentiality towards his client as would be a professional attorney, and the attorney client testimonial privilege shall apply in appropriate circumstances.

(4) Lay counselors shall be deemed officers of the Court for purposes of their representation of a party and shall be subject to the disciplinary authority of the Court in all matters related to their representative capacity.

§1-5-2. Right to be Represented by a Professional Attorney.

Any person appearing as a party in any civil or criminal action shall have the right to be represented by a professional attorney of his own choice and at his own expense; provided, however, that the Ute Indian Tribe has no obligation to provide or pay for such an attorney; provided further, that any such attorney appearing before the Courts of the Ute Indian Tribe shall have first obtained admission to practice before such Courts in accordance with the procedures set forth herein.

§1-5-3. Public Defender.

(1) There is hereby established an Office of Public Defender and the Business Committee shall contract with a qualified person to fill the office.

(2) Any person who is admitted to practice law before any State Supreme Court or U.S. District Court, and is in good standing, shall be qualified for the office.

(3) The Public Defender shall be compensated upon a contractual basis, as authorized by the Business Committee.

(4) The Public Defender shall, upon order of the court, defend, advise, and counsel without expense to the defendant, any defendant who is not financially able to employ counsel.

§1-5-4. Eligibility for Admission.

Any attorney who is an active member in good standing of the Utah State Bar, or any attorney certified and eligible to practice before the highest court of any other state or of the Supreme Court of the United States is eligible to be admitted to practice before the Courts of the Ute Indian Tribe.

§1-5-5. Procedure for Admission.

(1) Any professional attorney desiring to be admitted to practice before the courts of the Ute Indian Tribe shall apply for admission by certifying under oath, either verbally or in writing to the following:

(a) That he is an active member in good standing of the Utah State Bar or is certified and eligible to practice before the highest court of any other state or of the Supreme Court of the United States.

(b) That if admitted to practice before the Courts of the Ute Indian Tribe he will take the required oath as prescribed in the Law and Order Code for Attorneys and be bound thereby.

(c) That if admitted to practice he will accept and represent indigent clients without compensation or without full compensation when asked by a Judge of the Court to do so.

(2) The Admission Fee of \$50.00 shall be tendered with the application, subject to return if the application is denied.

(3) Upon receipt of an application for admission to practice before the Courts of the Ute Indian Tribe, the Chief Judge shall review the application and may, but need not, investigate into the truth of the matters contained therein. If satisfied that the applicant meets the qualifications set forth herein, the Chief Judge shall notify such person who may appear in person to take the oath prescribed herein or may subscribe his signature to such oath and forward it to the Chief Judge.

(4) Upon the taking of the oath, either orally or in writing, the Chief Judge shall cause a certificate to be issued evidencing the admission of the attorney to practice before the Courts of the Ute Indian Tribe.

§1-5-6. Disbarment and Discipline.

(1) Whenever it is made to appear to the Chief Judge that any attorney admitted to practice before the Courts of the Ute Indian Tribe has been disbarred or suspended from the practice of law in the State of Utah or other state to which reference for admission to practice was made as a condition to obtaining admission to practice before the Tribal Courts, he shall immediately be given notice at his last known address that he shall be suspended from practice before the Courts of the Ute Indian Tribe for an indefinite period unless he appears within five (5) days and shows good cause why such order should not be made.

(2) Any judge who finds an attorney admitted to practice before the Courts of the Ute Indian Tribe to be in contempt of Court may, in addition to any other sanction imposed, order the attorney to appear within ten (10) days and show cause why he should not be suspended from practicing before the Courts of the Ute Indian Tribe.

(3) The Chief Judge may, upon receiving a written, verified complaint which indicates that an attorney admitted to practice before the Courts of the Ute Indian Tribe has acted in an unethical or otherwise improper manner while functioning as an attorney, order such attorney to appear and defend himself at a hearing to hear all evidence relevant to the matter, and may order the suspension of such an attorney if such appears reasonably necessary or appropriate.

(4) All suspensions from practicing before the Courts of the Ute Indian Tribe shall be for an indefinite period unless the Judge specifically orders otherwise. An attorney suspended for an indefinite period, or one suspended for a specific period, may petition the Tribal Court for permission to re-apply for permission to practice at the end of one year or the specific period of suspension, and such permission shall be granted if it is made to appear, at a hearing or otherwise as the Court shall direct that he has been adequately reprovved and now appears willing to conduct himself in a proper manner, and that the petitioner has been reinstated to practice if previously disbarred or suspended in another jurisdiction.

(5) Any person appearing as lay counsel for another may be suspended from further appearance as such for misconduct or improper behavior by any Judge upon the same conditions of notice and hearing provided professional attorneys.

§1-5-7. Standards of Conduct and Obligations for Attorneys and Lay Counsel.

(1) Every attorney admitted to practice before the Courts of the Ute Indian Tribe, and every lay counsel employed or appointed to represent another before such courts when acting in such capacity or in matters in any way related thereto, shall conform his conduct in every respect to the requirements and suggested behavior of the Code of Professional Responsibility as adopted by the American Bar Association.

(2) Both professional attorneys and lay counselors who hold themselves out as being available to act as such have a responsibility to accept as clients and represent without compensation or without full compensation, such persons as a Judge of a Tribal Court may feel have a particularly urgent need for such representation but are personally unable to afford or pay for such legal help.

§1-5-8. Oath of Attorneys and Counselors.

(1) Upon admission to practice as provided herein, an attorney shall take the following oath, either verbally before the Court, or subscribe his signature to such oath if admitted without personally appearing:

I do solemnly swear (affirm):

That I will support the Constitution and laws of the United States and support and defend the Constitution and Bylaws, Law and Order Code and all resolutions and ordinances of the Ute Indian Tribe;

That I will maintain the respect due the Courts and Judicial officers of the Ute Indian Tribe;

That I will not counsel or maintain any suit or proceeding which shall appear to me to be unjust, nor any defense except such as I believe to be honestly debatable under the law of the land;

That I will employ for the purposes of maintaining the causes confided to me such means only as are consistent with truth and honor, and will never seek to mislead the judge or jury by any artifice or false statement of fact or law;

That I will maintain the confidences and preserve inviolate the secrets of my client, and will accept no compensation in connection with his business except from him or with his knowledge and approval;

That I will abstain from all offensive personality, and advance no fact prejudicial to the honor or reputation of a party or witness, unless required in justice by the cause with which I am associated;

That I will never reject, from any consideration personal to myself, the cause of the defenseless or oppressed, or delay any man's cause for lucre or malice.

SO HELP ME GOD.

(2) A lay counselor hired, retained or appointed to represent another before any Court of the Ute Indian Tribe, shall take the foregoing oath at the time of his first appearance in Court.

§1-5-8. Admission Fees for Professional Attorneys.

(1) Before any professional attorney shall be admitted to practice before the Courts of the Ute Indian Tribe, and as an annual condition to maintaining that privilege, he shall pay a fee of \$50.00, payable prior to taking the oath as set forth herein and annually thereafter. Any attorney failing to pay such annual fee within 30 days after the anniversary date of his admission shall forfeit the right to practice before the Courts of the Ute Indian Tribe until formally readmitted.

(2) A Judge of one of the Courts of the Ute Indian Tribe may waive the formal admission procedure and payment of the fee as required herein only in the case of an attorney, not a resident of the State of Utah, making an appearance for the limited purpose of a single, specific case, and only if such attorney is associated in such case with an attorney or counselor who is formally admitted to practice before the Courts of the Ute Indian Tribe.

CHAPTER 6. JURORS

§1-6-1. Eligibility for Jury Duty.

(1) Any person that resides within the exterior boundaries of the Uintah and Ouray Reservation (including the Uncompahgre Reservation), between the ages of 18 and 70, who has not been convicted of a felony or a Class A offense under this Code, shall be eligible to be a juror for

criminal cases when the Tribe is exercising its special domestic violence criminal jurisdiction over nonmembers.

(2) Any enrolled member of the Ute Indian Tribe between the ages of 18 and 70, who has not been convicted of a felony or a Class A offense under this Code shall be eligible to be a juror.

(3) Judges and other officers or employees of the Court shall not to be eligible to be jurors while thus employed.

(4) The Chief Judge shall by rule adopt procedures whereby non-enrolled Indians and non-Indians are summoned for jury duty in cases in which one or more non-Indian parties are involved.

§1-6-2. Jury List.

Each year, the Business Committee, or the Chief Judge at the direction of the Business Committee, shall prepare a list of eligible jurors, which list shall contain not less than forty (40) names and which shall contain the names of persons from each community and Band, prorated as nearly as possible according to the relative populations of the communities and Bands.

The Chief Judge shall use the best available data to determine what percentage of each distinct group defined by race, ethnicity, nationality, and gender, comprises the Reservation's population and shall add to the list of eligible jurors for criminal cases when the Tribe is exercising its special domestic violence criminal jurisdiction over nonmembers, the approximate percentages of each distinct group.

§1-6-3. Trial Juries.

(1) The Clerk shall subpoena not less than twelve (12) persons from the list of eligible jurors to appear and be available to serve as jurors whenever a jury trial is scheduled in a civil or criminal matter.

(2) The selection from the list of eligible jurors shall be by lot or some other means of random, impartial selection.

(3) Selection of jurors to hear the case shall be accomplished as provided in the Rules of Civil and Criminal Procedure elsewhere in this Law and Order Code.

§1-6-4. Power to Excuse Jurors.

The Judge assigned to hear a case shall have the power to excuse a person subpoenaed to appear as a juror on account of sickness, disability, extreme hardship or other good cause shown upon the request for such excusal by the person subpoenaed.

§1-6-5. Compensation of Jurors.

Each juror who is called and reports for jury duty or who serves on a jury shall be entitled to receive such fees for daily service and/or mileage, if any, as the Business Committee shall establish by resolution, or as established by a rule of the Court.

CHAPTER 7. SUBPOENAS AND SERVICE OF OTHER PAPERS**§1-7-1. Issuance of Subpoenas.**

(1) The Clerk shall issue subpoenas to compel the attendance of witnesses, jurors or such other persons as a judge may direct for a trial, hearing or other proceeding before a Court of the Ute Indian Tribe.

(2) In a criminal case, the complaining witness and all witnesses for the Ute Indian Tribe may be subpoenaed to appear at the date and time set for trial or a reasonable time before such time, plus the defendant shall have the right to have witnesses subpoenaed to appear in his behalf by notifying the Clerk of the Court of the names and addresses of such witnesses not less than ten (10) days prior to the scheduled trial date.

§1-7-2. Service of Subpoenas; Return on Service.

(1) Subpoenas in criminal cases shall be served by a tribal policeman, or other person designated by the Chief Judge, Chief of Police or Business Committee.

(2) Subpoenas in non-criminal cases may be served by any person, over 18 years of age, not a party to the action.

(3) Except by order of the Court based upon good cause shown therefor, no subpoena shall be served between the hours of 9:00 p.m. and 7:00 a. m. or on Sundays or legal holidays.

(4) The person serving a subpoena shall endorse upon the copy served his name, title, and the place, date, and time of service.

(5) The person serving a subpoena shall make a return to the Clerk stating the name of the case, the name of the person served, the place, date, and time of service, and shall subscribe his name thereto under penalty of perjury for the intentional making of a false return.

CHAPTER 8. GENERAL PROVISIONS**§1-8-1. Copies of Laws.**

There shall be kept available for public inspection during regular business hours at the office of the Clerk of the Tribal Court, copies of this Law and Order Code and any amendments thereto, plus copies of all laws or rules which are incorporated by reference from other jurisdictions into this Law and Order Code, plus a copy of the Code of Professional Responsibility of the American Bar Association.

§1-8-2. Signature Defined.

The term "signature" or any term relating thereto as used in this Law and Order Code or subsequent resolutions or ordinances of the Business Committee, shall mean the written signature, official seal, or the mark or thumbprint of any individual witnessed by two disinterested persons subscribing their names therewith.

§1-8-3. Records of Court Open to Public Inspection; Exceptions.

The files and records of the Courts of the Ute Indian Tribe shall be open for public inspection, except that the files and records of adoptions, incompetency proceedings, and Tribal Juvenile Court proceedings shall not be open to public inspection and may be inspected only with prior specific judicial authorization.

§1-8-4. Adoption by Reference Not A Waiver of Sovereign Power Of The Ute Indian Tribe.

The adoption of any law, code or other document by reference into this law and Order Code shall in no way constitute a waiver or cession of any sovereign power of the Ute Indian Tribe to the jurisdiction whose law or code is adopted or in any way diminish such sovereign power, but shall result in the law or code thus adopted becoming the law of the Ute Indian Tribe.

§1-8-5. Sovereign Immunity.

Except as required by federal law, or the Constitution and Bylaws of the Ute Indian Tribe, or as specifically waived by a resolution or ordinance of the Business Committee specifically referring to such, the Ute Indian Tribe shall be immune from suit in any civil action, and its officers and employees immune from suit for any liability arising from the performance of their official duties.

§1-8-6. Actions By or Against Tribe or Its Officers or Employees.

In any action otherwise authorized by or against the Tribe or its officers or employees arising from the performance of their official duties, the following modifications to the rules or procedures set forth in this Law and Order Code shall apply:

- (1) The periods of time specified for civil cases or appeals of either a civil or criminal nature in which an answer, reply or other pleading or response of any kind shall be required shall be double the period specified.
- (2) Neither the Tribe nor its officers or employees when involved in a civil action arising from the performance of their official duties shall be liable for the payment of the costs or expenses of the opposing party.
- (3) Neither the Tribe nor its officers or employees when involved in a civil action arising from the performance of their official duties shall be required to post security by bond or otherwise for any purpose.
- (4) No action, otherwise authorized, may be instituted against any officer or employee of the Tribe for a cause of action arising out of, or in the course of the performance of his duty, or any action upon the bond of any such officer or employee, unless there is filed with the complaint a cash or written bond or undertaking with at least two sufficient sureties subject to the jurisdiction of the Court in the amount of \$300.00 or such greater amount as the Court may order, conditioned for the payment of such costs, charges and reasonable attorney's fees to be fixed by the Court as may be awarded against the Plaintiff in said action.
- (5) No action may be instituted against the Tribe unless security under the same conditions as set forth next above is filed with the complaint.

§1-8-7. Limitations in Civil Actions.

Unless otherwise specifically provided in the Law and Order Code, the following limitations on the bringing of civil actions will apply:

- (1) Any action against the Tribe or its officers or employees arising from the performance of their official duties must be commenced within one year of the date the cause of action accrued.
- (2) Any other action must be commenced within three years of the date the cause of action accrued, provided, however, that any cause of action based on fraud or mistake shall not be deemed to have accrued until the aggrieved party has discovered or reasonably should have discovered the facts constituting the fraud or mistake.

§1-8-8. Principles of Construction.

The following principles of construction will apply to all of the Law and Order Code unless a different construction is obviously intended:

- (1) Masculine words shall include the feminine, and singular words shall include the plural, and vice versa.
- (2) Words shall be given their plain meaning and technical words shall be given their usually understood meaning where no other meaning is specified.
- (3) Whenever a term is defined for a specific part of this Law and Order Code, that definition shall apply to all parts of this Code unless a contrary meaning is clearly intended.
- (4) This Law and Order Code shall be construed as a whole to give effect to all its parts in a logical, consistent manner.
- (5) If any provision of this Law and Order Code or the application of any provision to any person or circumstance is held invalid, the remainder of this Code shall not be affected thereby and to this end the provisions of this Law and Order Code are declared to be severable.
- (6) Any typographical errors or omissions shall be ignored whenever the intended meaning of the provision containing the error or omission is otherwise reasonably certain to the Court.
- (7) Any other issues of construction shall be handled in accordance with generally accepted principles of construction giving due regard for the underlying principles and purposes of this Law and Order Code.

§1-8-9. Definitions.

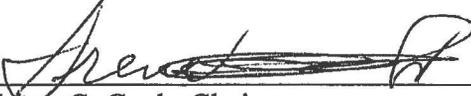
The following definitions will apply to this Law and Order Code:

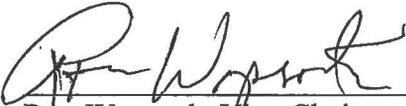
- (1) "Indian" or "Indian person" shall include any person of Indian descent who is a member of any recognized tribe under federal jurisdiction.
- (2) " Member" shall include a person whose name appears on the Membership Role of the Ute Indian Tribe of the Uintah and Ouray Reservation.
- (3) "Reservation" shall include all lands within the exterior boundaries of the Uintah and Ouray Reservation as defined in Article I of the Constitution of the Ute Indian Tribe of the Uintah and Ouray Reservation.
- (4) "Tribe" shall mean the Ute Indian Tribe of the Uintah and Ouray Reservation unless another or nonspecific Indian tribe is clearly intended.

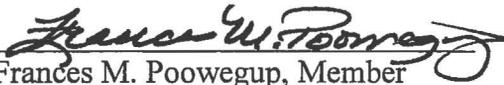
(5) "Business Committee" or "Tribal Business Committee" shall mean the Uintah and Ouray Tribal Business Committee as specified in Article III, Section 1 of the Constitution of the Ute Indian Tribe of the Uintah and Ouray Reservation.

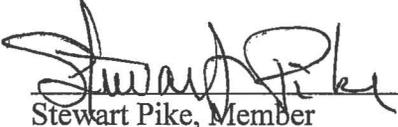
(6) "Superintendent" shall mean the Superintendent of the Bureau of Indian Affairs, Uintah and Ouray Agency, Utah.

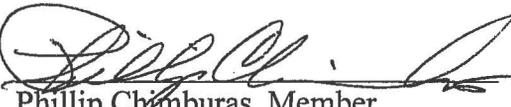
(7) "Age of Majority" shall mean 18 years of age unless otherwise provided in this Law and Order Code or the Tribal Constitution.


Irene C. Cuch, Chairwoman


Ron Wopsock, Vice-Chairman


Frances M. Poowegup, Member

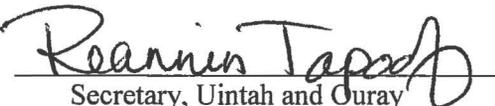

Stewart Pike, Member


Phillip Chimburas, Member

absent
Richard Jenks, Jr., Member

CERTIFICATION

I hereby certify that this Ordinance was adopted by the Uintah and Ouray Tribal Business Committee at a Tribal Business Committee meeting held in Vernal, Utah, on the 27 day of March, 20 13, by a vote of 5 FOR, 0 AGAINST, 1 ABSENT and 1 ABSTAINING.


Secretary, Uintah and Ouray
Tribal Business Committee

APPROVED: 
Johnna Blackhair, Superintendent
Uintah and Ouray Agency

DATE: May 10, 2013